

April 16, 2003

OLYMPIA, WASHINGTON

ISSUE 03-08



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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of April 2003 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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John G. Schultz
Chair, Statute Law Committee

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Code Reviser

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Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

2002-2003

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 -					
02 - 15	Jun 26, 02	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 27, 02	Sep 24, 02
02 - 16	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 10, 02	Oct 8, 02
02 - 17	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 24, 02	Oct 22, 02
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03 - 24	Nov 5, 03	Nov 19, 03	Dec 3, 03	Dec 17, 03	Jan 6, 04	Feb 3, 04

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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

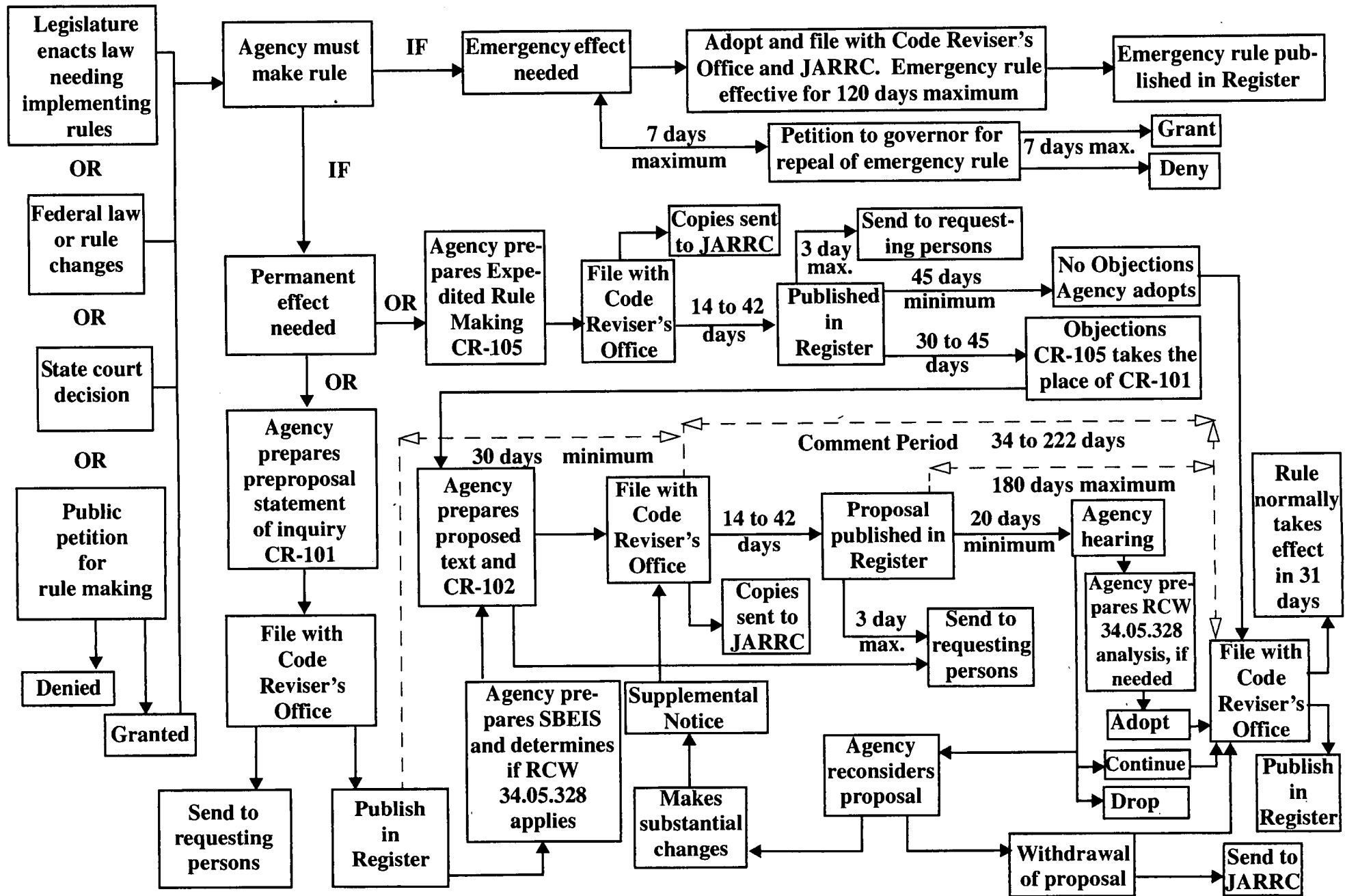
There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS



WSR 03-08-011**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed March 24, 2003, 9:30 a.m.]

Subject of Possible Rule Making: To establish the requirement for taking the 7-Hour National USPAP Update Course.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.140.030(8).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed amendment is designed to establish the requirement for taking the 7-Hour National USPAP Update Course.

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 Cleotis Borner, Jr., Real Estate Appraiser Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 664-6504, fax (360) 586-0998.

March 20, 2003
Cleotis Borner, Jr.
Program Manager

WSR 03-08-012**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed March 24, 2003, 9:46 a.m.]

Subject of Possible Rule Making: Fees for processing legal orders.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.50.600, 41.50.680.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Retirement Systems (DRS) seeks to propose rules regarding processing fees for mandatory benefit assignment orders, child support orders, IRS levies, bankruptcy orders, and similar matters.

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 work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to participate, please contact Merry A.

Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

March 21, 2003
Merry A. Kogut
Rules Coordinator

WSR 03-08-013**PREPROPOSAL STATEMENT OF INQUIRY
EASTERN WASHINGTON UNIVERSITY**

[Filed March 24, 2003, 9:48 a.m.]

Subject of Possible Rule Making: Regulation of the legal use, possession and distribution of alcohol on Eastern Washington University (EWU) property and at EWU-sponsored events.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this policy is to further the university mission by creating a safe environment for student learning. To accomplish this, the university will support the enforcement of federal, state, and local laws, as well as its own alcohol and drug policies and procedures. The university will also encourage university functions in a controlled environment that reduces risk and creates positive experiences. This policy recognizes community standards of responsibility and accountability in the use of alcohol and the expectation that individuals have a right to learn, to work, and to live free from the disruptions and consequences of alcohol abuse by others. It is the responsibility of every member of the university community to know the risks associated with the use and abuse of alcohol and to assist the university, its faculty, staff, administrators, and students in creating an environment that promotes health-enhancing attitudes and activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Liquor Control Board: Any function sponsored by faculty, staff, administrators, or students or a faculty, staff, administrator or student group(s) at which alcoholic beverages are sold or served, whether or not the function is open to the public, may be held in those areas permitted under the provisions of this policy only after a banquet permit is obtained.

Process for Developing New Rule: At Eastern Washington University, diversity of opinion and freedom of choice involves the exercise of personal responsibility that includes the obligation to make sound judgements regarding the use of alcohol. This alcohol policy was developed by a community-wide committee of faculty, administrators, students and Cheney and Spokane community members as a reasonable set of standards to enhance a positive campus environment. These rules and regulations are an important factor in the reduction of alcohol-related problems is the human capacity to act responsibly. Therefore, the university has an expectation that individuals and groups know and understand the risk

and liability associated with the consumption of alcoholic beverages.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Connie Gross, Special Assistant to the Board of Trustees, President's Office, SHW 214, Eastern Washington University, Cheney, WA 99004-2444, phone (509) 359-6598, fax (509) 359-2006. The hearing will be conducted during a scheduled board meeting.

March 19, 2003

Laurie Flinn Connelly

Rules Coordinator

Associate to the President

WSR 03-08-023

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 26, 2003, 4:43 p.m.]

Subject of Possible Rule Making: Chapter 388-546 WAC, Nonemergency medical transportation.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department needs to add definitions and amend wording to clarify current policy for nonemergent medical transportation services. Definitions will include at least "noncompliance" and "wheelchair lifts and conversions."

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 Allen Richards, Transportation Manager, Transportation and Interpretive Services Section, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1319, e-mail richaa@dshs.wa.gov, fax (360) 664-0261, TDD 1-800-848-5429.

March 25, 2003

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

WSR 03-08-027

PREPROPOSAL STATEMENT OF INQUIRY

BUILDING CODE COUNCIL

[Filed March 27, 2003, 8:35 a.m.]

Subject of Possible Rule Making: Review and update of the State Building Code, including the Building Code, Fire Code, Mechanical Code, Plumbing Code, Ventilation and Indoor Air Quality Code, and the Washington State Energy Code.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.074, 19.27.190, 19.27A.045.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The State Building Code Council regularly reviews the Washington State Building Code, as outlined in chapter 51.04 WAC, to review revisions made to the codes by the national code committees, and to review and consider proposals for state wide code amendments.

Process for Developing New Rule: Technical Advisory Group (TAG) review.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To be notified of proposed meeting dates to participate on the TAG, obtain draft information, or propose a code change, please contact Tim Nogler, Managing Director, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, (360) 753-5927, fax (360) 586-5880, e-mail sbcc@cted.wa.gov, www.sbcc.wa.gov.

March 14, 2003

Tim Nogler

for Stan Price

Council Chair

WSR 03-08-028

PREPROPOSAL STATEMENT OF INQUIRY

STATE BOARD OF HEALTH

[Filed March 27, 2003, 9:56 a.m.]

Subject of Possible Rule Making: Large on-site sewage systems. Creating a new chapter of rules for requirements relating to on-site sewage systems with flows between 3500 and 14,500 gallons per day.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Health and the State Board of Health have been working with a Rule Development Committee on amending chapter 246-272 WAC, On-site sewage systems. This chapter currently contains requirements for both on-site sewage systems (3500 gallons per day and under) and large on-site sewage systems (systems over 3500 gallons per day.) Through the course of this work, large on-site sewage systems have been identified as being appropriate for an individual chapter. This rule making will establish a new chapter that will apply only to large on-site sewage systems.

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 of Health and the State Board of Health have been working with a rule development committee to amend chapter 246-272 WAC. Further public comment will be solicited through mailings and workshops.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The State Board of Health welcomes public comment on this proposal and invites interested parties to attend Rule Development Committee meetings or to provide written comments. For information about this proposal or future meetings please contact Jane Lee, Rule Development Committee Coordinator, (425) 453-1340, jane.lee@doh.wa.gov, or Marianne Seifert, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504, (360) 236-4103, e-mail marianne.seifert@doh.wa.gov.

March 27, 2003
Don Sloma
Executive Director

WSR 03-08-029

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

[Filed March 27, 2003, 9:56 a.m.]

Subject of Possible Rule Making: WAC 246-847-065 Continued competency.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.59.130, 18.59.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current WAC 246-847-065 requires occupational therapists to complete thirty hours of continuing education every two years as required in chapter 18.59 RCW. The board would like to add competency goals and objectives to this rule and also clarify that this rule includes licensed occupational therapy assistants as well as licensed occupational therapists.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, fax (360) 236-4922.

March 13, 2003
Kris Waidely
Program Manager

WSR 03-08-030

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

[Filed March 27, 2003, 9:57 a.m.]

Subject of Possible Rule Making: WAC 246-847-170 Code of ethics and standards of professional conduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.59.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to clarify the 1999 statutory changes establishing a definition for "occupational therapy practitioner."

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, fax (360) 236-4922.

March 17, 2003
Kris Waidely
Program Manager

WSR 03-08-031

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

[Filed March 27, 2003, 9:58 a.m.]

Subject of Possible Rule Making: WAC 246-847-010 Occupational therapy definitions:

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.59.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The changes will address concerns expressed by practitioners by eliminating unnecessary definitions and clarifying the existing definitions to ensure protection of the public.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, fax (360) 236-4922.

March 13, 2003
Kris Waidely
Program Manager

WSR 03-08-032**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

(Medical Quality Assurance Commission)

[Filed March 27, 2003, 9:59 a.m.]

Subject of Possible Rule Making: WAC 246-919-XXX Oversight of office-based surgery in Washington state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.71.017 and 18.130.050(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission is concerned about the high level of risk for patient harm in an office based setting. Some types of potential patient harm are death, complications from anesthesia, bleeding, infection, and clotting. The commission is aware of three deaths in New Jersey, New York, and Florida resulting from an office based surgery setting, as well as bad outcomes in Washington. The Federation of State Medical Boards established a committee to evaluate problems associated with outpatient surgery. Results from the review indicated that the surgical procedures of hospitals are not as safe in the office since there is no regulatory oversight of the office based setting.

Process for Developing New Rule: Public workgroups - the commission will conduct a public workshop in four areas throughout Washington in order to allow interested persons to participate in the development of the language for these rules. Notification of the meetings will be sent to those individuals and organizations who have indicated they are to be notified of any rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Beverly A. Teeter, Health Administrator, Department of Health, Medical Quality Assurance Commission, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4788.

March 18, 2003
Doron N. Maniece
Executive Director

WSR 03-08-038**PREPROPOSAL STATEMENT OF INQUIRY
TRANSPORTATION IMPROVEMENT BOARD**

[Filed March 27, 2003, 1:43 p.m.]

Subject of Possible Rule Making: Changing rules governing the funding and development of Transportation Improvement Board (TIB) projects.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 47.26 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: TIB is considering revising a number of project development practices to simplify the information and funding rules that apply to TIB grants. The proposed rules are expected to simplify adjustments to TIB funding on roadway projects.

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

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 Stevan Gorcester, P.O. Box 40901, Olympia, WA 98504-0901, phone (360) 586-1139, fax (360) 586-1165, e-mail SteveG@tib.wa.gov. A request for comments will be posted on TIB's website along with a mass mailing to TIB's local agency customers. These proposed changes will also be discussed at the board's May 30, 2003, meeting in Pullman and again at the board's July 25, 2003, meeting in Vancouver.

March 25, 2003
Richard Struna
Financial Officer

WSR 03-08-046**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed March 28, 2003, 11:31 a.m.]

Subject of Possible Rule Making: Commercial 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: Housekeeping changes to improve area boundary definitions and provide in permanent rule what has been required in emergency rule since 1996.

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 Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2826 or fax (360) 902-2944. Contact before June 14, 2003.

March 26, 2003
Evan Jacoby
Rules Coordinator

WSR 03-08-073**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 1, 2003, 11:53 a.m.]

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

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The respiratory protection rule is being rewritten and reorganized for clarity and ease of use for employers and employees. This rule making is part of our clear rule-writing initiative to rewrite for clarity all the safety and health rules. Requirements are being clarified from two different sections of our current rules, WAC 296-62-071 Respirators and 296-62-075 Air contaminants. These requirements are being brought together in one chapter and reorganized and clarified as chapter 296-841 WAC, Respiratory hazards.

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

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

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

April 1, 2003
Paul Trause
Director

WSR 03-08-077

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitation Services Administration)

[Filed April 1, 2003, 4:33 p.m.]

Subject of Possible Rule Making: Community support service providers, WAC 388-865-0100 to 388-865-0484.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.05.560, 71.24.035, and 71.34.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Mental Health Division is revising these rules to be consistent with rules in the Federal Balanced Budget Act and for clarity/quality improvement.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Mental Health Division is participating with the Federal Center for Medicare/Medicaid Services (CMS) Medical Assistance Administration (MAA) DSHS in a workgroup with community representatives to coordinate development of these rules.

Process for Developing New Rule: A stakeholder committee consisting of representatives from the Mental Health

Division is participating with a workgroup of community representatives to coordinate development of these rules. All draft materials will be made available to constituents for a larger review audience. All comments will be taken into consideration for final rule development. Meetings are planned for April and May 2003. Additional meeting dates will be announced as they are determined.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Karie Castleberry, Mental Health Division, P.O. Box 45320, Olympia, WA 98504-5320, castlka@dshs.wa.gov, (360) 902-0799, fax (360) 902-0809.

April 1, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-08-078

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitation Services Administration)

[Filed April 1, 2003, 4:35 p.m.]

Subject of Possible Rule Making: Amending chapter 388-880 WAC, Sexual predator program—Special commitment—Escorted leave, and related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 71.09 RCW, including but not limited to RCW 71.09.040 and 71.09.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In accordance with RCW 71.09.040(4), the department is amending the evaluation sections of chapter 388-880 WAC, and any related rules, that refer to "evaluations, evaluation criteria, evaluation preparation, and other procedures" to determine if a person meets the definition of a sexually violent predator pursuant to chapter 71.09 RCW.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Coordination with the following agencies in development of this rule: Department of Corrections, Office of the Attorney General, Department of Social and Health Services (DSHS) Juvenile Rehabilitation Administration, Department of Health, the End-of-Sentence Review Board, the Indeterminate Sentence Review Board, and the courts.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lee Mosley, Policy Analyst, P.O. Box 88450, Steilacoom, WA 98388-0646, (253) 589-7352, fax 589-7371, moslele@dshs.wa.gov.

April 1, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-08-081**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed April 1, 2003, 4:41 p.m.]

Subject of Possible Rule Making: WAC 388-478-0085 Medicare savings program—Monthly income and countable resources standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090 and 74.09.530. Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment is necessary to adopt new federal poverty level (FPL) standards effective April 1, 2003.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: These standards comply with those published by the United States Department of Health and Human Services in the federal register on February 7, 2003.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patricia Armstrong, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1725, e-mail armstpa@dshs.wa.gov, fax (360) 664-0910, TDD 1-800-848-5429.

March 26, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-08-082**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed April 1, 2003, 4:43 p.m.]

Subject of Possible Rule Making: WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services and 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To permanently adopt fed-

eral standard increases that are effective April 1, 2003. The standard increases are currently adopted under an emergency rule filing. See 42 U.S.C. 1396r-5.

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 Mary Beth Ingram, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1327, e-mail ingramb@dshs.wa.gov, fax (360) 664-0910, TDD 1-800-848-5429.

March 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-08-083**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed April 1, 2003, 4:45 p.m.]

Subject of Possible Rule Making: WAC 388-513-1340 Determining excluded income for long-term care (LTC) services and 388-450-0020 Income exclusions for SSI-related medical, as well as any other related rules. The amendments will clarify that veteran's aid and attendance and unusual medical expenses can be considered as third party resources as described in WAC 388-501-0200.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.08.090, and 74.09.185.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Veteran's benefits designated for aid and attendance or attributable to unusual medical expenses are excluded as income when determining eligibility for medical programs. They are also excluded when determining the participation that a client must pay for long-term care services. These benefits are intended to provide assistance to the client for costs related to the need for a caregiver and other medical costs. As such, the department may classify them as third party resources and the client is liable for payment of services.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Long-term care (LTC) services are provided through the Aging and Disability Services Administration (ADSA). Financial eligibility for LTC services is determined by ADSA and the Economic Services Administration (ESA). The amendments to these rules have been coordinated with these stakeholders.

Process for Developing New Rule: MAA will provide draft language before publishing rules and encourages stake-

holders to submit written or verbal comments. When MAA files a notice of proposed rule making, we will notify interested parties of the scheduled hearing to adopt rules and how to submit comments. Draft material and information about how to participate are available by contacting the DSHS representatives identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Beth Ingram, Program Manager, Medical Assistance Administration, Mailstop 45534, phone (360) 725-1327, fax (360) 664-0910, e-mail ingramb@dshs.wa.gov.

March 28, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 03-08-084
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 1, 2003, 4:46 p.m.]

Subject of Possible Rule Making: Chapter 388-531 WAC, Physician-related services. Proposing a new subsection at WAC 388-531-0275 for Physician services in teaching settings (interns, residents, teaching physicians, and preceptorships).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.520, 42 C.F.R. 413.86, and 42 C.F.R. 415.160.

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

- To stay current with industry standards for graduate medical education and medical residency programs.
- To better serve our medical providers and MAA clients.
- To establish MAA standards for supervising interns and residents in nonhospital settings and to establish MAA payment standards for teaching physicians.

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

- Centers for Medicare and Medicaid Services (CMS), MAA will be drafting Medicaid standards and articulating the differences to CMS Medicare rules.
- Washington State Department of Health (DOH), will be invited to review and comment on the draft language.

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 Myra Davis, MAA Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

725-1306, e-mail daviss@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

March 28, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 03-08-085
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 1, 2003, 4:47 p.m.]

Subject of Possible Rule Making: WAC 388-478-0080 SSI-related categorically needy income level (CNIL) and countable resource standards, amending rule to reflect the increase in the CNIL income standards as of January 1, 2003.

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. 1396r-5.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule change is necessary for continued federal financial participation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: These standards comply with those published in the Code of Federal Regulations.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patricia Armstrong, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1725, e-mail armstpa@dshs.wa.gov, fax (360) 664-0910, TDD 1-800-848-5429.

March 28, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 03-08-086
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 1, 2003, 4:48 p.m.]

Subject of Possible Rule Making: All Medical Assistance Administration rules, including chapters 388-500 through 388-561 WAC.

To comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. HIPAA specifies standards that all states must meet in regard to electronic health information transactions and the privacy of client health information.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: MAA rules must be HIPAA-compliant by October 16, 2003, to avoid federal penalties.

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, e-mail sullikm@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

March 28, 2003
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-08-098

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
GENERAL ADMINISTRATION**

[Filed April 2, 2003, 11:09 a.m.]

Subject of Possible Rule Making: Camping on state capitol grounds.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Preservation of public health, safety and security on state capitol grounds, and protection of public property.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Patrol will partner with the Department of General Administration in enforcement of this rule. The state patrol will be consulted throughout this 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 sending or e-mailing written comments to Megan Robel, P.O. Box 41014, Olympia, WA 98504-1014, mrobel@ga.wa.gov.

April 1, 2003
R. D. Fukai
Director

WSR 03-08-092

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed April 2, 2003, 9:59 a.m.]

Subject of Possible Rule Making: WAC 246-847-120 Foreign trained applicants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.59.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to establish requirements for applicants that have not graduated from an occupational therapy program to obtain a license. These requirements provide assurance that only trained occupational therapists will be licensed.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Health, Kris Waidely, Program Manager, P.O. Box 47868, Olympia, WA 98504-7868, (360) 236-4847, fax (360) 236-4922.

March 13, 2003
Kris Waidely
Program Manager

WSR 03-08-099

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed April 2, 2003, 11:55 a.m.]

Subject of Possible Rule Making: Personal use 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: Agreement with Oregon on sturgeon closures for resource protection have been accomplished, and rules are necessary to provide such closures.

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 Phil Anderson, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2720. Contact by May 15, 2003. Expected proposal filing May 16, 2003.

April 2, 2003
Evan Jacoby
Rules Coordinator

WSR 03-08-001
PROPOSED RULES
GAMBLING COMMISSION

[Filed March 19, 2003, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-062.

Title of Rule: Financial reporting by licensees, amending WAC 230-12-305 Licensee required to submit updated documents or information.

Purpose: This amendment will enable staff to be fully informed of all of a licensee's financing activities, therefore, staff will be able to complete a more thorough financial investigation on persons involved in the financing of a gambling operation.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: Currently, loans of \$2,000 or more must be reported to the commission if they are not obtained from a federally recognized financial institution. This allows staff to source the funds to ensure the moneys are clean and persons with ties to criminal activities do not infiltrate gambling operations in Washington state. Staff has requested language be added to require contributions of *cash and assets* to also be reported to the commission. This proposed language enables staff to be fully informed on all of the licensee's financing activities and facilitates a more complete financial investigation on all parties involved in the financing of a gambling operation.

Reasons Supporting Proposal: See Purpose above and Explanation of Rule below.

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

Name of Proponent: Staff, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently, a licensee can receive approval from staff for a line of credit (for example, from a financier licensed as a service supplier) from which they can take draws from over a period of time. At times, these draws can occur years after the original funds were investigated and sourced. During this time, the "original" moneys that were sourced are gone and other moneys are held in the account, which may be drawn on by the licensee. By requiring draws to be reported, staff can track the moneys and if necessary, source new funds that have replaced the funds which were originally sourced.

\$2,000 is a very low threshold and does not appear to be a material amount to even our smallest licensees. Therefore, it is proposed that the loan/contribution amount be increased from \$2,000 to \$10,000.

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Explanation of Rule above.

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

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

Hearing Location: Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, (509) 663-0711, on May 9, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2003, TDD (360) 486-3637 or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by May 1, 2003.

Date of Intended Adoption: May 9, 2003.

March 19, 2003

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 250, filed 3/16/94, effective 4/16/94)

WAC 230-12-305 Licensee required to submit updated documents or information. In addition to any other requirements set forth in these rules, ~~((the))~~ persons licensed by the commission shall ~~((be required to))~~ submit any ~~((changes in the following))~~ new or updated documents or information ~~((on file with the commission))~~ including, but not limited to, the following:

(1) Articles of incorporation or by laws, or any other documents which set out the organizational structure and purposes;

(2) Internal Revenue Service tax exemption status (charitable/nonprofit organizations only);

(3) All ~~((leases, rental, consignment, franchise, or other))~~ contracts and agreements ((relating)), whether oral or written which relate to gambling activities or ((altering the commercial stimulant business, whether oral or written)) alter the organizational structure of the licensee or its business activities in Washington state; and

(4) All cash or asset contributions, draws from lines of credit, and loans, from other than recognized financial institutions, which individually or collectively exceed a total of (((\$2,000.00)) ten thousand dollars during any calendar year. Provided, That cash or asset contributions do not include donations to licensed charitable or nonprofit organizations.

(5) The new or updated documents and/or information shall be submitted to the commission by notation on the next quarterly activity report filed, and by attaching all details concerning each transaction: Provided, That licensees not required to submit quarterly activity reports shall submit the required information no later than ~~((60))~~ sixty days following the transaction(s) date.

WSR 03-08-002
PROPOSED RULES
GAMBLING COMMISSION
 [Filed March 19, 2003, 3:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-065.

Title of Rule: Equipment review and approval process: Amending WAC 230-12-315 Request for services related to gambling activities—Fees, 230-02-412 Gambling equipment defined and 230-04-110 Licensing by manufacturers; and new section WAC 230-12-316 Electronic or mechanical equipment—Approval.

Purpose: The Gambling Commission is authorized to control equipment used in conjunction with activities authorized under chapter 9.46 RCW. Currently, staff reviews new equipment as part of the initial licensing process of a manufacturer. However, commission rules focus the reviews on ownership and manufacturing issues; security and compliance of the equipment are not addressed in the rules. Procedures for reviewing equipment for integrity and compliance are currently set by policy.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: This rules package sets forth a regulatory framework to support staff's efforts in reviewing and testing equipment used in conjunction with activities authorized under chapter 9.46 RCW. Electronic and mechanical gambling equipment will require approval from staff before it can be operated to ensure it is functioning properly. Currently, staff provide two free hours to review gambling related equipment. The "two free hours" is proposed to be removed and require all staff time spent to review to be reimbursed.

Reasons Supporting Proposal: See Purpose above.

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

Name of Proponent: Staff, governmental.

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

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

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

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

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

Hearing Location: Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, (509) 663-0711, on May 9, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2003, TDD (360) 486-3637 or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by May 1, 2003.

Date of Intended Adoption: May 9, 2003.

March 19, 2003

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

WAC 230-12-315 Request for review services (~~related to gambling activities~~)—Fees. Any person (~~requesting commission staff review, inspection, and/or evaluation of~~) submitting equipment, paraphernalia, services, or schemes (~~related to licensed gambling activities shall reimburse the commission the cost to conduct such. If the requestor is currently licensed or has applied for a license, there will be no assessment of cost for the first two hours of service. Provided, That this two hour exemption does not apply to any review conducted as part of a prelicensing investigation~~) for review, inspection, and/or evaluation by commission staff shall reimburse the commission the cost of services performed. A deposit of the estimated cost may be required prior to performance of such service. If a deposit is required, it shall be received by the commission prior to the performance of any substantial work on the request.

NEW SECTION

WAC 230-12-316 Electronic or mechanical equipment—Approval. Approval from the director must be obtained prior to the sale, lease or operation of electronic or mechanical gambling equipment, including gambling equipment used in conjunction with a promotional contest of chance. The equipment shall meet technical standards for compliance, accuracy, security and integrity.

(1) Manufacturers may be required to submit electronic or mechanical gambling equipment for review.

(a) To allow for continued testing and training, any equipment that is submitted for approval under this section may be kept by the director for as long as the equipment remains out for play in the state of Washington.

(b) The gambling commission and staff are not liable for any damage to equipment while in their possession.

(2) Fees for review shall be as set forth in WAC 230-12-315.

(3) Equipment operated in Washington state must be identical to the version approved by the director.

(4) Equipment in operation on July 1, 2003, may continue in operation pending review by the director.

Removing approved equipment from operation.

(5) Once equipment is approved, the director shall not revoke the approval without providing written notice. The licensee shall be afforded an opportunity to object to the director's decision. If an objection is filed, an administrative law judge shall review the director's decision utilizing the brief adjudicative procedures set forth in WAC 230-50-010.

Procedures if approval is denied.

(6) The licensee shall be notified in writing when the director denies a request for equipment approval. The notification shall include reasons for the denial. The licensee shall be afforded an opportunity to object to the director's decision. If an objection is filed, an administrative law judge shall review the director's decision utilizing the brief adjudicative procedures set forth in WAC 230-50-010.

AMENDATORY SECTION (Amending Order 385, filed 7/14/00, effective 1/1/01)

WAC 230-02-412 Gambling equipment defined. For purposes of this title, gambling equipment means any device, gambling related software, expendable supply or any other paraphernalia used in conjunction with or to facilitate gambling. Gambling equipment includes, but is not limited to:

(1) Amusement games;
 (2) Punch boards and pull-tabs;
 (3) Devices for dispensing pull-tabs;
 (4) Electronic devices for conducting, facilitating or accounting for the results of gambling activities, including, but not limited to:

(a) Components of a tribal lottery system;
 (b) Electronic devices for reading and displaying outcomes of ~~((pull tabs defined by WAC 230-02-260))~~ gambling activities; and
 (c) Accounting systems that are a part of, or directly connected to, a gaming system including, but not limited to:

(i) Bet totalizers; ~~((or))~~
 (ii) Progressive jackpot meters; or
 (iii) Keno systems;
 (5) Bingo equipment, as defined in WAC 230-02-250;
 (6) Equipment or machinery utilized for the manufacture of gambling equipment when such equipment is designed primarily for such purpose;

(7) Devices and supplies used to conduct card games, fund-raising events, recreational gaming activities, or Class III gaming activities, as defined in the Indian Gaming Regulatory Act at U.S.C. 25 chapter 29 § 2703 and in Tribal-State compacts, including, but not limited to:

(a) Gaming chips;
 (b) Cards;
 (c) Dice;
 (d) Card shuffling devices;
 (e) Graphical game layouts for table games;
 (f) Ace finders or ~~((no-peek))~~ no-peek devices;
 (g) Roulette wheels; ~~((and))~~
 (h) Keno equipment; and
 (i) Tables manufactured exclusively for gaming purposes.

AMENDATORY SECTION (Amending Order 385, filed 7/14/00, effective 1/1/01)

WAC 230-04-110 Licensing of manufacturers. ~~((Except as authorized by WAC 230-04-115,))~~ A license must be obtained from the commission prior to manufacturing, selling, or supplying gambling equipment to any person(s) within this state, or for use within this state: Provided, That amusement game manufacturers and manufacturers operating under a special sales permit (WAC 230-04-115) do not require a manufacturer's license. The following requirements apply to certification and licensing of manufacturers:

Information required on an application.

(1) The following information shall be submitted on an application form supplied by the commission:

(a) The full name and address of the applicant;

(b) The full name and address of each location where such devices are manufactured or stored;

(c) The name, home address, and share of ownership of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;

(d) A full description of each separate type of gambling equipment or device that an applicant seeks to manufacture or to market in this state;

(e) The brand name under which each type of gambling device or equipment is sold;

(f) If the applicant is incorporated under laws other than the laws of Washington state, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and

(g) A list of all distributors receiving gambling equipment and all businesses or organizations located within the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purpose of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed manufacturer and indebtedness between the licensee and any other person, other than a regulated financial institution, in excess of five thousand dollars.

Information to be included with an application.

(2) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

(i) As a sole proprietor;
 (ii) As a partner;
 (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
 (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed regarding gambling related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff.

Additional information may be required from applicant.

(3) The following records shall also be available for inspection by commission staff:

- (a) Personal financial records of all substantial interest holders;
- (b) All records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, etc., related to sales or purchases; and
- (c) Records related to any financial or management control of or by customers and suppliers.

Applicant to demonstrate ability to comply with rules.

(4) An applicant must demonstrate the ability to comply with all manufacturing, quality control, and operational restrictions imposed on authorized gambling equipment, patented or otherwise restricted gaming schemes (also referred to as proprietary games), or equipment that it seeks to manufacture or market for use within the state of Washington. The licensing process shall include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized gambling device, equipment, or scheme to ensure capability to comply with all regulatory requirements of this title and state/tribal compacts;

Notifying commission staff of changes on an application.

(5) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form, including changes that occur after the license has been issued; and

Applicant to comply with all laws and rules.

(6) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

ment of Licensing, 405 Black Lake Boulevard, Olympia, (360) 664-1555.

Name of Proponent: Cemetery Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 98-70-010 provides for application, renewal, and miscellaneous fees in connection with the licensing of the cemetery industry. This amendment provides for changing all fees, including making identical the fees for licenses that are similar to licenses issued by the Board of Funeral Directors and Embalmers. Cremation application and renewal fees will be the same for both boards.

Proposal Changes the Following Existing Rules: Changes all application and renewal fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These fee changes are permitted by the legislature and should not adversely affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this statute.

Hearing Location: Department of Licensing, Conference Room #102, 405 Black Lake Boulevard, Olympia, WA 98504, on May 7, 2003, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Jon Donnellan by telephone TDD (360) 664-8885 or (360) 664-1555.

Submit Written Comments to: Jon Donnellan, Administrator, Funeral and Cemetery Unit, P.O. Box 9012, Olympia, WA 98507-9012, (360) 664-1555, fax (360) 586-4414.

Date of Intended Adoption: May 7, 2003.

March 12, 2003

Jon Donnellan

Administrator

**WSR 03-08-009
PROPOSED RULES
DEPARTMENT OF LICENSING**

(Cemetery Board)

[Filed March 21, 2003, 2:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-077.

Title of Rule: Fees.

Purpose: To amend WAC 98-70-010 to bring Cemetery Board revenues into line with expenditures by increasing fees and making the renewal "per burial" for cemeteries and "per cremation" fees for crematories the same.

Statutory Authority for Adoption: RCW 68.05.105.

Statute Being Implemented: Title 68 RCW.

Summary: This amendment will permit the Cemetery Board to change its fees as allowed by the legislature in order to bring its revenues into line with its expenditures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Depart-

AMENDATORY SECTION (Amending WSR 99-16-079, filed 8/3/99, effective 9/3/99)

WAC 98-70-010 Fees. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Certificate of authority	
Application	((\$279.86)) <u>\$300.00</u>
Renewal	((4.19)) <u>3.20</u>
Charge per each interment, entombment and inurnment during preceding calendar year	
Crematory license/endorsement	
Application	((111.95)) <u>140.00</u>
Renewal	

PROPOSED

Title of Fee	Fee
<p>((Fifty five dollars and ninety seven cents plus fifty six cents)) <u>\$3.20</u> per cremation performed during the preceding calendar year</p>	
Prearrangement sales license	
Application	((11.95)) <u>140.00</u>
Renewal	((55.97)) <u>70.00</u>
Exemption from prearrangement sales license	
Application	((55.97)) <u>70.00</u>
Renewal	((27.99)) <u>35.00</u>
Cremated remains disposition permit or endorsement	
Application	((55.97)) <u>70.00</u>
Renewal	((27.99)) <u>35.00</u>

the funeral profession. This amendment provides for changing all fees, including making identical the fees for licenses that are similar to licenses issued by the Cemetery Board. Cremation application and renewal fees will be the same for both boards. Fees paid by individual licensees will be reduced from the current amount.

Proposal Changes the Following Existing Rules: Changes all application and renewal fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These fee changes are permitted by the legislature and should not adversely affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this statute.

Hearing Location: Department of Licensing, Conference Room #102, 405 Black Lake Boulevard, Olympia, WA 98504, on May 7, 2003, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Jon Donnellan by telephone TDD (360) 664-8885 or (360) 664-1555.

Submit Written Comments to: Jon Donnellan, Administrator, Funeral and Cemetery Unit, P.O. Box 9012, Olympia, WA 98507-9012, (360) 664-1555, fax (360) 586-4414.

Date of Intended Adoption: May 7, 2003.

March 12, 2003
Jon Donnellan
Administrator

WSR 03-08-010

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Filed March 21, 2003, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-076.

Title of Rule: Funeral director/embalmer fees.

Purpose: To amend WAC 308-48-800 to increase the application and renewal fees for crematories so they are the same as the application and renewal fees for cemetery crematories, and to reduce all other fees to maintain the revenue necessary to meet projected expenditures.

Statutory Authority for Adoption: RCW 18.39.181.

Statute Being Implemented: Chapter 18.39 RCW.

Summary: This amendment will permit the Board of Funeral Directors and Embalmers to change its fees as allowed by the legislature in order to bring its revenues into line with its expenditures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Department of Licensing, 405 Black Lake Boulevard, Olympia, (360) 664-1555.

Name of Proponent: Board of Funeral Directors and Embalmers, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-48-800 provides for application, renewal, and miscellaneous fees in connection with the licensing of

AMENDATORY SECTION (Amending WSR 99-16-040, filed 7/29/99, effective 8/29/99)

WAC 308-48-800 Funeral director/embalmer fees.

The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Embalmer:	
State examination or reexamination	((154.98)) <u>\$100.00</u>
Renewal	((103.32)) <u>70.00</u>
Late renewal penalty	((51.66)) <u>35.00</u>
Duplicate	((15.50)) <u>15.00</u>
Certification	((25.83)) <u>25.00</u>
Embalmer apprentice:	
Apprentice application	((77.49)) <u>75.00</u>
Apprentice renewal	((46.49)) <u>45.00</u>
Duplicate	((15.50)) <u>15.00</u>
Certification	((25.83)) <u>25.00</u>

PROPOSED

WSR 03-08-019

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed March 26, 2003, 9:00 a.m.]

Title of Fee	Fee
Funeral director:	
State examination or reexamination	((154.98)) <u>100.00</u>
Renewal	((103.32)) <u>70.00</u>
Late renewal penalty	((51.66)) <u>35.00</u>
Duplicate	((15.50)) <u>15.00</u>
Certification	((25.83)) <u>25.00</u>
Funeral director apprentice:	
Apprentice application	((77.49)) <u>75.00</u>
Apprentice renewal	((46.49)) <u>45.00</u>
Duplicate	((15.50)) <u>15.00</u>
Certification	((25.83)) <u>25.00</u>
Funeral establishment:	
Original application	((361.62)) <u>300.00</u>
Renewal	((309.96)) <u>150.00</u>
Branch registration (and renewal)	((258.30)) <u>250.00</u>
<u>Branch renewal</u>	<u>150.00</u>
Preneed application	((206.64)) <u>140.00</u>
Preneed renewal:	
0-25 sales	((25.83)) <u>25.00</u>
26-99 sales	((103.32)) <u>75.00</u>
100 or more sales	((154.98)) <u>125.00</u>
Financial statement fee	((51.66)) <u>50.00</u>
Crematory endorsement registration	((103.32)) <u>140.00</u>
Crematory endorsement renewal (fifty one dollars and sixty six cents plus fifty two cents) <u>\$3.20</u> per cremation performed during previous calendar year.	

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

Title of Rule: Bellevue Community College calendar.

Purpose: Repeals the existing WAC that describes how the Bellevue Community College calendar is annually determined.

Other Identifying Information: WAC 132H-132-010 and 132H-132-020.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: The Bellevue Community College annual calendar is now determined during the faculty negotiation process rather than by the method identified in chapter 132H-132 WAC. Repealing this chapter removes the conflict between process and practice.

Reasons Supporting Proposal: The calendar relates to internal organizational operations and is not subject to violation by anyone outside of the organization. The faculty contract takes precedence over other rules and it is inappropriate to have conflicting rules relating to this issue.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lucy Macneil, 3000 Landerholm Circle S.E., A101, Bellevue, WA 98007, (425) 564-2445.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repealing the WAC identifying how the college calendar is developed will eliminate the current conflict between the rule in this WAC and the current practice of negotiating the calendar during faculty negotiations.

Proposal Changes the Following Existing Rules: The proposal eliminates chapter 132H-132 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., A101, Bellevue, WA 98007-6484, on May 6, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjomesli by May 6, 2003, TDD (425) 564-4110 or (425) 564-2498.

Submit Written Comments to: Lucy Macneil, Bellevue Community College, 3000 Landerholm Circle S.E., A101, Bellevue, WA 98007-6484, fax (425) 564-3173, by May 6, 2002 [2003].

Date of Intended Adoption: June 18, 2003.

March 21, 2003
Elise J. Erickson
Rules Coordinator

PROPOSED

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132H-132-010	Title.
WAC 132H-132-020	Bellevue Community College calendar.

**WSR 03-08-020
PROPOSED RULES**

BELLEVUE COMMUNITY COLLEGE

[Filed March 26, 2003, 9:02 a.m.]

Original Notice.

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

Title of Rule: Discrimination complaint procedure.

Purpose: Deletes the current discrimination complaint procedure and replaces it with a new one that is more streamlined and easier to use.

Other Identifying Information: Delete WAC 132H-152-135.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: The proposed deletion of the existing discrimination complaint procedure and creation of new sections for the procedure make it easier to read and use. Rather than having all segments of the procedure in one WAC section, it is now divided into new sections which will make it easier to follow. The procedure also removes confusing language and identifies only one place to go for anyone wishing to file a complaint rather than providing unclear choices.

Reasons Supporting Proposal: All of the college's complaint procedures were reviewed and clarified to eliminate confusion and make them easier to follow and administer.

Name of Agency Personnel Responsible for Drafting: Elise Erickson, 3000 Landerholm Circle S.E., A201, Bellevue, WA 98007, (425) 564-2302; Implementation and Enforcement: Tika Esler, 3000 Landerholm Circle S.E., B125, Bellevue, WA 98007, (425) 564-2206.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The college is required to provide information to the general public about how complaints alleging discrimination can be filed. The existing WAC 132H-152-135 was confusing and difficult to administer. The new proposed chapter 132H-155 WAC makes it much easier for both the complainant to file a discrimination complaint and for the college to administer it.

Proposal Changes the Following Existing Rules: The current discrimination complaint filed as WAC 132H-152-135 is deleted and replaced by WAC 132H-155-010 through 132H-155-070.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., A201, Bellevue, WA 98007-6484, on May 6, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjomesli by May 6, 2003, TDD (425) 564-4110 or (425) 564-2498.

Submit Written Comments to: Elise Erickson, Bellevue Community College, 3000 Landerholm Circle S.E., A201, Bellevue, WA 98007-6484, fax (425) 564-5600, by May 6, 2002 [2003].

Date of Intended Adoption: June 18, 2003.

March 21, 2003
Elise J. Erickson
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132H-152-135	Discrimination complaint procedure
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NEW SECTION

WAC 132H-155-010 Title. WAC 132H-155-010 through 132H-155-shall be known as the discrimination complaint procedure of Bellevue Community College.

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 132H-155-020 Purpose. It is the policy of Bellevue Community College to provide clear and accurate information, provide accessible services, and offer excellent educational programs and quality service.

Bellevue Community College, through its affirmative action policy and general policy on sexual harassment, and in accordance with state and federal regulations, prohibits discrimination against students and employees on the basis of race or ethnicity, creed, color, national origin, sex, marital status, sexual orientation, age, religion, the presence of sensory, mental or physical disability, or status as a disabled or Vietnam-era veteran.

BCC employees are responsible for ensuring that their conduct does not discriminate against anyone; they are expected to treat people conducting business at Bellevue Community College with respect and may expect the same consideration, in return.

NEW SECTION

WAC 132H-155-030 Informal complaint process. The purpose of this step is to enable an individual to express

PROPOSED

and resolve misunderstandings, complaints or grievances at the lowest level possible by speaking directly with the employee or departmental supervisor. The aggrieved person should make an appointment to talk directly with the employee to attempt to reach a mutual agreement. In some situations, the aggrieved person may be more comfortable requesting a meeting with the employee's supervisor, instead. Both parties should be courteous, flexible and respectful, as concerns are identified and possible resolutions discussed. Both sides should be open to alternative solutions or suggestions. If the problem cannot be solved together, the following formal complaint procedures may be used.

NEW SECTION

WAC 132H-155-040 How to file a discrimination complaint. Whenever a complaint alleges discrimination or sexual harassment, this procedure should be used rather than the other complaint procedures. Alleged Title IX and Section 503 violations as well as other discrimination complaints will be investigated under this procedure. A student or member of the public who believes he/she has been discriminated against should bring his/her complaint to the Department of Human Resources, A101, or telephone (425) 564-2274.

NEW SECTION

WAC 132H-155-050 Formal discrimination complaint procedure. Discrimination complaints should be filed within one year after the incident(s) occurred. The college will act promptly to investigate the complaint and will attempt to protect the rights of the individual bringing the complaint (the complainant), the alleged discriminator, and any witnesses involved. All parties involved have the right to protection from any retaliating behavior by the alleged discriminator or any college employee. All complaints shall be kept as confidential as is reasonably possible during the investigation/resolution process. However, complaints may be subject to public disclosure under the state's Public Disclosure Act, and therefore the college cannot assure confidentiality to any participant in the process.

If administrators or supervisors become aware that discrimination is occurring, receive a complaint, or obtain other information indicating possible discrimination, they must notify the vice president of human resources as soon as reasonably possible, to ensure that the matter is addressed, even if the problem or alleged problem is not within their area of responsibility and authority.

Complainants, individuals charged, and any witnesses are entitled to representation of their selection throughout the complaint process. The individual charged will be informed that his/her bargaining unit representative will be notified that a complaint has been filed against him/her, unless he/she requests that no notification be made.

Within seven days after the formal complaint has been filed, the individual charged, his/her immediate supervisor and the area dean/vice president will be notified that a complaint has been filed.

The complainant may request an alternate dispute resolution process prior to or in lieu of the investigatory process

outlined below. The vice president of human resources or designee (the investigator) will conduct interviews with the complainant, the alleged discriminator, and any witnesses to allegations identified by the complainant and the alleged discriminator. Reasonable efforts will be made to complete such interviews within ninety days.

The report summarizing the findings of the investigation and the determination as to whether or not discrimination has occurred shall be forwarded to the appropriate area dean/vice president. Copies of the report shall be provided to the complainant, the alleged discriminator, the alleged discriminator's supervisor and the dean of student services if the alleged discriminator is a student.

The decision regarding what action to take on the complaint, including, but not limited to, appropriate corrective measures and/or disciplinary action shall be made by the area dean/vice president and reported to the complainant. Copies of the determination shall be sent to the complainant, alleged discriminator, the alleged discriminator's supervisor and the vice president of human resources. Reasonable efforts will be made to take action on the complaint within thirty days after receipt of the report. If a decision is made to take disciplinary action, such action shall be taken in accordance with appropriate college procedures and collective bargaining agreements.

NEW SECTION

WAC 132H-155-060 Appeal. Appeals of any disciplinary action, including any finding that discrimination occurred, may be made through the appropriate employee contract or the student code.

If the complainant is not satisfied with the disposition of the complaint, she/he may file a written appeal to the president within ten days after notification of the disposition of the complaint. This request should include any and all additional information s/he wants the president to consider. The decision regarding the appeal, including appropriate corrective measures, shall be made in writing by the president within fifteen days after receipt of an appeal.

NEW SECTION

WAC 132H-155-070 External complaint. Any student, employee, applicant for admission or employment, or member of the public using BCC facilities who believes he/she has been discriminated against has the right to bypass the internal college process and file a discrimination complaint with one of the agencies listed below or any other agency with the jurisdiction to hear such complaints. Individuals seeking assistance from state and federal agencies need to be aware that many agencies have strict timelines regarding the filing of complaints.

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104-1061

Human Rights Commission
1511 Third Avenue, Suite 921
Seattle, WA 98101

U.S. Office of Civil Rights
Department of Education
915 Second Avenue
Seattle, WA 98174-1099

WSR 03-08-021
PROPOSED RULES
BELLEVUE COMMUNITY COLLEGE

[Filed March 26, 2003, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-075.

Title of Rule: Student code of Bellevue Community College.

Purpose: The student code identifies the rights, responsibilities and potential consequences for inappropriate action for students attending Bellevue Community College.

Other Identifying Information: WAC 132H-120-020 through 132H-120-310.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: The changes amend the student code to expand the jurisdiction to cover students enrolled in distance education courses, to add definitions when none existed, eliminate typographical errors and expand language to cover criminal or ethical violations, and improper use of various electronic devices.

Reasons Supporting Proposal: All of the college's complaint procedures were reviewed and clarified to eliminate confusion and make them easier to follow and administer.

Name of Agency Personnel Responsible for Drafting and Implementation: Tika Esler, 3000 Landerholm Circle S.E., B125, Bellevue, WA 98007, (425) 564-2206; and Enforcement: Matt Groshong, 3000 Landerholm Circle S.E., B125, Bellevue, WA 98007, (425) 564-5608.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The student code of Bellevue Community College clearly identifies students' rights and the consequent responsibilities. It articulates what kinds of acts or behaviors constitute violation of the code and describes the hearing and appeal procedures as well as the possible consequences for violations.

Proposal Changes the Following Existing Rules: The current WAC 132H-120-020 through 132H-120-310 is amended. The amendments expand the code to include distance education courses, electronic equipment, and other areas not previously covered in the existing chapter. Typographical errors are eliminated and definitions expanded to cover the terms used in the code.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., B125, Bellevue, WA 98007-6484, on May 6, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjomesli by May 6, 2003, TDD (425) 564-4110 or (425) 564-2498.

Submit Written Comments to: Tika Esler, Bellevue Community College, 3000 Landerholm Circle S.E., B125, Bellevue, WA 98007-6484, fax (425) 564-5600, by May 6, 2002 [2003].

Date of Intended Adoption: June 18, 2003.

March 21, 2003

Elise J. Erickson

Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-020 Preamble. Bellevue Community College is maintained by the state of Washington for the purpose of providing its students with appropriate learning programs which will facilitate the orderly pursuit and achievement of their educational objectives. The college is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons through policies which encourage independence and maturity.

The student is in the unique position of being a member of the college community and the community at large. Admission to the college carries with it the expectation that students:

- (1) Will (~~((Students will))~~) respect and abide by the laws of the community, state, and nation;
- (2) Will adhere (~~((Adhere))~~) to college rules and regulations which assure the orderly conduct of college affairs;
- (3) Will maintain (~~((Maintain))~~) high standards of integrity and honesty;
- (4) Will respect the rights, privileges, and property of other members of the college community; and
- (5) Will not interfere with legitimate college affairs.

Bellevue Community College may apply sanctions or take other appropriate action only when student conduct directly and significantly interferes with the college's:

- (1) Primary educational responsibility of ensuring the opportunity of all members of the college community to attain their educational objectives;
- (2) Subsidiary responsibilities of protecting property, keeping records, providing services, and sponsoring (~~((non-classroom))~~) non-classroom activities, such as lectures, concerts, athletic events and social functions.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights, freedoms and responsibilities in this document are critical ingredients toward the free, creative and spirited edu-

cational environment to which the students, faculty, and staff of Bellevue Community College are committed

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.

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 02-10-069, filed 4/26/02)

WAC 132H-120-030 Definitions. As used in this Student Code of Community College District VIII the following words and phrases shall mean:

(1) "Alcoholic beverages" are any beverages as defined in RCW 66.04.010(15), as now law or hereafter amended.

~~((1))~~ (2) "Assembly" ((means)) is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or groups of persons.

(3) "Associated students" is the student body and such authorized groups organized under the provisions of the constitution and bylaws of the associated students of the college.

~~((2))~~ (4) "Board" means the board of trustees of Community College District ((No-)) VIII, state of Washington.

~~((3))~~ (5) "College" means Bellevue Community College located within Community College District ((No-)) VIII, state of Washington.

~~((4))~~ (6) "College property or facilities" ((means and includes)) are any and all real and personal property that the college owns, uses, controls or operates, ((owned or operated by the college and shall include)) including all equipment, buildings and appurtenances affixed thereon or attached thereto. College property and facilities extend to affiliated websites, distance education classroom environments, and agencies or institutions that have educational agreements with the college.

~~((5))~~ (7) "College personnel" refers to any person employed on a full-time or part-time basis, except those who are faculty members, by Bellevue Community College.

~~((6))~~ (8) "Complaint" means any expression of dissatisfaction with the performance of a student, ((college)) employee or procedure.

(9) "Controlled substance" is any drug or substance as defined in RCW 69.50 as now law or hereafter amended.

~~((7))~~ (10) "Disciplinary action" ((means and)) includes warning, reprimand, probation, expulsion, suspension((f-)), or any ((lesser)) sanction of any student by the dean of student services, the college discipline committee, the president((f-)), or the board of trustees for the violation of any of the provisions of the student code for which sanctions may be imposed.

((11) "Distance education" means various methods of instructional delivery that include, but are not limited to, online courses, telecourses and interactive video courses.

~~((8))~~ (12) "District" means Community College District VIII, state of Washington.

~~((9))~~ (13) "Faculty member" means any employee of Bellevue Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian((f-)), or other position for which the training, experience((f-)) and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(14) "Free speech area" means an area that shall be designated by the college president which can be reserved by student groups through the office of student programs.

~~((10))~~ (15) "President" means the duly appointed chief executive officer of Bellevue Community College, state of Washington, or in his/her absence, the acting chief executive officer.

~~((11))~~ (16) "Recognized student organization" shall mean and include any group or organization composed of students which is formally recognized by the associated students of Bellevue Community College.

~~((12))~~ (17) "Sponsored event or activity" shall mean any activity that is scheduled by the college and supervised and controlled by the college's faculty members, librarians, counselors, or other college personnel. Such "sponsorship" shall continue only as long as the event is supervised and controlled by the college faculty member, librarian, counselor or other college personnel. When the sponsored event or activity is of prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the activity shall be deemed to a ~~((non-sponsored))~~ non-sponsored activity.

~~((13))~~ (18) "Student," unless otherwise qualified, means any person who is enrolled for classes or has been accepted for admission to the college.

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.

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.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-040 Jurisdiction. (1) All rules herein adopted concerning student conduct and discipline shall apply to every student ~~((attending a community college within the district))~~ whenever said student is participating in a distance education class or event, or is attending a class, or is present ((upon or)) in any college facility, or whenever said student is engaged in or present at any college-related activity whether occurring on or off college facilities.

(2) Faculty members, other college employees, and members of the public who breach or aid or abet another in the breach of any provision of this chapter shall be subject to

(a) Possible prosecution under the state criminal law;

(b) Any other civil or criminal liability for which remedies are available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board or the district's policies and regulations.

(d) Restriction from entry to any college property or facilities, the violation of which could result in criminal trespass;

(3) The college may carry out any disciplinary proceedings prior to, simultaneously, or following civil or criminal proceedings in a court of law.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-050 Student rights and freedoms.

The following enumerated rights and freedoms are guaranteed to each student within the limitations of statutory law and college policies that are deemed necessary to achieve the educational goals of the college:\

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public. Students and other members of the college community shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operation of the college.

(b) Students shall have the right of assembly as defined in WAC 132H-120-030 upon college facilities that are generally available to the public: Provided, That such assembly shall:

(i) Be conducted in an orderly manner; and

(ii) Not unreasonably interfere with vehicular or pedestrian traffic; or

(iii) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with the educational functions of the college;

(iv) Not unreasonably interfere with college functions; and

(v) Not cause damage or destruction to college property or private property on the college campus.

(c) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(d) Students shall be protected from academic evaluation which is arbitrary, prejudiced or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(e) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) The right of students to be secure in their persons, quarters, papers and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this student code is entitled, upon request, to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official proce-

dures printed and available in the (~~dean of student service's office~~) office of student programs. All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. The college may restrict the distribution of any publications where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the (~~director~~) office of student programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(4) Off campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the campus operations office.

(5) Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(6) Commercial activities. The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of student services for the benefit of the approved activity.

(7) Fund raising. Students have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of student services.

(8) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the dean of student services.

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 02-10-069, filed 4/26/02)

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide(~~(#)~~), abettor or accomplice as defined in RCW 9A.08.020:

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

(2) Engages in unlawful conduct;

~~((2))~~ (3) Violates any provisions of this chapter; or

~~((3))~~ (4) Commits any prohibited act, including but not limited to the following: ~~((of the following acts which are hereby prohibited:))~~

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(c) Illegal entry. ~~(Entering)~~ Unauthorized entry into or onto any locked or otherwise closed college property or facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially 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.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

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

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010(~~(—[9A.36.])~~) through RCW 9A.36.050 or RCW 28B.10.570(~~(—[28B.10.])~~) through RCW 28B.10.572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd conduct. Engaging in lewd, indecent~~((+))~~, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) 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.

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010(~~(—)~~) through RCW 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting or using college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any college facility or on campus grounds except where specifically posted as permitted, ~~((classroom or laboratory, the library, or in any college facility or office posted "no smoking"))~~ or any other smoking not complying with chapter 70.160 RCW.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(u) Improper use of computer, telephone or other electronic devices. Conduct that violates the college's acceptable use policy as it relates to computers, telephone, or electronic technology use, including electronic mail and the internet. Trespassing or gaining access, without authorization, to a computer, system, network, or electronic data owned, used by, or affiliated with the college.

(v) 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 profession for which the student is taking courses or is pursuing as an 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 may subject the student to disciplinary action by the college.

(w) Criminal law violation, illegal behavior, other unlawful violations. Students can be reported to proper authorities for acts which constitute violations to applicable local, state and federal laws. When the student's behavior is determined to threaten the health, safety and/or property of the college and its members, the college may immediately and summarily suspend the student and refer any such violation to the proper authorities for disposition.

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.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-220 Responsibility of college discipline committee. The dean of student services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean or his/her designee. The dean(~~(, who))~~) shall have the authority to administer the disciplinary action prescribed in this chapter and to convene the college discipline committee. The composition of the college discipline committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons:

- (1) A faculty member appointed by the president of the college.
- (2) A member of the faculty, appointed by the president of the Bellevue Community College Association of Higher Education.
- (3) Two representatives selected by the student services cabinet.
- (4) Three students appointed by the president of the associated students of Bellevue Community College.

None of the above-named persons shall sit in any case in which he/she has a conflict of interest, is a complainant or witness, has a direct or personal interest, or has acted previously in an advisory capacity. Decisions in this regard, including the selection of alternates, shall be made by the college discipline committee as a whole.

The college discipline committee chair will be elected by the members of the college discipline committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained. The quorum required for a hearing is the chair, one faculty member, one representative of the student services cabinet and one student.

AMENDATORY SECTION (Amending WSR 932-129-00847 [02-10-069], filed 5/19/93 [4/26/02])

WAC 132H-120-300 Discipline committee procedure. (1) The discipline committee shall conduct a hearing within twenty calendar days after disciplinary action has been referred to the committee.

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person

- (a) Waives the opportunity for a brief adjudicative proceeding, or
- (b) By his/her conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding, or

(c) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the stu-

dent or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) Written notice of the time and place of his hearing before the college discipline committee, shall be given to the student by personal service or certified mail not less than twenty calendar days in advance of the hearing. The notice shall be issued by the dean of student services and shall contain:

- (a) A statement of the time, place and nature of the disciplinary proceedings;
- (b) A statement of the charges including reference to the particular sections of the student code involved; and
- (c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(4) The student shall be entitled to:

- (a) Hear and examine the evidence against him or her and be informed of the identity of its source;
- (b) Present evidence in his or her own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters.

(c) Take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(5) The student shall have all authority possessed by the college to obtain information he/she specifically describes, in writing, and tenders to the dean of student services no later than three days prior to the hearings, or request the presence of witnesses or the production of other evidence relevant to the issues of the hearings.

(6) The student shall have the right to dismiss a member of the college discipline committee on prejudicial grounds if notice is tendered in writing to the dean of student services at least three days prior to the scheduled hearing.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney as his or her counsel, he or she must tender at least seven calendar days' notice thereof to the dean of student services.

(8) In all disciplinary proceedings the college may be represented by the dean of student services or his or her designee who shall present the college's case to the college discipline committee. The dean of student services may elect to have the college represented by an assistant attorney general.

(9) An adequate record of the hearing shall be maintained and shall include:

- (a) All documents, motions, and intermediate rulings;
- (b) Evidence received and considered;
- (c) A statement of matters noticed; and
- (d) Questions and offers of proof, objections and rulings thereon.

(10) The chair of the college discipline committee shall preside at the disciplinary hearing and shall be considered the presiding officer.

(11) The dean of student services shall designate a recorder to take notes during the hearing and to prepare a

written summary of all evidence, facts and testimony presented to the college discipline committee during the course of the hearing.

(12) Hearings conducted by the college discipline committee generally will be held in closed session, provided that the accused student may request the hearing to be held in open session.

(13) If at any time during the conduct of a hearing visitors disrupt the proceedings, the chair of the committee may exclude such persons from the hearing room.

(14) Any student attending the college discipline committee hearing who continues to disrupt ~~((eff))~~ the proceedings after the chair of the committee has asked him or her to cease or to leave the hearing room shall be subject to disciplinary action.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-310 Decision by the college discipline committee. (1) Upon conclusion of the disciplinary hearing, the college discipline committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the decision of the dean of student services or to recommend to the president any of the following actions:

(a) That the college terminate the proceedings and exonerate the student or students:

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) Within seven calendar days, the student will be provided with a copy of the college discipline committee's findings of fact and conclusions regarding what occurred, whether the student violated any provision of the student ~~((code))~~ code and recommendation for the final disposition of the matter at issue. The committee shall also advise the student of his/her rights to present, within twenty-one calendar days, a written statement to the president of the college appealing the recommendation of the college discipline committee.

WSR 03-08-033

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 27, 2003, 10:00 a.m.]

Original Notice.

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

Title of Rule: WAC 246-205-990 Decontamination of illegal manufacturing and storage sites fees.

Purpose: To revise the fee schedule for the clandestine drug lab program in order to cover inflationary increases in program costs.

Other Identifying Information: This proposal increases fees within the 2003 fiscal growth factor of 3.29%.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.110.

Statute Being Implemented: RCW 43.70.250 and 43.70.110.

Summary: Fees support the public health activities of the clandestine drug lab program and need to be adjusted to compensate for inflation.

Reasons Supporting Proposal: Sufficient revenue is necessary to fulfill the department's public health obligations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carolyn Comeau, Tumwater, (360) 236-3381.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Office of Environmental Health and Safety ensures that the people who decontaminate illegal drug manufacturing and storage sites are educated and trained in ways that promise the best achievable results and promotes the safety of both the people involved in decontamination as well as individuals who may use the property in the future. These fees support the clandestine drug lab program charged with protecting public health through this certification process. The proposed rule will increase the annual clandestine drug lab program certification fees within the 2003 fiscal growth factor of 3.29% to offset inflationary increases.

Proposal Changes the Following Existing Rules: Clandestine drug lab program certification fees are increased within the fiscal growth factor of 3.29%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328.

Hearing Location: Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98504, on May 23, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Vicki Bouvier by May 16, 2003, TDD (800) 833-6388.

Submit Written Comments to: Carolyn Comeau, DOH-EHP-EHS, P.O. Box 47825, Olympia, WA 98504-7825, e-mail carolyn.comeau@doh.wa.gov, fax (360) 236-2250, by May 23, 2003.

Date of Intended Adoption: May 30, 2003.

March 23, 2003

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 01-14-047, filed 6/29/01, effective 7/30/01)

WAC 246-205-990 Fees. (1) The department shall charge fees for issuance and renewal of certificates. The department shall set the fees by rule.

(2) The fees shall cover the cost of issuing certificates, filing papers and notices, and administering this chapter. The costs shall include reproduction, travel, per diem, and administrative and legal support costs.

(3) Fees are nonrefundable and shall be in the form of check or money order made payable to the department.

(4) The department shall require payment of the following fees upon receipt of application:

(a) Twenty-eight dollars shall be assessed for each initial, renewal, or reciprocal worker certificate application.

(b) Twenty-eight dollars shall be assessed for each initial, renewal, or reciprocal supervisor certificate application.

(c) Five hundred (~~(fifty-two)~~) seventy dollars shall be assessed for each initial, renewal, or reciprocal authorized contractor certificate application. The applicant's certificate shall expire annually on the expiration date of the contractor's license issued under the provisions of chapter 18.27 RCW.

(d) Two hundred (~~(eleven)~~) seventeen dollars shall be assessed for each initial application and (~~(fifty-one)~~) fifty-two dollars shall be assessed for each renewal application for illegal drug manufacturing or storage site decontamination training course approval.

**WSR 03-08-034
PROPOSED RULES
DEPARTMENT OF HEALTH**

[Filed March 27, 2003, 10:01 a.m.]

Original Notice.

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

Title of Rule: Radiation machine registration fees, WAC 246-254-053.

Purpose: The department proposes to revise the x-ray fee schedule for the x-ray protection program in order to cover increases in program costs.

Other Identifying Information: The proposed fee increases are within the 2003 fiscal growth factor of 3.29%.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.110.

Statute Being Implemented: RCW 43.70.250 and 43.70.110.

Summary: Fees support the public health activities of the x-ray protection program and need to be adjusted to compensate for increased costs program, such as leased facility costs for Olympia and Spokane.

Reasons Supporting Proposal: Sufficient revenue is necessary to fulfill the department's public health obligations in this area.

Name of Agency Personnel Responsible for Drafting: Vicki Bouvier, Tumwater, (360) 236-3012; Implementation and Enforcement: Mike Odlaug, Tumwater, (360) 236-3237.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule currently contains a table of x-ray machine fees assessed on each type of x-ray facility, and is broken down into a base fee for every facility, followed by a "first tube" fee, and then by "additional tube" fees. The additional tube fees are lower than the first tube fees. The purpose of the fees is to support the registration and inspection program within the Division of Radiation Protection. The fee increases will allow the x-ray control program to continue its current level of public health activities, i.e., ensuring that unnecessary exposure to patients, the public and x-ray operators is minimized and that rules are followed to achieve this.

Proposal Changes the Following Existing Rules: Proposed fees are increased by the fiscal growth factor of 3.29%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of RCW 34.05.328.

Hearing Location: Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98504, on May 23, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Vicki Bouvier by May 16, 2003, TDD (800) 833-6388.

Submit Written Comments to: Mike Odlaug, DOH-EHP-DRP, P.O. Box 47827, Olympia, WA 98504-7827, e-mail mike.odlaug@doh.wa.gov, fax (360) 236-2266, by May 23, 2003.

Date of Intended Adoption: May 30, 2003.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-07-085, filed 3/19/02, effective 4/19/02)

WAC 246-254-053 Radiation machine facility registration fees. (1) Radiation machine facility fees apply to each person or facility owning, leasing and using radiation-producing machines.

FEE TYPE	FEE
(a) Annual Base Registration Fee	((\$48)) \$49
(b) Late registration or re-registration	((\$48)) \$49
(c) Tube Fees	See Table 1

PROPOSED

TABLE 1 Radiation Tube Fees		
Group	First Tube	Each Additional Tube
(i) Group A: Dental, Podiatric, Veterinary uses	((\$49) \$50	((\$25) \$25.50
(ii) Group B: Hospital, Medical, Chiropractic uses	((\$135) \$138	((\$70) \$72
(iii) Group C: Industrial, research, and other uses	((\$75) \$77	((\$25) \$25.50
(iv) Group D: Electron Microscopes, Mammographic X-ray Machines	NA	NA

(2) X-ray shielding fees.

(a) Facilities regulated under the shielding plan requirements of WAC 246-225-030 or 246-227-150 are subject to a ((~~\$90~~) \$92 X-ray shielding review fee for each X-ray room plan submitted.

(b) If a facility regulated under WAC 246-225-030 or 246-227-150 operates without submittal of X-ray shielding calculations and a floor plan it will be subject to a shielding design follow-up fee of ((~~\$48~~) \$49.

(3) **Radiation safety fee.** If a facility or group of facilities under one administrative control employs two or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility shall pay a flat, annual fee of ((~~\$3,100~~) \$3,200.

(4) **Consolidation of registration.** Facilities may consolidate X-ray machine registrations into a single registration after notifying the department in writing and documenting that a single business license applies.

(5) Inspection fees.

(a) The cost of routine, periodic inspections, including the initial inspection, are covered under the base fee and tube registration fees as described in subsection (1) of this section.

(b) Facilities requiring follow-up inspections due to uncorrected noncompliances must pay an inspection follow-up fee of \$90.

**WSR 03-08-035
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed March 27, 2003, 10:04 a.m.]**

Original Notice.

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

Title of Rule: Radioactive materials license fees; WAC 246-254-070 Specialized radioactive materials licenses, 246-254-080 Medical and veterinary licenses, 246-254-090 Industrial, and 246-254-100 Laboratory.

Purpose: To revise the fee schedule for the radioactive materials program in order to cover increases in program costs.

Other Identifying Information: This proposal increases fees within the 2003 fiscal growth factor of 3.29%.

Statutory Authority for Adoption: RCW 70.98.080, 43.70.250, and [43.70.]110.

Statute Being Implemented: RCW 70.98.080 and 43.70.250.

Summary: Fees support the public health activities in the radiation protection program and need to be adjusted to compensate for routine inflationary costs of the program.

Reasons Supporting Proposal: Sufficient revenue is necessary to fulfill the department's public health obligations.

Name of Agency Personnel Responsible for Drafting: Vicki Bouvier, Tumwater, (360) 236-3013; **Implementation and Enforcement:** Arden Scroggs, Tumwater, (360) 236-3221.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule will increase the annual radioactive materials license fees in the range of 2.68% to 3.29%. The purpose of the fees is to support the licensing and inspection program within the Division of Radiation Protection. The fee increase will allow the radioactive materials program to continue its current level of public health activities, i.e., inspecting facilities, performing safety reviews of license applications, responding to radiation incidents, and answering licensee and public concerns about radiation safety.

Proposal Changes the Following Existing Rules: Radioactive materials license fees are increased within the fiscal growth factor of 3.29%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328.

Hearing Location: Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98504, on May 23, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Vicki Bouvier by May 16, 2003, TDD (800) 833-6388.

Submit Written Comments to: Terry C. Frazee, DOH-EHP-DRP, P.O. Box 47827, Olympia, WA 98504-7827, e-mail terry.frazee@doh.wa.gov, fax (360) 236-2255, by May 23, 2003.

Date of Intended Adoption: May 30, 2003.

March 27, 2003
M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Five thousand (~~three~~) five hundred (~~eighty~~) fifty-five dollars for operation of a single nuclear pharmacy.

(b) Nine thousand (~~one~~) four hundred seventy-five dollars for operation of a single nuclear laundry.

(c) Nine thousand (~~one~~) four hundred seventy-five dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Three thousand (~~two~~) three hundred (~~twenty~~) twenty-five dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Eight hundred (~~thirty-five~~) sixty dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) Six thousand (~~one~~) three hundred fifty-five dollars for a license authorizing decontamination services operating from a single facility.

(g) (~~Two~~) Three thousand (~~nine hundred fifteen~~) ten dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) One thousand three hundred forty dollars for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) Two thousand (~~four~~) five hundred (~~thirty~~) five dollars for a license authorizing health physics services, leak testing, or calibration services.

(j) One thousand five hundred (~~twenty~~) seventy dollars for a civil defense license.

(k) Four hundred (~~sixty~~) seventy-five dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) Eighteen thousand (~~two~~) eight hundred (~~ten~~) five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Eight thousand (~~four~~) six hundred (~~fifteen~~) ninety dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) Six thousand (~~seven~~) nine hundred (~~sixty-five~~) eighty-five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of one hundred dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise non-refundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Four thousand (~~five~~) six hundred (~~fifty~~) ninety-five dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Three thousand (~~three~~) four hundred (~~twenty~~) twenty-five dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) Two thousand (~~eight~~) nine hundred (~~seventy-five~~) sixty-five dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) Four thousand (~~five~~) seven hundred (~~seventy-five~~) twenty-five dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) Two thousand (~~four~~) five hundred (~~sixty~~) forty dollars for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

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(f) One thousand five hundred (~~(twenty)~~) seventy dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) Two thousand three hundred (~~(fifteen)~~) ninety dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand (~~(eight)~~) nine hundred (~~(forty)~~) dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) One thousand three hundred (~~(fifty-five)~~) ninety-five dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) One thousand (~~(one)~~) two hundred (~~(ninety)~~) twenty-five dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Seven hundred (~~(forty-five)~~) sixty-five dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Five thousand (~~(three)~~) five hundred (~~(sixty)~~) thirty-five dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Seven thousand (~~(one)~~) four hundred (~~(eighty)~~) fifteen dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Three thousand (~~(five)~~) six hundred (~~(twenty)~~) thirty-five dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Seven hundred (~~(sixty)~~) eighty-five dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Eight hundred (~~(thirty-five)~~) sixty dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) Five hundred (~~(twenty-five)~~) forty dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand four hundred (~~(fifty)~~) ninety-five dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) Seven thousand (~~(six)~~) nine hundred (~~(eighty)~~) thirty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) Six thousand (~~(six)~~) nine hundred (~~(eighty-five)~~) dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) Two thousand (~~(one)~~) two hundred (~~(forty)~~) ten dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Three hundred (~~(forty)~~) fifty dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of (~~(seventy)~~) seventy-two dollars to the department.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Three thousand (~~(six)~~) seven hundred (~~(sixty)~~) eighty dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) One thousand eight hundred (~~(fifteen)~~) seventy dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or
- (iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand five hundred (~~(twenty)~~) seventy dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or
- (ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or
- (iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) Five hundred (~~(twenty-five)~~) forty dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

- or
- (i) Less than or equal to 0.01 millicurie of I-125 or I-131;
- or
- (ii) Less than or equal to one millicurie of H-3 or C-14;
- or
- (iii) Less than or equal to 0.1 millicurie of any other single isotope.
- (e) Seven hundred (~~five~~) twenty-five dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.
- (2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.
- (3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of (~~seventy~~) seventy-two dollars to the department.

WSR 03-08-036
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 27, 2003, 10:05 a.m.]

Original Notice.

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

Title of Rule: Division of Drinking Water fees, WAC 246-290-990 Water system evaluation and project review and approval fees and 246-292-160 Water works certification fees.

Purpose: To revise the fee schedule for the Division of Drinking Water.

Other Identifying Information: The proposed fee increases will be raised to the fiscal growth factor for fiscal year 2003, 3.29%.

Statutory Authority for Adoption: RCW 43.70.250, 43.20B.020 and 70.119.160, 43.70.250, respectively.

Statute Being Implemented: RCW 43.70.250, 43.20B.020 and 70.119.160, 43.70.250, respectively.

Summary: Fees support public health activities in the Division of Drinking Water and need to be adjusted to compensate for the inflationary costs of administering the program.

Reasons Supporting Proposal: Fee adjustments are necessary to guarantee sufficient revenue to fulfill the department's public health protection obligations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Theresa Phillips, Tumwater, (360) 236-3147.

Name of Proponent: Department of Health, Environmental Health Programs, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments increase fees by the 2003 fiscal growth factor of 3.29%. The increase is necessary to ensure continued protection of public health by enabling the programs to acquire additional revenue to maintain current service activities and meet program costs.

Proposal Changes the Following Existing Rules: The proposed changes increase existing fees by the fiscal growth factor for 2003 for WAC 246-290-990 and 246-292-160.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of RCW 34.05.328.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98504, on May 23, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips by May 16, 2003, TDD (800) 833-6388 or (360) 236-3147.

Submit Written Comments to: Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, fax (360) 236-2253, by May 23, 2003.

Date of Intended Adoption: May 30, 2003.

March 23, 2003

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-01-065, filed 12/14/01, effective 1/14/02)

WAC 246-290-990 Water system evaluation and project review and approval fees. (1) The fees for the review and approval of water system plans, project reports, construction documents, existing systems, and related evaluations required under chapters 246-290, 246-291, 246-293, 246-294, and 246-295 WAC shall be as follows:

(a) Water system plans required under WAC 246-290-100, 246-290-105, 246-291-140, 246-293-220, 246-293-230, and 246-294-060.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Water system plan (New and Updated)	\$(126) <u>130</u>	\$(447) <u>461</u>	\$(1,095) <u>1,131</u>	\$(2,070) <u>2,138</u>	\$(3,363) <u>3,473</u>	\$(4,978) <u>5,141</u>
Minor water system plan alteration	\$30	\$(106) <u>109</u>	\$(268) <u>276</u>	\$(515) <u>531</u>	\$(835) <u>862</u>	\$(1,225) <u>1,265</u>

(b) Satellite management agency (SMA) plans for Group A and Group B water systems required under WAC 246-295-040.

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Project Type	Total Active or Approved Services				
	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
SMA plan for ownership (New and Updated)	\$((447)) 461	\$((1,095)) 1,131	\$((2,070)) 2,138	\$((3,363)) 3,473	\$((4,978)) 5,141
SMA approval amendment	\$((93)) 96 per hour or appropriate fee from category above, whichever is less				
SMA plan for operation only (New and Updated)	\$((1,095)) 1,131	\$((1,095)) 1,131	\$((1,095)) 1,131	\$((1,095)) 1,131	\$((1,095)) 1,131

Note: SMAs owning water systems and submitting planning documents to the department for review shall be charged only the SMA fee.

(c) New plan elements required under WAC 246-290-100, 246-290-105, 246-290-125, 246-290-132, 246-290-135, 246-290-691, and 246-291-140 including:

- (i) Conservation; and
- (ii) Wellhead protection, shall be reviewed separately by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on

((~~ninety-three~~) ninety-six) dollars per hour. After the initial submittal, updated information shall be reviewed as part of the updated water system plan and the review fee shall be included in the applicable updated plan review fee listed under (a) or (b) of this subsection.

(d) Project reports required under WAC 246-290-110 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Service	10,000 or more Services
All types of filtration or other complex treatment processes	\$((317)) 327	\$((645)) 666	\$((1,002)) 1,034	\$((1,452)) 1,499	\$((2,001)) 2,066	\$((2,653)) 2,740
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((93)) 96	\$((187)) 193	\$((317)) 327	\$((478)) 493	\$((675)) 697	\$((904)) 933
Complete water system (an additional fee shall be assessed for review of treatment facility, if any)	\$((187)) 193	\$((447)) 461	\$((707)) 730	\$((1,033)) 1,066	\$((1,421)) 1,467	\$((1,872)) 1,933
System modifications requiring a detailed evaluation to determine whether the system, as modified, will comply with regulations (an additional fee shall be assessed for review of treatment facility, if any)	\$((126)) 130	\$((317)) 327	\$((515)) 531	\$((774)) 799	\$((1,095)) 1,131	\$((1,477)) 1,525

Note: In accordance with WAC 246-290-125, project reports are not required for minor projects that are described in sufficient detail in an approved water system plan, and have been reviewed as part of the process for approving the water system plan.

(e) Special reports or plans required under WAC 246-290-230, 246-290-235, 246-290-250, 246-290-470, 246-290-636, 246-290-640, 246-290-654, 246-290-676, 246-291-230 including:

- (i) Corrosion control recommendation report;
- (ii) Corrosion control study;
- (iii) Plan to cover uncovered reservoirs;
- (iv) Predesign study;

- (v) Uncovered reservoir plan of operation;
- (vi) Tracer study plan;
- (vii) Surface water or GWI treatment facility operations plan;
- (viii) Filtration pilot study; or
- (ix) GWI determination reports, shall be reviewed by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on ((~~ninety-three~~) ninety-six) dollars per hour.

(f) Construction documents required under WAC 246-290-120 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$((317)) 327	\$((645)) 666	\$((1,002)) 1,034	\$((1,452)) 1,499	\$((2,001)) 2,066	\$((2,653)) 2,740
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((93)) 96	\$((187)) 193	\$((317)) 327	\$((478)) 493	\$((675)) 697	\$((904)) 933

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Complete new water system except treatment (an additional fee shall be assessed for review of treatment facility, if any)	\$((256)) <u>264</u>	\$((576)) <u>594</u>	\$((835)) <u>862</u>	\$((1,162)) <u>1,200</u>	\$((1,552)) <u>1,603</u>	\$((2,001)) <u>2,066</u>
New source only (an additional fee shall be assessed for review of treatment facility, if any)	\$((187)) <u>193</u>	\$((348)) <u>359</u>	\$((478)) <u>493</u>	\$((645)) <u>666</u>	\$((835)) <u>862</u>	\$((1,064)) <u>1,099</u>
One or more of the following submitted as a package and not requiring a detailed evaluation as determined by the department: Water line installation, booster pump station, modifications to source pumping, piping-valving, controls or storage reservoir (an additional fee shall be assessed for review of treatment facility, if any)	\$((126)) <u>130</u>	((220)) <u>227</u>	\$((348)) <u>359</u>	\$((515)) <u>531</u>	\$((707)) <u>730</u>	\$((934)) <u>964</u>
Documents submitted for projects such as water line installation, booster pump stations, modifications to source pumping, piping/valving, controls or storage reservoirs as determined by the department where such projects:						
Comply with design standards established by the department;						
Are prepared by a professional engineer in accordance with WAC 246-290-040; and						
Do not require a detailed evaluation by the department.	\$((60)) <u>61</u>	\$((409)) <u>112</u>	\$((182)) <u>187</u>	\$((256)) <u>264</u>	\$((355)) <u>366</u>	\$((466)) <u>481</u>

(g) Existing system approval required under WAC 246-290-140 and 246-291-130. For the purpose of this subsection the department shall determine whether a system is expanding or nonexpanding.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
NONEXPANDING system not requiring a detailed evaluation by the department	\$((244)) <u>252</u>	\$((490)) <u>506</u>	\$((737)) <u>761</u>	\$((984)) <u>1,016</u>	\$((1,231)) <u>1,271</u>	\$((1,477)) <u>1,525</u>
NONEXPANDING system requiring a detailed evaluation as determined by the department	\$((367)) <u>379</u>	\$((737)) <u>761</u>	\$((1,117)) <u>1,153</u>	\$((1,477)) <u>1,525</u>	\$((1,847)) <u>1,907</u>	\$((2,217)) <u>2,289</u>
EXPANDING system not requiring a detailed evaluation by the department	\$((490)) <u>506</u>	\$((984)) <u>1,016</u>	\$((1,477)) <u>1,525</u>	\$((1,970)) <u>2,034</u>	\$((2,464)) <u>2,545</u>	\$((2,956)) <u>3,053</u>
EXPANDING system requiring a detailed evaluation as determined by the department	\$((614)) <u>634</u>	\$((1,231)) <u>1,271</u>	\$((1,847)) <u>1,907</u>	\$((2,464)) <u>2,545</u>	\$((3,079)) <u>3,180</u>	\$((3,696)) <u>3,817</u>

(h) Monitoring waivers requested under WAC 246-290-300.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Inorganic chemical monitoring waiver	Not applicable	\$((82)) 84 per source	\$((113)) 116 per source	\$((142)) 146 per source	\$((172)) 177 per source	\$((202)) 208 per source
Organic chemical monitoring waiver	Not applicable	\$((148)) 152 per source	\$((207)) 213 per source	\$((269)) 277 per source	\$((328)) 338 per source	\$((388)) 400 per source
Use waiver	Not applicable	\$((177)) 182 per source	\$((238)) 245 per source	\$((304)) 314 per source	\$((358)) 369 per source	\$((418)) 431 per source
Area wide waiver renewal	Not applicable	\$((177)) 182 per source	\$((219)) 226 per source	\$((262)) 270 per source	\$((304)) 314 per source	\$((335)) 346 per source
Inorganic chemical monitoring waiver renewal	Not applicable	\$((45)) 46 per source	\$((58)) 59 per source	\$((69)) 71 per source	\$((82)) 84 per source	\$((93)) 96 per source
Organic chemical monitoring waiver renewal	Not applicable	\$((88)) 90 per source	\$((123)) 127 per source	\$((164)) 166 per source	\$((196)) 202 per source	\$((232)) 239 per source
Use waiver renewal	Not applicable	\$((123)) 127 per source	\$((166)) 171 per source	\$((207)) 213 per source	\$((249)) 257 per source	\$((292)) 301 per source
Coliform monitoring waiver including departmental inspection requested by purveyor	Not applicable	\$((377)) 389	\$((466)) 481	\$((593)) 612	\$((755)) 779	Not applicable
Coliform monitoring waiver with third-party inspection report	Not applicable	\$((118)) 121	\$((118)) 121	\$((118)) 121	\$((118)) 121	Not applicable

(i) Other evaluations and approvals. As applicable, these fees will be charged in addition to the basic fees assessed under (a) through (h) of this subsection.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Well-site evaluation and approval including the site inspection and hydrogeologic information review.	\$((187)) 193	\$((281)) 290	\$((332)) 342	((411)) 424	\$((515)) 531	\$((645)) 666
Regulatory monitoring plan ¹	No plan required	\$((182)) 187	\$((244)) 252	\$((306)) 316	\$((367)) 379	\$((428)) 442
Unfiltered system annual comprehensive report	Not applicable	\$((367)) 379	\$((614)) 634	\$((864)) 889	\$((1,107)) 1,143	\$((1,353)) 1,397
Water system compliance report	\$((106)) 109	\$((106)) 109	\$((106)) 109	\$((106)) 109	((106)) 109	\$((106)) 109

¹A comprehensive document containing coliform, inorganic chemical and organic chemical monitoring plans in accordance with WAC 246-290-300.

(2) To determine the appropriate fee for a noncommunity system, calculate the service equivalent by taking the average population served each day of operation and dividing by twenty-five for a transient noncommunity (TNC) system and two and one-half for nontransient noncommunity (NTNC) system. Use the number of service equivalents to find out what Group A size category to look under and submit the appropriate fee. (All noncommunity systems are Group A systems as described in WAC 246-290-020.)

(3) Additional review and approval fees may be assessed as follows:

(a) The basic fee covers an evaluation, or the review of an initial submittal and one resubmittal if required. If additional resubmittals are required, an additional twenty-five

percent of the original fee will be assessed for each additional resubmittal. For water system plan and SMA plan preparation the basic fee also covers a preplanning conference. When the department is asked to participate in other meetings involving the plan such as community meetings, public hearings, or meetings with elected officials, the department is authorized to charge additional fees at the rate of ((ninety-three)) ninety-six dollars per hour;

(b) Fees for department project approval based on local technical review will be determined on a case-by-case basis as outlined in the applicable memorandum of understanding between the department and the respective local agency;

(c) Fees for services which the department determines are not described under subsection (1) of this section, will be

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calculated based on a rate of ~~((ninety-three))~~ ninety-six dollars per hour.

Examples of these services include, but are not limited to:

- (i) Review and inspection of water reuse projects;
 - (ii) Collection of water quality samples requested by purveyor;
 - (iii) Review of alternate technologies requested by purveyor, manufacturer or authorized representative;
 - (iv) Sanitary surveys, including the time spent as part of the annual on-site inspections for systems under WAC 246-290-690(3) that is in addition to the time necessary to assess watershed control and disinfection treatment;
 - (v) Well field designations; or
 - (vi) Transfers of ownership under WAC 246-290-035 or 246-294-060.
- (d) Additional fees assessed by the department shall be billed to the purveyor using an itemized invoice.
- (4) If the legislature revises the water system operating permit fee under RCW 70.119A.110 to incorporate into it one or more fees for service currently assessed separately under

this section, and the purveyor has paid that consolidated fee, the department shall not assess or collect a separate fee under this section for any such service.

(5) All fees required under this section except as noted in subsection (3) of this section, shall be submitted prior to the department's approval. Payment of fees shall be in the form of a check or money order made payable to: The Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099, or such successor organization or address as designated by the department. Payment of a fee shall not guarantee approval of the submitted document or evaluation request.

(6) Purveyors unable to determine the appropriate fee payment to submit should contact the department.

AMENDATORY SECTION (Amending WSR 02-01-065, filed 12/14/01, effective 1/14/02)

WAC 246-292-160 Water works certification fees. (1) Operator fees:

- (a) Applicable fees are listed in Table 2 of this section;

Table 2
WATER WORKS OPERATOR FEES

OPERATOR CLASSIFICATION	APPLICATION FEE	REAPPLICATION FEE	ANNUAL RENEWAL FEE	LATE FEE
WTPO	\$(64.00) <u>66.00</u>	\$(31.00) <u>32.00</u>	\$(31.00*) <u>32.00*</u>	\$27.00**
WDM	\$(64.00) <u>66.00</u>	\$(31.00) <u>32.00</u>	\$(31.00*) <u>32.00*</u>	\$27.00**
WDS	\$(64.00) <u>66.00</u>	\$(31.00) <u>32.00</u>	\$(31.00*) <u>32.00*</u>	\$27.00**
CCS	\$(38.00) <u>39.00</u>	\$(31.00) <u>32.00</u>	\$(31.00*) <u>32.00*</u>	\$27.00**
BAT	\$(38.00) <u>39.00</u>	\$(31.00) <u>32.00</u>	\$(31.00) <u>32.00</u>	\$27.00
BTO	\$(38.00) <u>39.00</u>	\$(31.00) <u>32.00</u>	\$(31.00) <u>32.00</u>	\$27.00

* The annual renewal fee for a WTPO, WDM, WDS and CCS certification shall be ~~((thirty-one))~~ thirty-two dollars regardless of the number of classifications held.

** The annual late fee for a WTPO, WDM, WDS, and CCS certification shall be twenty-seven dollars regardless of the number of classifications held.

(b) A late fee shall be assessed to operators failing to submit the required fee within the time period specified on the renewal form; and

(c) The fee for application for reciprocity is one hundred ~~((thirty))~~ thirty-four dollars per classification.

(2) Group A system fees:

- (a) Applicable fees are listed as indicated in

Table 3 of this section.

Table 3
ANNUAL SYSTEM CERTIFICATION FEES

6,001 through 20,000 Services	\$(393.00) <u>405.00</u>
More than 20,000 Services	\$(591.00) <u>610.00</u>

* Systems designated by the department as approved satellite management agencies (SMAs) shall pay a fee based on total services in all systems owned by the SMA.

(b) Group A system fees shall be paid in conjunction with the system's annual operating permit fee required in chapter 246-294 WAC.

(c) A late fee shall be assessed against any system for failing to submit the applicable fee to the department within the designated time period. The late fee shall be based on the water system's classification and shall be an additional ten

Table 3

ANNUAL SYSTEM CERTIFICATION FEES

SYSTEM SIZE* (Number of Equivalent Services)	SYSTEM FEE
Less than 601 Services	\$(97.00) <u>100.00</u>
601 through 6,000 Services	\$(295.00) <u>304.00</u>

percent of the applicable system fee or twenty-seven dollars, whichever is greater.

(d) The system fee for issuance of a temporary certification shall be (~~sixty-four~~) sixty-six dollars for each temporary position.

(3) Fees are nonrefundable and transfers of fees are not allowable.

(4) Payment of fees required under this chapter shall be in the form of a check or money order made payable to the department of health and shall be mailed to Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099, or such successor organization or address as designated by the department.

WSR 03-08-041
PROPOSED RULES
SEATTLE POPULAR
MONORAIL AUTHORITY

[Filed March 27, 2003, 1:46 p.m.]

Original Notice.

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

Title of Rule: Corridor and design public hearings.

Purpose: The rule is intended to implement the statutory requirements for a corridor public hearing and a design public hearing by the Seattle Popular Monorail Authority ("Seattle Monorail Project"). Pursuant to RCW 35.95A.080, rules for corridor and design public hearings are required to be adopted prior to use of excise tax funds to acquire right-of-way for a monorail or to construct a monorail on separate right-of-way.

Statutory Authority for Adoption: RCW 35.95A.050, 35.95A.080.

Statute Being Implemented: RCW 35.95A.080.

Summary: Rules governing corridor and design public hearings are required by RCW 35.95A.080. A corridor public hearing would take place prior to final approval of a specific monorail route, and is designed to give the public an opportunity to comment on the route location and the social, economic and environmental effects of that location and alternate locations. A design public hearing would take place after the specific route location is established but before final design decisions are finalized. The purpose of the design public hearing is to give the public an opportunity to comment on system design and the social, economic and environmental effects of that design and alternate designs.

Reasons Supporting Proposal: The corridor and design public hearings will provide additional opportunities for members of the public to comment on specific monorail routing and design decisions, on the social and economic effects of the proposed monorail routes, on the environmental effects of proposed monorail routes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ross Macfarlane, Director of Legal Environmental Affairs, Seattle Monorail Project, 1904 Third Avenue, Suite 105, Seattle, WA 98101, (206) 382-1220.

Name of Proponent: Seattle Popular Monorail Authority ("Seattle Monorail Project"), governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: A hearing will be held on the proposed rule on May 7, 2003, as noted below. Written comments should be sent to the Seattle Monorail Project at the address listed above and must arrive before close of business Tuesday, May 6, 2003. Comments may also be sent by e-mail to Ross Macfarlane at ross@elevated.org.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules governing corridor and design public hearings are required by RCW 35.95A.080. A corridor public hearing would take place prior to final approval of a specific monorail route, and is designed to give the public an opportunity to comment on the route location and the social, economic and environmental effects of that location and alternate locations. A design public hearing would take place after the specific route location is established but before final design decisions are finalized. The purpose of the design public hearing is to give the public an opportunity to comment on system design and the social, economic and environmental effects of that design and alternate designs.

The purpose of the rule would be to provide for the public hearings required by RCW 35.95A.080.

The anticipated effect would be to allow for additional opportunities for public comment.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the proposed rule relates only to internal agency procedures that are not subject to violation by a nongovernmental party and because the content of the rule is specifically dictated by statute.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule relates only to internal agency operations and is not subject to violation by a nongovernmental party, and is therefore except [exempt] pursuant to RCW 34.05.328 (5)(b)(ii). The content of the rule is also dictated by statute; and is therefore exempt pursuant to RCW 34.05.328 (5)(b)(v).

Hearing Location: A hearing on the proposed rule will be held at the regular meeting of the board of directors of the Seattle Monorail Project, Community Room, 1913 Fourth Avenue, Seattle, WA 98106, on May 7, 2003, at 6:30 p.m. More information on location and time are available at elevated.org.

Assistance for Persons with Disabilities: Contact Seattle Monorail Project, (206) 382-1220.

Submit Written Comments to: Ross Macfarlane, Director of Legal and Environmental Affairs, Seattle Monorail Project, 1904 Third Avenue, Suite 105, Seattle, WA 98101, fax (206) 382-1279, by May 6, 2003.

Date of Intended Adoption: May 7, 2003.

March 21, 2003

Ross Macfarlane

Director of Legal and
Environmental Affairs

SEATTLE MONORAIL PROJECT

Rule for Corridor Public Hearing and Design Public Hearing

NEW SECTION

Section One – Corridor Public Hearing. The corridor public hearing will take place before the final commitment by the Board of Directors of the Seattle Monorail Project to a specific route location for any phase of the Seattle Popular Monorail Plan. The Executive Director shall schedule and convene the corridor public hearing to accept public comment regarding the proposed specific route location. The purpose of the public hearing is to provide an opportunity for comment by the public regarding the determination of the need for, and the location of, the particular phase of the monorail route under consideration.

The Executive Director may hold the corridor public hearing in conjunction with one or more of the public hearings on the draft environmental impact statement for the specific route proposal or as a separate hearing. The Executive Director also has discretion to schedule the corridor public hearing for a regular or special meeting of the Board of Directors. The hearing shall afford members of the public the opportunity to submit written or oral comments on the proposed route location and the social, economic and environmental effects of that location and potential alternate locations, consistent with the Seattle Popular Monorail Plan and enabling legislation. The Executive Director is responsible for preparing a summary of the public comments received for review by the Board of Directors.

The Executive Director has discretion on the form of public notice provided but shall, at a minimum, provide public notice by posting in a newspaper of general circulation and by posting on the website and at the offices of the Seattle Monorail Project. If the corridor public hearing is scheduled for a regular or special meeting of the Board of Directors, then the notice shall meet all requirements for notice of such meetings in the Washington Open Public Meetings Act.

NEW SECTION

Section Two – Design Public Hearing. After the Board has made a final commitment to a specific route location for any phase of the Seattle Popular Monorail Project, the Executive Director shall schedule and convene a design public hearing. The design public hearing shall afford an opportunity for the public to comment on the major design features of that specific monorail route. The hearing shall afford the public with an opportunity to present views on the monorail design, and on the social, economic and environmental

effects of that design and alternate designs, including people-mover technology.

In the discretion of the Executive Director, the design public hearing may be scheduled at a regular or special meeting of the Board of Directors or, if the Executive Director deems appropriate, as a separate hearing. The Executive Director shall be responsible for preparing a summary of the public comments received for review by the Board of Directors.

The Executive Director has discretion on the form of public notice provided but shall, at a minimum, provide public notice by posting in a newspaper of general circulation and by posting on the website and at the offices of the Seattle Monorail Project.

NEW SECTION

Section Three – Effective Date. This rule shall become effective thirty (30) days after a certified copy is final rule as adopted by the Board of Directors is filed with the Washington State Code Reviser's Office. After that effective date, the Seattle Monorail Project shall be authorized to utilize excise tax money collected under Chapter 35.95A RCW for the acquisition of right-of-way for monorail transportation facilities and for construction of monorail transportation facilities in separate rights-of-way.

WSR 03-08-042

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed March 27, 2003, 2:51 p.m.]

Supplemental Notice to WSR 02-22-009.

Preproposal statement of inquiry was filed as WSR 02-13-181.

Title of Rule: WAC 458-20-185 Tax on tobacco products.

Purpose: To provide guidance to taxpayers necessary to meet the requirements set forth in chapter 82.26 RCW, Tax on tobacco products.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: Chapter 82.26 RCW.

Summary: This rule explains the provisions of chapter 82.26 RCW, Tax on tobacco products. The rule identifies distributors who must pay the tax, the imposition of the tax, applicable penalties, the books and records that must be kept, and when a credit for previously paid tax may be taken.

Reasons Supporting Proposal: To amend the current rule to reflect changes to the law pursuant to Initiative 773, chapter 325, Laws of 2002, and chapter 420, Laws of 1997.

Name of Agency Personnel Responsible for Drafting: Anne Solwick, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6129; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and Enforcement: Ron Yamamoto, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

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: Chapter 82.26 RCW imposes the tobacco products tax upon distributors of tobacco products. The rule provides pertinent definitions; explains the measure and imposition of the tax; advises taxpayers of their record-keeping obligations; explains penalties applicable to persons who make retail sales of tobacco products and who are also distributors who must pay the tax; and explains available tax credits. The purpose of the rule is to provide guidance to those required to pay the tobacco products tax. The effect of the rule is that those required to pay the tobacco products tax will have a reference to assist them in complying with the law.

The department is proposing amendments to this rule to incorporate provisions of chapter 325, Laws of 2002. This legislation amended chapter 82.26 RCW by adding definitions and adding a new category of person who as a distributor must under certain circumstances pay the tax. Legislative changes are further reflected in the proposed rule's explanation of the imposition of the tax and the penalties that may be applicable for failure to pay the tax.

Additional proposed changes include the following:

- The definition of the tax base, "wholesale sales price," in the proposed rule includes language from *United States Tobacco Sales and Marketing Company v. Department of Revenue*, 96 Wn.App.932, 982 P.2d 652 (1999).
- The proposed changes clarify when a tax credit for previously taxed product may or may not be taken.
- The proposed changes explain the record-keeping requirements imposed on persons who handle tobacco.
- The proposal also includes a section on enforcement consistent with 1997 legislative changes and the striking of outdated and/or unnecessary information.

Proposal Changes the Following Existing Rules: This proposal is to amend an existing rule (WAC 458-20-185) as explained above.

The hearing scheduled for May 12, 2003, is the second CR-102 hearing for proposing the amendment of WAC 458-20-185. The significant changes from the prior proposal include the following:

- An example for "wholesale sales price" in subsection (2)(g).
- Clarification regarding when an out-of-state person may pay the tax and a retailer's certificate of remittance of tax in subsection (4)(c).
- Clarification regarding when a credit may be taken for interstate sales and a retailer's certification of purchase of tobacco products for resale outside Washington in subsection (8).

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the amendments do not impose any requirements or burdens upon small business that are not already required by statute.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretive rule as defined in RCW 34.05.328.

Hearing Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on May 12, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

Submit Written Comments to: Anne Solwick, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail annes@dor.wa.gov, by May 12, 2003.

Date of Intended Adoption: May 22, 2003.

March 27, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-10-061, filed 5/3/94, effective 6/3/94)

WAC 458-20-185 Tax on tobacco products. (1) **Introduction.** This ~~((section))~~ rule explains the tax liabilities of persons engaged in business as a retailer, distributor or sub-jobber of tobacco products. ~~((It addresses only those taxes which apply exclusively to tobacco products.))~~ The tax on tobacco products is in addition to all other taxes owed. For example, retailers, distributors, and subjobbers are liable for business and occupation tax on their retailing or wholesaling activities, use tax on tobacco products distributed as samples, and litter tax on the value of the tobacco products. See WAC 458-20-186 for tax liabilities associated with taxes which apply exclusively to cigarettes.

(2) **Definitions.** The following definitions apply to this rule.

(a) "Tobacco products" means all tobacco products except cigarettes as defined in RCW 82.24.010. The term includes:

(i) Cigars, cheroots, stogies, and periques;

(ii) Granulated, plug cut, crimp cut, ready rubbed ~~((or))~~, and other smoking tobacco;

(iii) Snuff, snuff flour, cavendish, plug~~((s))~~ and twist tobacco, fine-cut, ~~((or))~~ and other chewing tobaccos; and

(iv) Shorts, refuse scraps, clippings, cuttings~~((s))~~ and sweepings of tobacco, ((or)) and other kinds ((or)) and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(b) "Manufacturer" means a person who manufactures and sells tobacco products.

(c) "Distributor" means:

(i) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale~~((or))~~;

(ii) Any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state~~((or))~~;

(iii) Any person engaged in the business of selling tobacco products without this state who ships or transports

tobacco products to retailers in this state, to be sold by those retailers; or

(iv) Any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

((e)) (d) "Subjobber" means any person, other than a tobacco manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.

((d)) (e) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

(f) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person ((for a consideration)). It includes all gifts by persons engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of chapter 82.26 RCW, or for any other purposes whatsoever.

((e)) (g) "Wholesale sales price" means the established ((manufacturer's)) price for which a manufacturer sells tobacco product to the distributor, exclusive of any discount or other reduction.

((f)) (i) A wholesale sales price that is an established price must reflect the fair market value of the tobacco products. In the case of affiliated companies which buy and sell from each other, the wholesale sales price must be the fair market value rather than the manufacturer's price to its affiliate.

(ii) The phrase "discount or other reduction" includes any reduction from the established wholesale sales price made to a specific customer or class of customers.

Example. Pursuant to a half-price promotion, a manufacturer sells tobacco products to a distributor. The invoice lists \$100 as the price of the product less a \$50 discount resulting in a net invoice of \$50. The tax is due on \$100 which is the wholesale sales price exclusive of any discount or other reduction.

(h) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(i) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

(j) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

(k) "Department" means the department of revenue.

(l) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities,

and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(m) "Indian country" means the same as defined in WAC 458-20-192.

(3) ((Nature)) **Rate and measure of tax.** The Washington state tobacco products tax is an excise tax levied on ((the value of)) the wholesale sales price on all tobacco products sold, used, consumed, handled, or distributed within the state((f)).((f))

The rate of tax is a combination of statutory percentage rates found in RCW 82.26.020 ((and)), 82.26.025, and 82.26.028. ((Charts with current rates are available from the special programs division at the department of revenue. The tax is to be paid by the distributor at the time the distributor brings or causes to be brought into this state from without the state tobacco products for sale. (4))) The total current rate of tax is shown on the current combined excise tax return.

(4) **Imposition of tax.** The tax is imposed once on all tobacco products sold, used, consumed, handled, or distributed within this state.

(a) **When tax is imposed.** The tax is imposed at the time the distributor:

(i) Brings, or causes to be brought, into this state from without the state tobacco products for sale; or

(ii) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(iii) Ships or transports tobacco products to retailers in this state, to be sold by those retailers; or

(iv) Handles for sale any tobacco products that are within this state but upon which tax has not been imposed. For example, a retailer with a place of business in this state purchases for sale tobacco products from an enrolled tribal member of a federally recognized tribe located within Indian country. Because the tax was not imposed on the enrolled tribal member, the retailer must pay the tax.

(b) **Additional occasion when tax may be imposed.** Any retailer who fails to keep invoices as required under chapter 82.32 RCW and which invoices do not conform to the requirements set forth in subsection (5)(b) of this rule is liable for the tax on any uninvoiced tobacco product which that retailer handles for sale.

(c) **When an out-of-state person is a distributor who must pay the tax.** A person located out-of-state who is selling tobacco products to Washington wholesalers from a stock of goods located outside this state is not a distributor and therefore is not liable for the tax.

(i) On the other hand, a person located out-of-state who is selling and shipping tobacco products to Washington retailers from an out-of-state stock of goods is a distributor and is subject to the tax. If the out-of-state person is not required to register and pay taxes in Washington, the retailers to whom it sells must pay the tax. However, such out-of-state persons may elect to register with the state and pay the tax.

(ii) A Washington retailer who purchases tobacco from an out-of-state stock of goods from a person located out-of-state who is not required to register and pay taxes in Washington may provide to that person a certificate affirming that the Washington retailer will remit to the state the tax due. Both the out-of-state person and the Washington retailer

should retain a copy of such certificate. The certificate should substantially conform to the example shown below:

Retailer's Certificate of Remittance of Tax

The undersigned retailer hereby certifies that the undersigned will remit to the state the tax due on the tobacco products specified below purchased from seller. This certificate shall be considered a part of each order which the undersigned may give to the seller, unless otherwise specified, and shall be valid until revoked by the undersigned in writing or until it expires, whichever occurs first. This certificate expires four years from the effective date.

Name of Seller:.....
Name of Retailer..... Effective Date.....
UBI/Registration #.....
Address of Retailer.....
Tobacco products purchased.....
Agent for Retailer (print).....
Signature.....

(iii) A person who is located out-of-state and who is required to register and pay taxes in Washington may sell and ship tobacco products to a Washington customer who is both a wholesaler and retailer. Under this circumstance, the person, the customer, and the department may enter into a written agreement that identifies the person who will remit to the state the tax due as to those particular sales. The written agreement will contain such other terms and conditions that are acceptable to the department.

(iv) A person located outside Washington must pay the tax when distributing samples into this state.

(5) **Books and records.** Since the tobacco products tax is paid on returns as computed by the taxpayer rather than by affixing of stamps or decals, the law contains stringent provisions requiring that accurate and complete records be maintained ~~((and preserved for five years for examination by the department of revenue))~~. The records must include all pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products and must be kept for a period of at least five years after the date of the document or the date of the entry appearing in the records.

(a) **Distributors.** Distributors must keep at each registered place of business complete and accurate records for that place of business. The records to be kept by distributors include itemized invoices of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state or shipped or transported to retailers in this state, and of all sales ~~((including customers' names and addresses))~~ of tobacco products except retail sales. ~~((All other pertinent papers and documents relating to purchase, sale, or disposition of tobacco products must be retained.))~~ The itemized invoice for each purchase or sale must be legible and must show the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. Itemized invoices must be preserved for five years from the date of sale.

(b) **Retailers and subjobbers.** Retailers and subjobbers must secure ~~((and retain legible and))~~ itemized invoices of all tobacco products purchased ~~((, showing name and address of the seller and the date of purchase))~~. The itemized invoice for each purchase must be legible and must show the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. Itemized invoices must be preserved for five years from the date of sale.

(c) **Warehouses.** Records of all deliveries or shipments (including ownership, quantities) of tobacco products from any public warehouse of first destination in this state must be kept by the warehouse.

~~((5))~~ (6) **Nonpayment of tax by retailers.** If the department finds that any nonpayment of tax by the retailer was willful, penalties and interest shall be assessed in accordance with chapter 82.32 RCW. In the case of a second or plural nonpayment of tax by the retailer, penalties and interest will be assessed in accordance with chapter 82.32 RCW without regard to willfulness.

(a) **Example.** In the course of an audit of Retailer, the department determines that on several occasions Retailer failed to pay the tax. The department does not find the nonpayment to be willful. Retailer owes the tax due on all occasions of nonpayment and the penalties and interest is assessed on all but the first occasion of nonpayment. A few years later Retailer is audited again. The department finds one occasion of nonpayment of tax. In addition to the tax due, penalties and interest will be assessed in accordance with chapter 82.32 RCW.

(b) **Example.** In the course of an audit of Retailer #2, the department determines that on several occasions Retailer #2 failed to pay the tax. The department determines that the nonpayment of tax was willful. In addition to the tax due on all occasions of nonpayment, Retailer #2 owes penalties and interest on all occasions.

(7) **Reports and returns.** The tax is reported on the combined excise tax return ~~((, Form REV 40 2406,))~~ to be filed according to the reporting frequency assigned by the department. Detailed instructions for preparation of these returns may be secured from the department.

Out-of-state wholesalers or distributors selling directly to retailers in Washington should apply for a certificate of registration, and the department will furnish returns for reporting the tax.

~~((6))~~ Retailers, distributors, and subjobbers may be required to file a report with the department in compliance with the provisions of the National Uniform Tobacco Settlement when purchasing tobacco products from certain manufacturers. Please see WAC 458-20-264 and chapter 70.157 RCW.

(8) **Interstate sales and sales to U.S.**

(a) The tax does not apply to tobacco products sold to federal government agencies, nor to deliveries to retailers ~~((or wholesalers))~~ outside the state for resale by such retailers ~~((or wholesalers))~~, and a credit may be taken for the amount of tobacco products tax previously paid on such products. RCW 82.26.110. The credit is not available for sales made for delivery outside this state other than sales for resale to retail-

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ers. For example, no credit may be taken for a sale of tobacco products delivered to a consumer outside the state.

(b) To document that the tobacco products were sold to a retailer outside the state for resale by such retailer, the person may obtain from the retailer a certificate which substantially conforms to the following:

Retailer's Certification of Purchase of Tobacco Products for Resale Outside Washington

The undersigned buyer/retailer hereby certifies that the tobacco products specified below are purchased for resale outside this state by the undersigned. This certificate shall be considered a part of each order which the undersigned may give to the seller, unless otherwise specified, and shall be valid until revoked in writing by the undersigned or until it expires, whichever occurs first. This certificate expires four years from the effective date.

Name of Seller Effective Date.
UBI/Registration #
Name of Buyer/Retailer Business
Address
Items purchased for resale
Agent for buyer/retailer (print)
Signature

((7)) (9) Returned or destroyed goods. A credit may also be taken for tobacco products destroyed or returned to the manufacturer on which tax was previously paid...

(a) Certificate of taxpayer.

Claim for Credit on Tobacco Products Tax Merchandise Destroyed

The undersigned certifies under penalty of perjury under the laws of the state of Washington that the following is true and correct to the best of his/her knowledge:

That he/she is (Title) of the (Business Name), a dealer in tobacco products; that the dealer has destroyed merchandise unfit for sale, said tobacco products having a wholesale sales price of \$; that tobacco tax had been paid on such tobacco products; that the tobacco products were destroyed in the following manner and in the presence of an authorized agent of the department of revenue:

(State date and manner of destruction)

Attested to: By
Date Signature of Taxpayer or Authorized Representative.
Position with Dealer
Dealer
Address of Dealer

APPROVED:
Authorized Agent of
Department of Revenue of the
State of Washington.

(b) Certificate of manufacturer.

Claim for Credit on Tobacco Products Tax Merchandise Returned:

The undersigned certifies under penalty of perjury under the laws of the state of Washington that the following is true and correct to the best of his/her knowledge:

That he/she is (Title) of the (Business Name), a manufacturer of tobacco products; that the manufacturer has received from (Dealer), (Address), a dealer in tobacco products within the State of Washington, certain tobacco products which were unfit for sale, the tobacco products having a wholesale sales price of \$; that the tobacco products were destroyed in the following manner:

(Indicate date and manner of destruction)

Credit issued on Memo No.
credit approved by: Signature of Taxpayer or Authorized Representative
Name of Manufacturer
Address

(10) Enforcement. Pursuant to RCW 82.26.121 and 66.44.010, enforcement officers of the liquor control board may enforce all provisions of the law with respect to the tax on tobacco products. Retailers, distributors, and subjobbers must allow department personnel and enforcement officers of the liquor control board free access to their premises to inspect the tobacco products contained in the premises and to examine the books and records of the business. Failure to allow free access or to hinder or interfere with department personnel and/or enforcement officers of the liquor control board may result in the revocation of the business license.

WSR 03-08-044
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 28, 2003, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-140.

Title of Rule: Chapter 296-842 WAC, Respirators; and WAC 296-62-071 Respiratory protection.

Purpose: The respiratory protection rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We are amending the rule in chapter 296-62 WAC to only apply to agriculture and proposing respirators as a new chapter.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The Department of Labor and Industries is proposing to clarify requirements relating to respiratory protection. This rule making is part of our clear rule-writing initiative to rewrite for clarity all the safety and health rules.

Amended Sections:

WAC 296-62-071 Respiratory protection.

- A note will be added to WAC 296-62-071 stating that requirements relating to respirators have been moved and the requirements left in WAC 296-62-071 only apply to agriculture.

New Sections:

WAC 296-842-100 Scope.

- Clarifies responsibilities of employers to provide respiratory protection.

WAC 296-842-105 Respirator program administrator.

- Clarifies responsibilities of employers to designate a program administrator.

WAC 296-842-10505 Designate a program administrator.

- Moved requirements from WAC 296-62-07113 to this section.

WAC 296-842-110 Voluntary use requirements and record keeping.

- Clarifies responsibilities of employers when employees voluntarily choose to use respirators.

WAC 296-842-11005 Make sure voluntary use of respirators is safe.

- Moved requirements from WAC 296-62-07117 to this section.

WAC 296-842-11010 Keep voluntary use respirator program records.

- Moved requirements from WAC 296-62-07117 and 296-62-07194 to this section.

WAC 296-842-120 Required use respirator program and record keeping.

- Clarifies responsibilities of employers when respirators are required.

WAC 296-842-12005 Develop and maintain a written program and records.

- Moved requirements from WAC 296-62-07109 and 296-62-07111 to this section.

WAC 296-842-12010 Keep respirator program records.

- Moved requirements from WAC 296-62-07194 to this section.

WAC 296-842-130 Respirator selection.

- Clarifies responsibility of employers to make sure the correct respirators are used.

WAC 296-842-13005 Select and provide appropriate respirators.

- Moved requirements from WAC 296-62-07130, 296-62-07131, 296-62-07132, and 296-62-07133 to this section.

WAC 296-842-140 Medical evaluations.

- Clarifies responsibility of employers to provide medical evaluations.

WAC 296-842-14005 Provide medical evaluations.

- Moved requirements from WAC 296-62-07150, 296-62-07151, 296-62-07152, 296-62-07153, 296-62-07154, 296-62-07155, and 296-62-07156 to this section.

WAC 296-842-150 Fit testing.

- Clarifies responsibilities of employers to provide fit testing.

WAC 296-842-15005 Conduct fit testing.

- Moved requirements from WAC 296-62-07160, 296-62-07161, 296-62-07162, 296-62-07202, 296-62-07206, and 296-62-07231 to this section.

WAC 296-842-160 Training.

- Clarifies responsibilities of employers to provide training.

WAC 296-842-16005 Provide effective training.

- Moved requirements from WAC 296-62-07186, 296-62-07188, and 296-62-07190 to this section.

WAC 296-842-170 Maintenance.

- Clarifies responsibilities of employers to maintain respirators.

WAC 296-842-17005 Maintain respirators in a clean and reliable condition.

- Moved requirements from WAC 296-62-07175 to this section.

WAC 296-842-17010 Store respirators properly.

- Moved requirements from WAC 296-62-07176 to this section.

WAC 296-842-17015 Inspect and repair respirators.

- Moved requirements from WAC 296-62-07177, 296-62-07178, and 296-62-07179 to this section.

WAC 296-842-180 Safe use and removal of respirators.

- Clarifies responsibilities regarding the safe use of respirators.

WAC 296-842-18005 Prevent sealing problems with tight-fitting respirators.

- Moved requirements from WAC 296-62-07170 and 296-62-07171 to this section.

WAC 296-842-18010 Make sure employees leave the use area before removing respirators.

- Moved requirements from WAC 296-62-07170 and 296-62-07171 to this section.

WAC 296-842-190 Standby requirements for IDLH conditions.

- Clarifies responsibilities to provide standby employees in IDLH conditions.

WAC 296-842-19005 Provide standby assistance in IDLH conditions.

- Moved requirements from WAC 296-62-07172 to this section.

WAC 296-842-200 Air quality for SCBAs and air-line respirators.

- Clarifies requirements for air quality

WAC 296-842-20005 Make sure breathing air and oxygen meet established specifications.

- Moved requirements from WAC 296-62-07182 to this section.

WAC 296-842-20010 Prevent conditions that could create a hazardous breathing air supply.

- Moved requirements from WAC 296-62-07182 to this section.

WAC 296-842-20015 Make sure compressors don't create a hazardous breathing air supply.

- Moved requirements from WAC 296-62-07182 to this section.

WAC 296-842-210 Labeling of air purifying filters, cartridges, and canisters.

- Clarifies responsibilities to label equipment.

WAC 296-842-21005 Keep readable labels on filters, cartridges, and canisters during use.

- Moved requirements from WAC 296-62-07184 to this section.

WAC 296-842-220 Required procedures for respiratory protection programs.

- Clarifies responsibility to make sure required procedures are followed.

WAC 296-842-22005 Use this medical questionnaire for medical evaluations.

- Moved requirements from Appendix C to this section.

WAC 296-842-22010 Follow these fit-testing procedures for tight-fitting respirators.

- Moved requirements from Appendices A-1, A-2, and A-3 to this section.

WAC 296-842-22015 Follow procedures established for cleaning and disinfecting respirators.

- Moved requirements from Appendix B-2 to this section.

WAC 296-842-22020 Follow procedures established for seal checking respirators.

- Moved requirements from Appendix B-1 to this section.

WAC 296-842-300 Definitions.

- Moved the definitions from WAC 296-62-071 to this section.

Name of Agency Personnel Responsible for Drafting:
Tracy Spencer, Tumwater, (360) 902-5530; Implementation

and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The respiratory protection rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We are amending the rule in chapter 296-62 WAC to only apply to agriculture and proposing respirators in a new chapter. This rule making is part of our clear rule-writing initiative to rewrite for clarity all the safety and health rules.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A number of criteria and exemptions were established by the SBEIS analysis. One key criteria that allows rule changes to be exempt from preparation of an SBEIS is presented in RCW 34.05.310 (4)(d): "Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect" are not subject to the SBEIS requirements. Because the proposed rule changes make clarifying and organizational changes for ease of understanding and use, but do not in any way alter the effect of the original rules, there should not be an economical impact on Washington state business.

The analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make WISHA rules easier for employers and employees to understand and use, and thus actually save them time.

RCW 34.05.328 does not apply to this rule adoption. Significant rule-making criteria does not apply to the rule amendments because the changes simply clarify the language of the rule without changing its effect.

Hearing Location: Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA, on June 26, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Sally Elliot by June 16, 2003, at (360) 902-5484.

Submit Written Comments to: Kimberly Rhoads, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, e-mail rhok235@lni.wa.gov, fax (360) 902-5529, by July 3, 2003.

Date of Intended Adoption: September 16, 2003.

March 28, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

WAC 296-62-071 Respiratory protection.

Note: The requirements in WAC 296-62-071 through 296-62-07295 apply only to agriculture. The requirements for all other industries relating to respiratory protection have been moved to chapter 296-842 WAC, Respirators, and chapter 296-841 WAC, Respiratory hazards.

Chapter 296-842 WAC

RESPIRATORS

NEW SECTION

WAC 296-842-100 Scope. This chapter applies to all use of respirators at work.

IMPORTANT:

Before you decide to use respirators, you are required to evaluate respiratory hazards and implement control methods as outlined in chapter 296-841 WAC, Respiratory hazards.

The term "respiratory hazards" will be used throughout this chapter to refer to oxygen deficient conditions and harmful airborne hazards.

Definition:

Respirators are a type of personal protective equipment designed to protect the wearer from respiratory hazards.

You can use Table 1 for general guidance on which chapter sections apply to you.

Table 1
Chapter sections that apply to your workplace

If your employees...	Then the sections marked with an "X" apply...					
	105	110	120	130-210	220	300
Request and are permitted to voluntarily use filtering-facepiece respirators, and are not exposed to a respiratory hazard		X				X
Request and are permitted to voluntarily use respirators that are NOT filtering-facepiece respirators, and are not exposed to a respiratory hazard	X	X			X	X
Are required to use any respirator	X		X	X	X	X
Would use an escape respirator in an emergency	X		X	X	X	X

Reference: See WAC 296-800-160, Personal protective equipment (PPE) to find requirements for other types of personal protective equipment (PPE), such as eye, hand, and head protection.

NEW SECTION

WAC 296-842-105 Respirator program administrator.

Your responsibility:

To make sure a capable individual is in charge of respirator program development and management.

NEW SECTION

WAC 296-842-10505 Designate a program administrator.

Exemption: You do not need to designate a program administrator if your employees use only filtering-facepiece respirators and do so only as voluntary use.

Definition:

Voluntary use is respirator use that is requested by the employee AND permitted by the employer when NO respiratory hazard exists.

You must:

- Designate a program administrator who has overall responsibility for your program and has sufficient training or experience to:
 - Oversee program development and coordinate implementation
 - Conduct required evaluations of program effectiveness outlined in WAC 296-842-12005.

NEW SECTION

WAC 296-842-110 Voluntary respirator use requirements.

Your responsibility:

To make sure voluntary use of respirators by employees does not create job safety or health hazards.

You must:

- Make sure voluntary use of respirators is safe WAC 296-842-11005
- Keep voluntary use respirator program records WAC 296-842-11010.

IMPORTANT:

- Respirator use is NOT voluntary if a respiratory hazard, such as exposure to a substance over the permissible exposure limit (PEL) or hazardous exposure to an airborne biological hazard, is present.
- To evaluate respiratory hazards in your workplace, you may need to conduct an exposure determination as required in chapter 296-841 WAC, Respiratory hazards.
- Some requirements in this section do not apply if only filtering-facepiece respirators are used voluntarily. Some filtering-facepiece respirators are equipped with a sorbent layer for absorbing "nuisance" organic vapors. These can be used for voluntary use, but are not NIOSH certified for protection against hazardous concentrations of organic vapor.

NEW SECTION

WAC 296-842-11005 Make sure voluntary use of respirators is safe.

Definition:

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Voluntary use is respirator use that is requested by the employee AND permitted by the employer when NO respiratory hazard exists.

You must:

(1) Make sure voluntary respirator use does NOT:

- Interfere with an employee's ability to work safely, such as restricting necessary vision or radio communication

OR

- Create health hazards.

Note: Poor respirator maintenance can create health hazards such as:

- Skin irritation or dermatitis from using a dirty respirator
- Ingesting a hazardous chemical
- Transmitting disease by sharing respirators
- An unsafe air supply if air-line respirators are used.

You must:

(2) Provide all voluntary respirator users with the advisory information in Table 2 at no cost to them.

Note: If you have provided employees with the advisory information required in the previous rule, WAC 296-62-07117, you do not need to provide the additional information in Table 2 to those employees.

You must:

(3) Develop and maintain a written program that includes the following:

Exemption: If your employees use only filtering-facepiece respirators and do so only voluntarily, you do not need to develop and maintain a written program.

- Medical evaluation provisions as specified in WAC 296-842-140.
- Procedures to properly clean and disinfect respirators, according to WAC 296-842-22015, if they are reused.
- How to properly store respirators, according to WAC 296-842-17010, so that using them does not create hazards.
- Procedures to make sure there is a safe air supply, according to WAC 296-842-200, when using air-line respirators and SCBAs.
- Training according to WAC 296-842-160 when necessary to ensure respirator use does NOT create a hazard.

Note: • Pay for medical evaluations, training, travel related costs, and wages. You do NOT need to pay for respirators employees use only voluntarily.

• If you have both voluntary and required respirator users, you may choose to treat voluntary users as required users. Doing this exceeds the requirements in this section.

Use Table 2 to provide information to employees who voluntarily use any type of respirator.

Table 2

Advisory Information for Employees Who Voluntarily Use Respirators

- Respirators protect against airborne hazards when properly selected and used. WISHA recommends voluntary use of respirators when exposure to substances is below WISHA permissible exposure limits (PELs) because respirators can provide you an additional level of comfort and protection.
- If you choose to voluntarily use a respirator (whether it is provided by you or your employer) be aware that **respirators can create hazards for you**, the user. You can avoid these hazards if you know how to use your respirator properly AND how to keep it clean. Take these steps:
 - Read and follow all instructions provided by the manufacturer about use, maintenance (cleaning and care), and warnings regarding the respirator's limitations.
 - Choose respirators that have been certified for use to protect against the substance of concern. The National Institute for Occupational Safety and Health (NIOSH) certifies respirators. If a respirator is not certified by NIOSH, you have no guarantee that it meets minimum design and performance standards for workplace use.
 - A NIOSH approval label will appear on or in the respirator packaging. It will tell you what protection the respirator provides.
 - Keep track of your respirator so you do not mistakenly use someone else's.
 - DO NOT wear your respirator into:
 - Atmospheres containing hazards that your respirator is not designed to protect against. For example, a respirator designed to filter dust particles will not protect you against solvent vapor, smoke or oxygen deficiency.
 - Situations where respirator use is required.

NEW SECTION

WAC 296-842-11010 Keep voluntary use program records.

Exemption: If your employees use only filtering-facepiece respirators voluntarily, you do not need to follow these recordkeeping requirements.

You must:

- Keep copies of:

- Your current written respirator program
- Written recommendations and other records from medical evaluations

• Allow records required by this section to be examined and copied by affected employees and their representatives.

Reference: See chapter 296-62 WAC, Part B, Access to records for additional requirements that apply to medical records.

PROPOSED

NEW SECTION

WAC 296-842-120 Written respirator program and recordkeeping.

Your responsibility:

To develop, implement, and maintain a written program that provides clear instruction for safe and reliable respirator use.

You must:

- Develop and maintain a written program WAC 296-842-12005
- Keep respirator program records WAC 296-842-12010.

NEW SECTION

WAC 296-842-12005 Develop and maintain a written program.

Exemption: This section does NOT apply to respirator use that is voluntary. See WAC 296-842-11005 for voluntary use program requirements.

You must:

(1) Develop a complete worksite-specific written respiratory protection program that includes the applicable elements listed in Table 3.

Note: Pay for respirators, medical evaluations, fit testing, training, maintenance, travel costs, and wages.

You must:

(2) Keep your program current and effective by evaluating it and making corrections. Do ALL of the following:

- Make sure procedures and program specifications are followed and appropriate.
- Make sure selected respirators continue to be effective in protecting employees. For example:
 - If changes in work area conditions, level of employee exposure, or employee physical stress have occurred, you need to reevaluate your respirator selection.
 - Have supervisors periodically monitor employee respirator use to make sure employees are using them properly.
 - Regularly ask employees required to use respirators about their views concerning program effectiveness and whether they have problems with:
 - Respirator fit during use
 - Any effects of respirator use on work performance
 - Respirators being appropriate for the hazards encountered
 - Proper use under current worksite conditions
 - Proper maintenance.

When developing your written program include applicable elements listed in Table 3.

Table 3

Required Elements for Required-Use Respirator Programs	
<ul style="list-style-type: none"> • Selection: <ul style="list-style-type: none"> – Procedures for respirator selection – A list specifying the appropriate respirator for each respiratory hazard in your workplace – Procedures for issuing the proper type of respirator, if appropriate 	
<ul style="list-style-type: none"> • Medical evaluation provisions 	
<ul style="list-style-type: none"> • Fit-test provisions and procedures, if tight-fitting respirators are selected 	
<ul style="list-style-type: none"> • Training provisions that address: <ul style="list-style-type: none"> – Respiratory hazards encountered during: <ul style="list-style-type: none"> ■ Routine activities ■ Infrequent activities, for example, bimonthly cleaning of equipment ■ Reasonably foreseeable emergencies, for example, rescue, spill response, or escape situations – Proper use of respirators, for example, how to put on or remove respirators, and use limitations. 	<p>Note: You do NOT need to repeat training on respiratory hazards if employees have been trained on this in compliance with other rules such as WAC 296-800-170, employer chemical hazard communication in the safety and health core rules.</p>
<ul style="list-style-type: none"> • Respirator use procedures for: <ul style="list-style-type: none"> – Routine activities – Infrequent activities – Reasonably foreseeable emergencies 	
<ul style="list-style-type: none"> • Maintenance: <ul style="list-style-type: none"> – Procedures and schedules for respirator maintenance covering: <ul style="list-style-type: none"> ■ Cleaning and disinfecting ■ Storage ■ Inspection and repair ■ When to discard respirators 	

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Required Elements for Required-Use Respirator Programs

– A cartridge or canister change schedule **IF** air-purifying respirators are selected for use against gas or vapor contaminants **AND** an end-of-service-life-indicator (ESLI) is not available. In addition, provide:

- The data and other information you relied on to calculate change schedule values (for example, highest contaminant concentration estimates, duration of employee respirator use, expected maximum humidity levels, user breathing rates, and safety factors)

- Procedures to ensure a safe air quantity and quality **IF** atmosphere-supplying respirators (air-line or SCBA) are selected
- Procedures for evaluating program effectiveness on a regular basis

NEW SECTION

WAC 296-842-12010 Keep respirator program records.

You must:

• Keep the following records and allow them to be examined and copied by affected employees and their representatives

– Your current respirator program
– Current employee fit test records, if fit testing is conducted. Fit test records must include:

- Employee name
- Test date
- Type of fit-test performed
- Description (type, manufacturer, model, style, and size) of the respirator tested
- Results of fit tests, for example, for quantitative fit tests include the overall fit factor **AND** a print out, or other recording of the test.

– Training records that include employee's names and the dates trained.

Reference: For requirements that apply to medical records, such as written recommendations from your LHCP, see chapter 296-62 WAC, Part B, Access to records.

NEW SECTION

WAC 296-842-130 Respirator selection.

Your responsibility:

To select and provide respirators that are appropriate for the hazard, user, and worksite conditions.

Exemption: This section does **NOT** apply to voluntary respirator use. See WAC 296-842-110 of this chapter for voluntary use program requirements.

NEW SECTION

WAC 296-842-13005 Select and provide appropriate respirators.

IMPORTANT:

• When complying with requirements in this section use exposure results from hazard evaluations conducted to comply with chapter 296-841 WAC, Respiratory hazards, if applicable.

• Chapter 296-841 WAC contains a list of substance specific rules that include additional respirator selection requirements.

You must:

• Select and provide, at no cost to employees, appropriate respirators for routine use, infrequent use, and reasonably foreseeable emergencies (such as escape, emergency, and spill response situations) by completing the following process:

Respirator Selection Process

Step 1: If your only respirator use is for escape, skip to **Step 9** to select appropriate respirators.

Step 2: If the respiratory hazard is a biological aerosol, such as TB (tuberculosis), anthrax, psittacosis (parrot fever), or hanta virus, select a respirator appropriate for **nonemergency** activities recognized to present a health risk to workers **AND** skip to **Step 9**.

• If respirator use will occur during **emergencies**, skip to **Step 9** and document the analysis used to select the appropriate respirator.

• Use Centers for Disease Control (CDC) selection guidance for exposures to specific biological agents when this guidance exists. Visit <http://www.cdc.gov>.

Step 3: If the respiratory hazard is a pesticide, follow the respirator specification on the pesticide label **AND** skip to **Step 10**.

Step 4: Determine the expected exposure concentration for each respiratory hazard of concern. Use the results from the evaluation required by chapter 296-841 WAC, Respiratory hazards.

Step 5: Determine if the respiratory hazard is classified as IDLH; if it is **NOT** IDLH skip to **Step 8**.

• The respiratory hazard **IS** classified as IDLH if:

– The atmosphere is oxygen deficient or oxygen enriched **OR**

– You **CANNOT** measure or estimate your expected exposure concentration

OR

– Your measured or estimated expected exposure concentration is greater or equal to the IDLH value in the NIOSH *Pocket Guide to Chemical Hazards*

Note:

- WISHA uses the IDLH values in the 1990 edition of the NIOSH *Pocket Guide to Hazardous Chemicals* to determine the existence of IDLH conditions. You may use more recent editions of this guide. Visit www.cdc.gov/niosh for more information.
- If your measured or estimated expected exposure concentration is below NIOSH's IDLH values, proceed to **Step 8**.

Step 6: Select an appropriate respirator from one of the following respirators for IDLH conditions and skip to **Step 9**:

- Full-facepiece, pressure demand, self-contained breathing

apparatus (SCBA) certified by NIOSH for a minimum service life of thirty minutes

OR

- Full-facepiece, pressure demand air-line respirator equipped with an auxiliary self-contained air supply

Exception: If the respiratory hazard is oxygen deficiency AND you can show oxygen concentrations can be controlled within the ranges listed in Table 4 under ALL foreseeable conditions, you are allowed to select ANY type of SCBA or air-line respirator:

respirators to prevent eye irritation or abrasive blasting helmets to provide particle rebound protection.

Step 10: Evaluate user and workplace factors that might compromise respirator performance, reliability or safety.

- If the respiratory hazard is a pesticide, follow the requirements on the pesticide label and skip to **Step 12**.

Examples:

- High humidity or temperature extremes in the workplace.

- Necessary voice communication.

- High traffic areas and moving machinery.

- Time or distance for escape.

Step 11: Follow Table 6 requirements to select an air-purifying respirator.

- If Table 6 requirements cannot be met, you must select an air-line respirator or an SCBA.

Step 12: Make sure respirators you select are certified by the National Institute for Occupational Safety and Health (NIOSH).

- To maintain certification, make sure the respirator is used according to cautions and limitations specified on the NIOSH approval label.

Note: While selecting respirators, you will need to select a sufficient number of types, models or sizes to provide for fit testing. You can also consider other respirator use issues, such as accommodating facial hair with a loose fitting respirator.

Use Table 5 to identify the assigned protection factor for different types of respirators.

Use Table 6 to select air-purifying respirators for particle, vapor, or gas contaminants.

Table 4

Concentration Ranges for Oxygen Deficiency

Altitude (as ft. above sea level)	Oxygen Concentration Range (as percent oxygen)
Below 3,001	16.0 - 19.5
3,001 - 4,000	16.4 - 19.5
4,001 - 5,000	17.1 - 19.5
5,001 - 6,000	17.8 - 19.5
6,001 - 8,000	19.3 - 19.5
Above 8,000 feet the exception does not apply.	

Step 8: Identify respirator types with assigned protection factors (APFs) from Table 5 that are appropriate to protect employees from the expected exposure concentration.

Step 9: Consider hazards that could require selection of specific respirator types. For example, select full-facepiece

Table 5

Assigned Protection Factors (APF) for Respirator Types

If the respirator is a(n) . . .	Then the APF is . . .
Air-purifying respirator with a: • Half-facepiece • Full-facepiece Note: Half-facepiece includes 1/4 masks, filtering facepieces, and elastomeric facepieces.	10 100
Powered air-purifying respirator (PAPR) with a: • Loose-fitting facepiece • Half-facepiece • Full-facepiece, equipped with HEPA filters, chemical cartridges or canisters • Hood or helmet, equipped with HEPA filters, chemical cartridges or canisters	25 50 1000 1000
Air-line respirator with a: • Half-facepiece and designed to operate in demand mode • Loose-fitting facepiece and designed to operate in continuous flow mode • Half-facepiece and designed to operate in continuous-flow, or pressure-demand mode • Full-facepiece and designed to operate in demand mode	10 25 50 100

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If the respirator is a(n) . . .	Then the APF is . . .
• Full-facepiece and designed to operate in continuous-flow OR pressure-demand mode	1000
• Helmet or hood and designed to operate in continuous-flow mode	1000
Self-contained breathing apparatus (SCBA) with a tight fitting:	
• Half-facepiece and designed to operate in demand mode	10
• Full-facepiece and designed to operate in demand mode	100
• Full-facepiece and designed to operate in pressure-demand mode	10,000
Combination respirators:	
• Find the APF for each type of respirator in the combination.	The lowest value
• Use the lower APF to represent the combination.	

Use Table 6 to select air-purifying respirators for particle, vapor, or gas contaminants.

Table 6
Requirements for Selecting Any Air-purifying Respirator

If the contaminant is a . . .	Then . . .
• Gas OR vapor	<ul style="list-style-type: none"> • Provide a respirator with canisters or cartridges equipped with a NIOSH-certified, end-of-service-life indicator (ESLI) <p>OR</p> <ul style="list-style-type: none"> • If a canister or cartridge with an ESLI is NOT available, develop a cartridge change schedule to make sure the canisters or cartridges are replaced before they are no longer effective <p>OR</p> <ul style="list-style-type: none"> • Select an atmosphere-supplying respirator
• Particle, such as a dust, spray, mist, fog, fume, or aerosol	<ul style="list-style-type: none"> • Select respirators with filters certified to be at least 95% efficient by NIOSH <ul style="list-style-type: none"> – For example, N95s, R99s, P100s, or High Efficiency Particulate Air filters (HEPA) <p>OR</p> <ul style="list-style-type: none"> • You may select respirators NIOSH certified as "dust and mist," "dust, fume, or mist," OR "pesticides." You can only use these respirators if particles primarily have a mass median aerodynamic diameter of at least two micrometers. <p>Note: These respirators are no longer sold for occupational use.</p>

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.

OR

- Escape-only respirators that are mouthpiece, loose-fitting, or hooded respirators.

NEW SECTION

WAC 296-842-140 Medical evaluations.

Your responsibility:

To make sure a respirator used under your specific worksite conditions is not a health risk to employees.

Exemption: This section does NOT apply to employees who only use:

- Filtering-facepiece respirators voluntarily. See WAC 296-842-110 of this chapter for voluntary use requirements

IMPORTANT:

• Using a respirator can create physical risks for an employee each time it is worn. The extent of these risks depends on these factors:

- Type of respirator
- Environmental conditions at the worksite
- Physical demands of the work
- Use of other protective clothing
- Employee's health status

If you comply with another WISHA requirement to evaluate an employee's fitness to use a respirator, you will be in compliance with this section.

NEW SECTION

WAC 296-842-14005 Provide medical evaluations.

You must

- Follow the medical evaluation process, Steps 1 through 7 in this section, to provide medical evaluations for your employees at no cost to them.

Medical Evaluation Process

Step 1: Identify employees who need medical evaluations AND determine the frequency of evaluations from Table 7. Include employees who:

- Are required to use respirators

OR

- Voluntarily use respirators that are **not** filtering-face-piece respirators

Note: You may use a previous employer's medical evaluation for an employee if you can:

- Show the employee's previous work and use conditions were substantially similar to yours
- AND
- Obtain a copy of the licensed health care professional's (LHCP's) written recommendation approving the employee's use of the respirator chosen by you.

Step 2: Identify a licensed health care professional (LHCP) to perform your medical evaluations.

Note: If you select a different LHCP, you do not need to have new medical evaluations done.

Step 3: Make sure your LHCP has the following information **before** the evaluation is completed:

- Information describing the respirators employees may use, including the weight and type.
- How the respirators will be used, including:
 - How often the respirator will be used, for example, daily, or once a month
 - The duration of respirator use, for example, a minimum of one hour, or up to twelve hours
 - The employee's expected physical work effort
 - Additional personal protective clothing and equipment to be worn
 - Temperature and humidity extremes expected during use
- A copy of your written respiratory protection program **and** this chapter.

Step 4: Administer the medical questionnaire in WAC 296-842-22005 to employees, **OR** provide them a medical exam that obtains the same information.

Note: You may use on-line questionnaires if the questions are the same and requirements of this section are met.

- Administer the examination or questionnaire at no cost to employees:

- During the employee's normal working hours

OR

- At a time and place convenient to the employee

- Maintain employee confidentiality during examination or questionnaire administration:

- Do **not** view employee's answers on the questionnaire

OR

- Do **not** act in a manner that may be considered a breach of confidentiality

- Make sure employees understand the content of the questionnaire.

- Provide the employee with an opportunity to discuss the questionnaire or exam results with the LHCP.

Step 5: Provide follow-up evaluation for employees when:

- The LHCP needs more information to make a final recommendation

OR

- An employee gives any positive response to questions 1-8 in Part 2 **OR** to questions 1-6 in Part 3 of the WISHA medical evaluation questionnaire in WAC 296-842-22005.

Note: Follow-up may include:

- Employee consultation with the LHCP such as a telephone conversation to evaluate positive questionnaire responses
- Medical exams
- Medical tests or other diagnostic procedures.

Step 6: Obtain a written recommendation from the LHCP that contains only the following medical information:

- Whether or not the employee is medically able to use the respirator
- Any limitations of respirator use for the employee
- What future medical evaluations, if any, are needed
- A statement that the employee has been provided a copy of the written recommendation.

Step 7: Provide a powered, air-purifying respirator (PAPR) when the LHCP determines the employee should not wear a negative-pressure air-purifying respirator **AND** is able to wear a PAPR.

Reference: See WAC 296-842-130 for requirements regarding selection of air-purifying respirators.

- Note:**
- You may discontinue medical evaluations for an employee when the employee no longer uses a respirator.
 - If you have staff conducting your medical evaluations, they may keep completed questionnaires and findings as confidential medical records, if they are maintained separately from other records.

Use Table 7 to determine medical evaluation frequency.

**Table 7
Evaluation Frequency**

Type of Evaluation:	When required:
Initial medical evaluations	• Before respirators are fit-tested or used in the workplace.
Subsequent medical evaluations	• If any of these occur: – Your licensed health care professional (LHCP) recommends them; for example, periodic evaluations at specified intervals.

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Type of Evaluation:	When required:
	<ul style="list-style-type: none"> - A respirator program administrator or supervisor informs you that an employee needs reevaluation. - Medical signs or symptoms (such as breathing difficulties) are: <ul style="list-style-type: none"> ■ Observed during fit-testing or program evaluation <li style="text-align: center;">OR ■ Reported by the employee - Changes in worksite conditions such as physical work effort, personal protective clothing, or temperature that could substantially increase the employee's physiological stress.

PROPOSED

NEW SECTION

WAC 296-842-150 Fit testing.

Your responsibility:

To make sure negative and positive-pressure tight-fitting respirators can provide an adequate fit and acceptable level of comfort to employees.

- Exemption:** This section does NOT apply to any respirators that are:
- Voluntarily used. See WAC 296-842-110 for voluntary use requirements.
 - Mouthpiece respirators.

IMPORTANT:

- Fit testing is an activity where the seal of a respirator is tested to determine if it is adequate.
- This section covers general **requirements** for fit testing. Fit testing **procedures** are covered in WAC 296-842-22010 of this chapter.

NEW SECTION

WAC 296-824-15005 Conduct fit testing.

You must:

- Provide, at no cost to the employee, fit-tests for ALL tight fitting respirators on the following schedule:
 - Before employees are assigned duties that may require the use of respirators
 - At least every twelve months after initial testing
 - Whenever any of the following occurs:
 - A different respirator facepiece is chosen such as a different type, model, style, or size
 - You become aware of a physical change in an employee that could affect respirator fit. For example, you may observe, or be told about, facial scarring, dental changes, cosmetic surgery, or obvious weight changes
 - An employee notifies you, or your LHCP, that the respirator fit is unacceptable. During the retest, you must give an employee reasonable opportunity to select a different respirator facepiece (size, model, etc.).

- Note:** You may accept a fit-test completed by a previous employer **IF:**
- You obtain written documentation of the fit-test
- AND
- The results of the fit-test are not more than twelve months old
- AND
- The employee will use the same respirator (the same type, model, style, and size)

AND

- The fit test was conducted in a way that meets the requirements of WAC 296-842-150 and 296-842-22010.

You must:

- Select an appropriate fit-testing procedure from WAC 296-842-22005 of this chapter AND:
 - Use quantitative fit-test methods when a negative pressure respirator will be used in concentrations requiring a protection factor greater than 10. This includes:
 - Full facepiece air-purifying respirators
 - SCBAs operated in demand (negative pressure) mode
 - Air-line respirators operated in demand mode.
 - Make sure PAPRs, SCBAs, or air-line respirators are fit tested in negative-pressure mode.
 - Make sure the person conducting fit testing is able to do ALL of the following:
 - Prepare test solutions if required
 - Make sure equipment works properly
 - Perform tests properly
 - Recognize invalid tests
 - Calculate fit factors properly if required.

Note:

- No specific training program or certification is required for those who conduct fit tests.
- You should consider evaluating these individuals to determine their proficiency in the fit-testing method to be used.
- You can use an evaluation form such as the form included in the American National Standard for Respirator Fit Testing Methods, ANSI/AIHA Z88.10-2001 to determine if the individual meets these requirements. Visit www.ansi.org or www.aiha.org.

NEW SECTION

WAC 296-842-160 Training.

Your responsibility:

To make sure employees who are required to use respirators understand and can demonstrate proper respirator use and maintenance.

IMPORTANT:

This section applies to employees who voluntarily use respirators only when training is necessary to prevent the respirator from creating a hazard. See WAC 296-842-110 for voluntary use requirements.

NEW SECTION

WAC 296-842-16005 Provide effective training.

You must:

• Train employees, based on their duties, if they do any of the following:

- Use respirators
- Supervise respirator users
- Issue, repair, or adjust respirators

• Present effective training in a way that employees understand.

- Note:**
- Training may be provided using audiovisuals, slide presentations, formal classroom instruction, informal discussions during safety meetings, training programs conducted by outside sources, or a combination of these methods.
 - You may want to have instructors available when using video or automated training methods to:
 - Encourage and provide responses to questions for the benefit of employees
 - Evaluate employees' understanding of the material
 - Provide other instructional interaction to employees.

You must:

- Make sure a qualified instructor provides training
- Provide training, at no cost to the employee, at these times:

- Initially, before worksite respirator use begins
- Periodically, within twelve months of the previous training
- Additionally, when the following occur:

- The employee has not retained knowledge or skills

OR

- Changes in the worksite, or type of respirator make previous training incomplete or obsolete.

- Note:**
- You may accept an employee's previous training, such as training provided by another employer, to satisfy the initial training requirement if:
 - You can demonstrate the employee received training within the past twelve months
 - AND**
 - The employee can demonstrate the knowledge and skills to use required respirators effectively.
 - If you accept an employee's previous training to satisfy the initial training requirement, you are still responsible for providing periodic, and additional training when needed. Periodic training would need to be provided within twelve months of the employee's previous training.

You must:

- Make sure employees can demonstrate the following knowledge and skills as required by their duties:
 - Why the respirator is necessary. Include, for example, information identifying respiratory hazards such as hazardous chemicals, the extent of the employee's exposure, and potential health effects and symptoms
 - The respirator's capabilities and limitations. Include, for example, how the respirator provides protection and why air-purifying respirators cannot be used in oxygen-deficient conditions
 - How improper fit, use, or maintenance can compromise the respirator's effectiveness and reliability
 - How to properly inspect, put on, seal check, use, and remove the respirator
 - How to clean, disinfect, repair, and store the respirator, or how to get this done by someone else
 - How to use the respirator effectively in emergency situations; including what to do when a respirator fails and where emergency respirators are stored

- Medical signs and symptoms that may limit or prevent the effective use of respirators such as shortness of breath or dizziness

- The employer's general obligations under this chapter. For example, developing a written program, selecting appropriate respirators, and providing medical evaluations.

NEW SECTION

WAC 296-842-170 Maintenance.

Your responsibility:

To make sure respirators are maintained so they will function properly and not create health hazards such as skin irritation.

You must:

Maintain respirators in a clean and reliable condition

WAC 296-842-17005

Store respirators properly

WAC 296-842-17010

Inspect and repair respirators

WAC 296-842-17015

IMPORTANT:

This section applies to employees who voluntarily use respirators only when maintenance is necessary to prevent the respirator from creating a hazard. See WAC 296-842-110 for voluntary use requirements.

NEW SECTION

WAC 296-842-17005 Maintain respirators in a clean and reliable condition.

You must:

- Make sure respirators are kept, at no cost to the employee, clean, sanitary and in good working order. Do at least the following:

- Clean and disinfect respirators as often as specified in Table 8 of this section.

Note:

- Use required cleaning and disinfecting procedures in WAC 296-842-22015, or the manufacturer's procedures that:

- Result in a clean and sanitary respirator
- Do not damage the respirator
- Do not harm the user
- Automated cleaning and disinfecting are permitted
- Cleaning and disinfecting may be done by a central facility as long as you make sure respirators provided are clean, sanitary, and function properly.

You must:

- Make sure respirators are assembled properly after cleaning or disinfecting.

Use Table 8 to determine how often to clean and disinfect respirators.

Table 8

Required Frequencies for Cleaning and Disinfecting Respirators

If, the respirator will be . . .	Then, clean and disinfect the respirator . . .
<ul style="list-style-type: none"> • Used exclusively by one employee 	<ul style="list-style-type: none"> • As often as needed to: <ul style="list-style-type: none"> – Keep it clean and functional AND – To prevent health hazards such as skin irritation
<ul style="list-style-type: none"> • Shared for nonemergency use <p>OR</p> <ul style="list-style-type: none"> • Used for fit-testing or training 	<ul style="list-style-type: none"> • Before it is worn by another employee
<ul style="list-style-type: none"> • Shared for emergency use 	<ul style="list-style-type: none"> • After each use so the respirator is immediately ready for use at all times

NEW SECTION

WAC 296-842-17010 Store respirators properly.

You must:

• Store respirators to protect them from ALL of the following:

- Deformation of the facepiece or exhalation valve
- Sunlight or extreme temperatures or other conditions
- Contamination such as dust or damaging chemicals
- Excessive moisture.

Note: Use coffee cans, sealable plastic bags, or other suitable means of protection.

You must:

• Follow these additional requirements for emergency respirators:

- Keep respirators accessible to the work area
- Store respirators in compartments or with covers clearly marked as containing emergency respirators
 - Follow additional storage instructions from the respirator manufacturer
 - Store an adequate number of emergency respirators in each area where they may be needed.

Note: Emergency respirators include mouthpiece respirators and other respirators that are limited to escape-only use by their NIOSH certification.

NEW SECTION

WAC 296-842-17015 Inspect and repair respirators.

You must:

- Conduct respirator inspections as often as specified in Table 9.
- Make sure respirator inspections cover **all** of the following:

- Respirator function
- Tightness of connections
- The condition of the facepiece, head straps, valves, connecting tubes, and cartridge, canisters or filters
- Pliability and deterioration of elastomeric parts
- Maintenance of air or oxygen cylinders
- Making sure SCBA air cylinders are at ninety percent of the manufacturer's recommended pressure level
- Proper functioning of SCBA regulators when air-flow is activated
- Proper functioning of SCBA low-pressure warning devices when activated
- Certify inspections for emergency respirators by documenting the following:
 - Inspection date
 - Serial number of each respirator or other identifying information
 - Inspector's name or signature
 - Inspection findings
 - Required action, if problems are found.

Note:

- When documenting inspections you may either:
 - Provide the information on a tag or label and attach it to the respirator compartment
- OR
- Include the information in an inspection report stored in paper or electronic files accessible to employees.

You must:

• Repair or replace any respirator that is not functioning properly **before** the employee returns to a situation where respirators are required.

– If respirators fail inspection or are not functioning properly during use due to problems such as leakage, vapor or gas breakthrough, or increased breathing resistance, **ALL** of the following apply:

- Do **NOT** permit such respirators to be used until properly repaired or adjusted
- Use only NIOSH-certified parts
- Make sure repairs and adjustments are made by appropriately trained individuals
 - Use the manufacturer or a technician trained by the manufacturer to repair or adjust reducing and admission valves, regulators, and warning devices on SCBAs or air-line respirators.

■ Follow the manufacturer's recommendations and specifications for the type and extent of repairs.

Use Table 9 to determine how often to inspect respirators.

Table 9

Required Frequencies for Respirator Inspections

If the respirator is . . .	Then inspect . . .
A SCBA in any use	<ul style="list-style-type: none"> • Before each use <p>AND</p> <ul style="list-style-type: none"> • During cleaning <p>OR</p> <ul style="list-style-type: none"> • Monthly if NOT used

PROPOSED

PROPOSED

If the respirator is . . .	Then inspect . . .
Used for nonemergencies, including day-to-day or infrequent use	<ul style="list-style-type: none"> • Inspect before each use <p>AND</p> <ul style="list-style-type: none"> • During cleaning
Used only for emergencies	<ul style="list-style-type: none"> • Check for proper function before and after each use <p>AND</p> <ul style="list-style-type: none"> • Inspect at least monthly as instructed by the manufacturer
Used for escape-only purposes	<ul style="list-style-type: none"> • Before carrying into a work place for use

NEW SECTION

WAC 296-842-180 Safe use and removal of respirators.

Your responsibility:

To make sure respirator use and removal is safe.

Exemption: These sections do NOT apply to employees who voluntarily use any type of respirator. See WAC 296-842-110 for voluntary use requirements.

You must:

Prevent sealing problems with tight-fitting respirators
WAC 296-842-18005

Make sure employees leave the use area before removing respirators

WAC 296-842-18010.

NEW SECTION

WAC 296-842-18005 Prevent sealing problems with tight-fitting respirators.

You must:

- Make sure employees use the procedure in WAC 296-842-22020 to perform a user seal check each time they put on their tight-fitting respirator.

- Make sure you do NOT permit respirator use if employees have a characteristic that interferes with the respirator facepiece seal or valve function. For example, facial hair such as stubble, moustache, sideburns, bangs, and hairline between the face and the sealing surface of the respirator will affect the seal.

- Make sure corrective glasses or personal protective equipment (PPE) do NOT interfere with the facepiece seal. Examples of PPE include safety glasses, goggles, face-shields, clothing, and hard hats.

NEW SECTION

WAC 296-842-18010 Make sure employees leave the use area before removing respirators.

You must:

- Make sure employees leave the use area for any of these reasons:

- To replace air-purifying filters, cartridges, or canisters

- When they smell or taste (detect) vapor or gas leakage from, for example, cartridges, canister, or the facepiece seal
- When they detect changes in breathing resistance
- To readjust their respirators
- To wash their faces and respirators as necessary to prevent skin or eye irritation
- If they become ill
- If they experience sensations of dizziness, nausea, weakness, breathing difficulty, coughing, sneezing, vomiting, fever, or chills.

NEW SECTION

WAC 296-842-190 Standby requirements for immediately dangerous to life or health (IDLH) conditions.

Your responsibility:

To provide adequate assistance to employees using respirators in conditions immediately dangerous to life or health (IDLH).

NEW SECTION

WAC 296-842-19005 Provide standby assistance in immediately dangerous to life or health (IDLH) conditions.

IMPORTANT:

WISHA currently uses the IDLH values in the 1990 NIOSH *Pocket Guide to Chemical Hazards* to determine the existence of IDLH conditions. You may use more recent editions of this guide. Visit www.cdc.gov/niosh for more information.

You must:

- Provide at least two standby employees outside the IDLH area.

Note: You need only one standby employee if the IDLH condition is well characterized, will remain stable AND you can show one employee can adequately do ALL of the following:

- Monitor employees in the IDLH area
- Implement communication
- Initiate rescue duties.
- Train and equip standby employees to provide effective emergency rescue. Equip them with:
 - A pressure-demand SCBA or a pressure-demand airline respirator with an auxiliary SCBA, for each standby employee
 - Appropriate retrieval equipment, when it would help with the effective rescue of the entrant, or an equivalent means of rescue
- Make sure standby employees maintain visual, voice, or signal line communication with employees in the IDLH area
- Make sure that in the event of an emergency:
 - Standby employees notify you or your designee before they enter the IDLH area to provide emergency rescue
 - You provide necessary assistance when notified.

NEW SECTION**WAC 296-842-200 Air quality for self-contained breathing apparatus (SCBA) and air-line respirators.****Your responsibility:**

To provide employees who use SCBAs or air-line respirators with an acceptable air supply.

You must:

Make sure breathing air and oxygen meet established specifications

WAC 296-842-20005

Prevent conditions that could create a hazardous breathing air supply

WAC 296-842-20010

Make sure compressors do not create a hazardous breathing air supply

WAC 296-842-20015.

NEW SECTION**WAC 296-842-20005 Make sure breathing air and oxygen meet established specifications.****You must:**

• Make sure that all SCBAs and air-line respirators are provided with safe breathing air and oxygen according to the following:

– Compressed breathing air must meet the following specifications for Grade D air:

■ Oxygen (volume/volume) within 19.5-23.5%

■ Hydrocarbon (condensed): NO MORE than five milligrams per cubic meter of air

■ Carbon monoxide (CO): NO MORE than ten parts per million (ppm)

■ Carbon dioxide (CO₂): NO MORE than 1,000 ppm

■ No noticeable odor

Reference: See the American National Standards Institute - Compressed Gas Association Commodity Specification for Air (G-7.1.1989) for more information. Contact your local library to access a copy.

– Make sure the moisture content of the air supplied meets the following:

■ Air supplied to respirators from cylinders must NOT exceed a dew point of -50°F (or -45.6°C) at 1 atmospheric pressure.

■ Compressor supplied air must NOT exceed a dew point of 10°F (or 5.56°C) BELOW the use temperature at 1 atmospheric pressure.

– Cylinders obtained from a supplier of breathing air must have a certificate of analysis that verifies each cylinder's contents meet Grade D and dew point standards.

– Compressed and liquid oxygen must meet the United States Pharmacopoeia requirements for medical or breathing oxygen.

NEW SECTION**WAC 296-842-20010 Prevent conditions that could create a hazardous breathing air supply.****You must:**

• Use SCBA and air-line respirators safely:

– Do NOT supply compressed oxygen to SCBAs or air-line respirators that previously used compressed air.

Note: Compressed air leaves residues containing hydrocarbons such as oil or grease. Fire or explosion can occur if compressed oxygen makes contact with these residues.

You must:

– Use breathing air couplings on air-line respirators that are NOT compatible with couplings for nonrespirable air or other gas systems, for example, utility air used for manufacturing purposes.

– Do NOT allow asphyxiating substances to enter breathing air lines; for example, do not flush nitrogen through worksite air lines also used for breathing air.

– Use equipment specifically designed for oxygen service or distribution IF oxygen concentrations greater than 23.5% are used.

Note: Respiratory equipment NOT designed for oxygen service or distribution can create fire or explosion hazards in oxygen concentrations higher than 23.5%.

You must:

– Make sure cylinders used to supply breathing air for SCBAs or air-line respirators are tested and maintained as described in the federal Department of Transportation's (DOT) Shipping Container Specification Regulations, Title 49 CFR Parts 173 and 178.

Note: • Use only cylinders marked (with serial number, cylinder pressure, DOT exemption number, and test dates) according to these DOT regulations

• To find any Code of Federal Regulations (CFR) visit: www.access.gpo.gov.

NEW SECTION**WAC 296-842-20015 Make sure compressors do not create a hazardous breathing air supply.****IMPORTANT:**

• Ambient-air movers (or pumps) used to supply air to respirators must be used according to the manufacturer's instructions.

• Respirators used with ambient-air movers must be approved by NIOSH to operate within the pressure ranges of the air mover.

You must:

(1) Locate or modify compressor intakes so they will not pick up contaminated air OR exhaust gases such as carbon monoxide from:

• Fuel-powered vehicles

OR

• The internal combustion motor of the compressor

OR

• Other contaminant sources in the area, for example, a ventilation system discharge.

PROPOSED

- Note:**
- You may need to reposition or extend the compressor's intake or engine exhaust pipe or outlet, especially if they are located near each other.
 - Be aware that exhaust gases may not adequately disperse when the compressor is operated in:
 - An enclosed space such as a small room, a corner, or near a wall
 - OR
 - In turbulent wind conditions.

You must:

(2) Equip compressors with suitable air-purifying filters, water traps, and sorbents (such as charcoal beds) and maintain them as follows:

- Periodically change or clean them according to the manufacturer or supplier's instructions
- Keep a tag at the compressor with the following information:
 - When the sorbent and filters were last replaced or cleaned
 - The date of the most recent changes or cleaning
 - The signature of the person authorized by the employer to perform changes or cleaning.

Note: To be sure you are providing the recommended operating pressure for respirators, you may need to install a delivery pressure gauge at the point where the manifold where the respirator hose is attached.

You must:

(3) Make sure the carbon monoxide (CO) level in breathing air from compressors does NOT exceed ten parts per million (ppm).

- Note:** If you do not have a reliable CO-free area available for locating your compressor intake, consider these examples of methods to prevent CO contamination of the air supply:
- Use of continuous and effective carbon monoxide alarms and filters
 - Conduct frequent monitoring of air quality
 - Use a CO converter (converts CO to carbon dioxide).

You must:

- Maintain CO levels in oil lubricated compressors by using at least one of the following:
 - An effective CO alarm
 - An effective high temperature alarm AND testing the air supply often enough to see if CO levels exceed ten ppm.

- Note:**
- How often to test depends on a number of considerations, for example:
 - Compressor age
 - Maintenance history of the compressor
 - Stability of CO readings
 - If the CO or high temperature alarm cannot be heard by the employee, a flashing light or other effective alternative to an audio alarm needs to be used
 - Safeguards, such as alarms, are necessary to prevent CO contamination resulting from compressor overheating
 - Any type of oil-lubricated compressor, such as screw or piston types, may produce dangerous levels of CO if overheating occurs
 - Old compressors are known to leak oil due to worn parts, increasing the possibility for overheating. Newer compressors may also overheat if maintenance practices are poor. For example, poor maintenance practices may lead to disconnected or incorrectly set alarms, inoperative shut-offs, or an impaired cooling system
 - You need to instruct employees to move to a safe area when the alarm sounds AND to stop using respirators.

NEW SECTION**WAC 296-842-210 Labeling of air-purifying respirator filters, cartridges, and canisters.****Your responsibility:**

To make sure employees, their supervisors, and program administrators can easily check for the correct air-purifying filters, cartridges, and canisters on respirators.

Exemption: This section does NOT apply to filtering-facepiece respirators when used voluntarily. See WAC 296-842-110 for voluntary use requirements.

NEW SECTION**WAC 296-842-21005 Keep labels readable on respirator filters, cartridges, and canisters during use.****You must:**

- Make sure the NIOSH certification labeling and color-coding on air-purifying respirator filters, cartridges, and canisters remains readable and intact during use.

Link: Color-coding specifications for manufacturers can be found in Title 42 CFR, Part 84. Visit www.cdc.gov/niosh.

NEW SECTION**WAC 296-842-220 Required procedures for respiratory protection program.****Your responsibility:**

To use the procedures and questionnaire provided in this section when implementing your respiratory protection program.

You must:

- Use this medical questionnaire for medical evaluations
WAC 296-842-22005
- Follow these fit-testing procedures for tight-fitting respirators
WAC 296-842-22010
- Follow procedures established for cleaning and disinfecting respirators
WAC 296-842-22015
- Follow procedures established for seal checking respirators
WAC 296-842-22020.

NEW SECTION**WAC 296-842-22005 Use this medical questionnaire for medical evaluations.****You must:**

- Use the medical questionnaire in Table 10 when conducting medical evaluations.

- Note:**
- You may use a physical exam instead of this questionnaire if the exam covers the same information as the questionnaire.
 - You may use on-line questionnaires if the questions are the same and the requirements in WAC 296-842-140 of this chapter are met.

Table 10

WISHA Medical Evaluation Questionnaire	
Employer instructions:	
<ul style="list-style-type: none"> • You may use on-line questionnaires if the requirements in WAC 296-842-14005 are met. • You must tell your employee how to deliver or send the completed questionnaire to the health care provider you have selected. • You must NOT review employees' questionnaires. 	
Health care provider's instructions:	
<ul style="list-style-type: none"> • Review the information in this questionnaire and any additional information provided to you by the employer. • You may add questions to this questionnaire at your discretion; HOWEVER, questions in Parts 1-4 may not be deleted or substantially altered. 	

WISHA Medical Evaluation Questionnaire	
<ul style="list-style-type: none"> • Follow-up evaluation is required for any positive response to questions 1-8 in Part 2, or questions 1-6 in Part 3. This might include: Phone consultations to evaluate positive responses, medical tests, and diagnostic procedures. • When your evaluation is complete, send a copy of your written recommendation to the employer AND employee. 	
Employee information and instructions:	
<ul style="list-style-type: none"> • Your employer must allow you to answer this questionnaire during normal working hours, or at a time and place that is convenient to you. • Your employer or supervisor must not look at or review your answers at any time. 	

PROPOSED

Part 1 - Employee Background Information

ALL employees must complete this part

Please print

1. Today's date: _____

2. Your name: _____

3. Your age (to nearest year): _____

4. Sex (circle one): Male / Female

5. Your height: _____ ft. _____ in.

6. Your weight: _____ lbs.

7. Your job title: _____

8. A phone number where you can be reached by the health care professional who reviews this questionnaire (include Area Code): _____

9. The best time to call you at this number: _____

10. Has your employer told you how to contact the health care professional who will review this questionnaire? Yes / No

11. Check the type of respirator(s) you will be using:

a. _____ N, R, or P filtering-facepiece respirator (for example, a dust mask, OR an N95 filtering-facepiece respirator).

b. Check all that apply.

Half mask Full facepiece mask Helmet hood Escape

Nonpowered cartridge or canister Powered air-purifying cartridge respirator (PAPR)

Supplied-air or Air-line

Self contained breathing apparatus (SCBA): Demand or Pressure demand

Other: _____

12. Have you previously worn a respirator? Yes / No

If "yes," describe what type(s): _____

PROPOSED

Part 2 - General Health Information

ALL employees must complete this part

Please circle "Yes" or "No"

- | | | | |
|--|-----|---|----|
| 1. Do you <i>currently</i> smoke tobacco, or have you smoked tobacco in the last month? | Yes | / | No |
| 2. Have you <i>ever had</i> any of the following conditions? | Yes | / | No |
| a. Seizures (fits): | Yes | / | No |
| b. Diabetes (sugar disease): | Yes | / | No |
| c. Allergic reactions that interfere with your breathing: | Yes | / | No |
| d. Claustrophobia (fear of closed-in places): | Yes | / | No |
| e. Trouble smelling odors: | Yes | / | No |
| 3. Have you <i>ever had</i> any of the following pulmonary or lung problems? | Yes | / | No |
| a. Asbestosis: | Yes | / | No |
| b. Asthma: | Yes | / | No |
| c. Chronic bronchitis: | Yes | / | No |
| d. Emphysema: | Yes | / | No |
| e. Pneumonia: | Yes | / | No |
| f. Tuberculosis: | Yes | / | No |
| g. Silicosis: | Yes | / | No |
| h. Pneumothorax (collapsed lung): | Yes | / | No |
| i. Lung cancer: | Yes | / | No |
| j. Broken ribs: | Yes | / | No |
| k. Any chest injuries or surgeries: | Yes | / | No |
| l. Any other lung problem that you have been told about: | Yes | / | No |
| 4. Do you <i>currently</i> have any of the following symptoms of pulmonary or lung illness? | Yes | / | No |
| a. Shortness of breath: | Yes | / | No |
| b. Shortness of breath when walking fast on level ground or walking up a slight hill or incline: | Yes | / | No |
| c. Shortness of breath when walking with other people at an ordinary pace on level ground: | Yes | / | No |
| d. Have to stop for breath when walking at your own pace on level ground: | Yes | / | No |
| e. Shortness of breath when washing or dressing yourself: | Yes | / | No |
| f. Shortness of breath that interferes with your job: | Yes | / | No |
| g. Coughing that produces phlegm (thick sputum): | Yes | / | No |
| h. Coughing that wakes you early in the morning: | Yes | / | No |
| i. Coughing that occurs mostly when you are lying down: | Yes | / | No |
| j. Coughing up blood in the last month: | Yes | / | No |
| k. Wheezing: | Yes | / | No |
| l. Wheezing that interferes with your job: | Yes | / | No |
| m. Chest pain when you breathe deeply: | Yes | / | No |
| n. Any other symptoms that you think may be related to lung problems: | Yes | / | No |
| 5. Have you <i>ever had</i> any of the following cardiovascular or heart problems? | Yes | / | No |
| a. Heart attack: | Yes | / | No |
| b. Stroke: | Yes | / | No |
| c. Angina: | Yes | / | No |
| d. Heart failure: | Yes | / | No |
| e. Swelling in your legs or feet (not caused by walking): | Yes | / | No |
| f. Heart arrhythmia (heart beating irregularly): | Yes | / | No |
| g. High blood pressure: | Yes | / | No |
| h. Any other heart problem that you have been told about: | Yes | / | No |

- | | | | |
|--|-----|---|----|
| 6. Have you <i>ever had</i> any of the following cardiovascular or heart symptoms? | | | |
| a. Frequent pain or tightness in your chest: | Yes | / | No |
| b. Pain or tightness in your chest during physical activity: | Yes | / | No |
| c. Pain or tightness in your chest that interferes with your job: | Yes | / | No |
| d. In the past 2 years, have you noticed your heart skipping or missing a beat: | Yes | / | No |
| e. Heartburn or indigestion that is not related to eating: | Yes | / | No |
| f. Any other symptoms that you think may be related to heart or circulation problems: | Yes | / | No |
| 7. Do you <i>currently</i> take medication for any of the following problems? | Yes | / | No |
| a. Breathing or lung problems: | Yes | / | No |
| b. Heart trouble: | Yes | / | No |
| c. Blood pressure: | Yes | / | No |
| d. Seizures (fits): | Yes | / | No |
| 8. If you have used a respirator, have you <i>ever had</i> any of the following problems? (If you have never used a respirator, check the following space and go to question 9:) _____ | | | |
| a. Eye irritation: | Yes | / | No |
| b. Skin allergies or rashes: | Yes | / | No |
| c. Anxiety: | Yes | / | No |
| d. General weakness or fatigue: | Yes | / | No |
| e. Any other problem that interferes with your use of a respirator? | Yes | / | No |
| 9. Would you like to talk to the health care professional who will review this questionnaire about your answers? | Yes | / | No |

Part 3 - Additional Questions for Users of Full-Facepiece Respirators or SCBAs

Please circle "Yes" or "No"

- | | | | |
|--|-----|---|----|
| 1. Have you <i>ever lost</i> vision in either eye (temporarily or permanently)? | Yes | / | No |
| 2. Do you <i>currently</i> have any of these vision problems? | | | |
| a. Need to wear contact lenses: | Yes | / | No |
| b. Need to wear glasses: | Yes | / | No |
| c. Color blindness: | Yes | / | No |
| d. Any other eye or vision problem: | Yes | / | No |
| 3. Have you <i>ever had</i> an injury to your ears, including a broken ear drum? | Yes | / | No |
| 4. Do you <i>currently</i> have any of these hearing problems? | | | |
| a. Difficulty hearing: | Yes | / | No |
| b. Need to wear a hearing aid: | Yes | / | No |
| c. Any other hearing or ear problem: | Yes | / | No |
| 5. Have you <i>ever had</i> a back injury? | Yes | / | No |
| 6. Do you <i>currently</i> have any of the following musculoskeletal problems? | | | |
| a. Weakness in any of your arms, hands, legs, or feet: | Yes | / | No |
| b. Back pain: | Yes | / | No |
| c. Difficulty fully moving your arms and legs: | Yes | / | No |
| d. Pain or stiffness when you lean forward or backward at the waist: | Yes | / | No |
| e. Difficulty fully moving your head up or down: | Yes | / | No |
| f. Difficulty fully moving your head side to side: | Yes | / | No |
| g. Difficulty bending at your knees: | Yes | / | No |
| h. Difficulty squatting to the ground: | Yes | / | No |
| i. Climbing a flight of stairs or a ladder carrying more than 25 lbs: | Yes | / | No |
| j. Any other muscle or skeletal problem that interferes with using a respirator: | Yes | / | No |

Part 4 - Discretionary Questions

Complete questions in this part ONLY IF your employer's health care provider says they are necessary

1. In your present job, are you working at high altitudes (over 5,000 feet) or in a place that has lower than normal amounts of oxygen? Yes / No

If "yes," do you have feelings of dizziness, shortness of breath, pounding in your chest, or other symptoms when you are working under these conditions? Yes / No

2. Have you ever been exposed (at work or home) to hazardous solvents, hazardous airborne chemicals (such as gases, fumes, or dust), OR have you come into skin contact with hazardous chemicals? Yes / No

If "yes," name the chemicals, if you know them: _____

3. Have you ever worked with any of the materials, or under any of the conditions, listed below: Yes / No

a. Asbestos? Yes / No

b. Silica (for example, in sandblasting)? Yes / No

c. Tungsten/cobalt (for example, grinding or welding this material)? Yes / No

d. Beryllium? Yes / No

e. Aluminum? Yes / No

f. Coal (for example, mining)? Yes / No

g. Iron? Yes / No

h. Tin? Yes / No

i. Dusty environments? Yes / No

j. Any other hazardous exposures? Yes / No

If "yes," describe these exposures: _____

4. List any second jobs or side businesses you have: _____

5. List your previous occupations: _____

6. List your current and previous hobbies: _____

7. Have you been in the military services? Yes / No

If "yes," were you exposed to biological or chemical agents (either in training or combat)? Yes / No

8. Have you ever worked on a HAZMAT team? Yes / No

9. Other than medications for breathing and lung problems, heart trouble, blood pressure, and seizures mentioned earlier in this questionnaire, are you taking any other medications for any reason (including over-the-counter medications)? Yes / No

If "yes," name the medications if you know them: _____

10. Will you be using any of the following items with your respirator(s)? Yes / No

a. HEPA filters: Yes / No

b. Canisters (for example, gas masks): Yes / No

c. Cartridges: Yes / No

11. How often are you expected to use the respirator(s)? Yes / No

a. Escape-only (no rescue): Yes / No

b. Emergency rescue only: Yes / No

c. Less than 5 hours *per week*: Yes / No

d. Less than 2 hours *per day*: Yes / No

e. 2 to 4 hours per day: Yes / No

f. Over 4 hours per day: Yes / No

12. During the period you are using the respirator(s), is your work effort: Yes / No

a. *Light* (less than 200 kcal per hour): Yes / No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of a light work effort are sitting while writing, typing, drafting, or performing light assembly work; or standing while operating a drill press (1-3 lbs.) or controlling machines.

PROPOSED

PROPOSED

b. *Moderate* (200 to 350 kcal per hour): Yes / No
 If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.
 Examples of moderate work effort are sitting while nailing or filing; driving a truck or bus in urban traffic; standing while drilling, nailing, performing assembly work, or transferring a moderate load (about 35 lbs.) at trunk level; walking on a level surface about 2 mph or down a 5-degree grade about 3 mph; or pushing a wheelbarrow with a heavy load (about 100 lbs.) on a level surface.

c. *Heavy* (above 350 kcal per hour): Yes / No
 If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.
 Examples of heavy work are lifting a heavy load (about 50 lbs.) from the floor to your waist or shoulder; working on a loading dock; shoveling; standing while bricklaying or chipping castings; walking up an 8-degree grade about 2 mph; climbing stairs with a heavy load (about 50 lbs.).

13. Will you be wearing protective clothing and/or equipment (other than the respirator) when you are using your respirator? Yes / No
 If "yes," describe this protective clothing and/or equipment: _____

14. Will you be working under hot conditions (temperature exceeding 77°F): Yes / No

15. Will you be working under humid conditions: Yes / No

16. Describe the work you will be doing while using your respirator(s): _____

17. Describe any special or hazardous conditions you might encounter when you are using your respirator(s) (for example, confined spaces, life-threatening gases): _____

18. Provide the following information, if you know it, for each toxic substance that you will be exposed to when you are using your respirator(s):
 Name of the first toxic substance: _____
 Estimated maximum exposure level per shift: _____
 Duration of exposure per shift: _____
 Name of the second toxic substance: _____
 Estimated maximum exposure level per shift: _____
 Duration of exposure per shift: _____
 Name of the third toxic substance: _____
 Estimated maximum exposure level per shift: _____
 Duration of exposure per shift: _____
 The name of any other toxic substances that you will be exposed to while using your respirator: _____

19. Describe any special responsibilities you will have while using your respirator(s) that may affect the safety and well being of others (for example, rescue, security). _____

NEW SECTION

WAC 296-842-22010 Follow these fit-testing procedures for tight-fitting respirators.

IMPORTANT:

- This section contains procedural requirements that apply during actual fit testing.
- See WAC 296-842-150 of this chapter for fit-testing requirements that apply to your overall program.

Exemptions: This section does NOT apply to employees who:

- Voluntarily use respirators

OR

- Are required to use mouthpiece respirators.

You must:

- Conduct fit testing according to all of the following:

– Follow the procedure in Table 11 to choose a respirator for fit testing:

- Prior to conducting fit tests

AND

- Any time your employee must select a different respirator such as when a previously selected respirator fails a test – Select and follow at least one of the following fit test procedures:

- Qualitative fit-test procedures:

- ◆ Isoamyl acetate vapor (IAA, banana oil) in Table 12
- ◆ Saccharine aerosol in Table 13
- ◆ Bitrex™ aerosol in Table 14
- ◆ Irritant smoke in Table 15

- Quantitative fit-test procedures:

- ◆ Ambient aerosol condensation nuclei counter such as the Portacount™, in Table 16

PROPOSED

- ◆ Controlled negative pressure (CNP) such as the Fit-Tester 3000™, in Table 17
 - ◆ Generated aerosol in Table 18
 - Make sure employees perform the appropriate fit test exercises listed in Table 19.
 - Clean and maintain equipment according to the manufacturer's instructions.
 - Make sure during fit testing employees wear any safety equipment that could:
 - Interfere with respirator fit
- AND
- Be worn in the workplace. For example, chemical splash goggles.
 - Check, prior to fit testing, for conditions that may interfere with the respirator seal or valve functions. If you find such conditions, do NOT conduct fit testing for that individual.

Note: Examples of conditions that may interfere with the respirator seal or valve functions include:

- Moustache, stubble, sideburns, bangs, hairline, and other types of facial hair in areas where the respirator facepiece seals or that interfere with valve function
- Temple bars of corrective eyewear or headgear that extend through the face seal area.

Table 11

Procedure for Choosing a Respirator for Fit Testing	
1. Inform the employee:	<ul style="list-style-type: none"> • To choose the most comfortable respirator that provides an adequate fit • That each respirator sample represents a different size and, if more than one model is supplied, a different shape • That if fitted and used properly, the respirator chosen will provide adequate protection
2. Provide a mirror and show the employee how to:	<ul style="list-style-type: none"> • Put on the respirator • Position the respirator on the face • Set strap tension.
Note:	This instruction does NOT take the place of the employee's formal training since it is only a review.
3. Review with the employee how to check for a comfortable fit around the nose, cheeks and other areas on the face.	<ul style="list-style-type: none"> • Tell the employee the respirator should be comfortable while talking or wearing eye protection.
4. Have the employee hold each facepiece against the face, taking enough time to compare the fit of each. The employee can then either:	<ul style="list-style-type: none"> • Reject any facepiece that clearly does not feel comfortable or fit adequately <p>OR</p> <ul style="list-style-type: none"> • Choose which facepiece is most acceptable and which are less acceptable, if any.

Procedure for Choosing a Respirator for Fit Testing

Note:

- Supply as many respirator models and sizes as needed to make sure the employee finds a respirator that is acceptable and fits correctly
- To save time later, during this step note the more acceptable facepieces in case the one chosen fails the fit test or proves unacceptable later.

5. Have the employee wear the most acceptable respirator for AT LEAST 5 minutes to evaluate comfort and fit. Do ALL of the following during this time:

- Ask the employee to observe and comment about the comfort and fit:
 - Around the nose, cheeks, and other areas on the face
 - When talking or wearing eye protection
 - Have the employee put on the respirator and adjust the straps until they show proficiency
 - Evaluate the respirator's general fit by checking:
 - Proper chin placement
 - Properly tightened straps (do NOT over tighten)
 - Acceptable fit across the nose bridge
 - Respirator size; it must span the distance from nose to chin
 - To see if the respirator stays in position
 - Have the employee complete a successful seal check as specified in WAC 296-842-22025 of this chapter
 - Prior to the seal check they must settle the respirator on their face by taking a few slow deep breaths **WHILE SLOWLY:**
 - Moving their head from side-to-side
- AND
- Up and down.

6. If the employee finds the respirator unacceptable, allow the employee to select another one and return to Step 5. Otherwise, proceed to Step 7.

7. Before starting the fit test, you must:

- Describe the fit test including screening procedures, employee responsibilities, and test exercises

AND

- Make sure the employee wears the respirator **AT LEAST** five minutes.

Table 12

Isoamyl Acetate (Banana Oil) Vapor Test Procedure	
Important:	<ul style="list-style-type: none"> • This is a qualitative fit-test (QLFT) procedure • The success of this test depends on preserving the employee's odor sensitivity to isoamyl acetate (IAA) vapor <ul style="list-style-type: none"> – Vapor accumulations in ambient air can decrease odor sensitivity. To prevent this:

PROPOSED

Isoamyl Acetate (Banana Oil) Vapor Test Procedure

- Prepare ALL solutions in a location separate from screening and test areas
- Conduct screening and tests in separate well-ventilated rooms. For example, use an exhaust fan or laboratory hood to prevent IAA vapor from accumulating in the room air
 - Always use odor-free water, for example, distilled or spring water that is 25°C (77°F).
- Isoamyl acetate is also known as isopentyl acetate.

Screening Preparations

Important:

Odor threshold screening determines if the employee can detect weak concentrations of IAA vapor.

1. Choose an appropriate location to conduct screening.
 - Conduct screening and tests in separate well-ventilated rooms.
2. Prepare a stock solution AT LEAST weekly as follows:
 - Add one milliliter (ml) of pure IAA to 800 ml of odor-free water in a one-liter glass jar with a metal lid using a measuring dropper or pipette
 - Seal the jar with the lid and shake it for 30 seconds
 - Clean the dropper or pipette.
3. Prepare the odor test solution daily as follows:
 - Add 0.4 ml from the stock solution to 500 ml of water in a one liter glass jar with a metal lid using a clean pipette or dropper
 - Seal the jar with the lid and shake it for 30 seconds
 - Let this solution stand for 2-3 minutes so the IAA concentration above the liquid reaches equilibrium
 - Label this jar so you know the contents but the employee cannot know its contents, for example, "1."

Note:

To maintain the integrity of the test, use labels that peel off easily AND periodically switch the labels.

4. Prepare a "test blank" solution as follows:
 - Add 500 ml of odor-free water to a one liter glass jar with a metal lid
 - Seal the jar
 - Label the jar so you know the contents but the employee cannot know its contents.
5. Type or neatly print the following instructions on a card and place it on the table in front of the two test jars:

"The purpose of this test is to find out if you can smell banana oil at a low concentration. While both jars contain water, one ALSO contains a small amount of banana oil.

Make sure the lid is secure then pick up a jar and shake it for two seconds. Open the jar and sniff at the opening. Repeat this for the second jar.

Isoamyl Acetate (Banana Oil) Vapor Test Procedure

Tell the individual conducting the fit test which jar contains banana oil."

Test Preparations

6. Choose an appropriate location to conduct fit testing.
 - Conduct screening and tests in separate well-ventilated rooms.
7. Assemble the fit test enclosure in the room.
 - Invert a clear 55-gallon drum liner over a circular 2-foot diameter frame made of plywood or other lightweight rigid material OR construct a similar enclosure using plastic sheeting
 - Hang the frame with the plastic covering so the top of the enclosure is about six inches above the employee's head
 - Attach a small hook inside top center of the enclosure
 - Tape a copy of the test exercises (see Table 28) to the inside of the test enclosure where the employee can read it.
8. Have organic vapor cartridges or equivalent on hand for each employee's chosen respirator.
9. Have ready a 6 x 5-inch piece of paper towel or other porous absorbent single-ply material AND 0.75 ml of pure IAA. Do NOT apply IAA yet.

Note: As an alternative to using the paper towel, you may use an IAA test swab OR ampoule if it has been demonstrated to generate an equivalent test concentration.

Screening

10. Have the employee, while NOT wearing a respirator, follow the instructions on the card provided.
 - If the employee correctly identifies the jar containing IAA, proceed to conduct testing (Step 11)
 - If the employee is NOT able to correctly identify the jar containing IAA, you must STOP and use a different fit test protocol.

Test

11. BEFORE entering the fit test room, have the employee attach cartridges, put on, properly adjust, and seal check the respirator. Have the employee enter the test enclosure.
12. Wet the paper towel with 0.75 ml of pure IAA AND fold it in half.
13. Pass the paper towel to the employee inside the enclosure AND instruct the employee to hang it on the hook at the top of the enclosure.
14. Wait two minutes for the IAA vapor to fill the enclosure.

PROPOSED

Isoamyl Acetate (Banana Oil) Vapor Test Procedure

- While waiting, explain the fit test, including the purpose of the test exercises, the importance of cooperation, and that you must be informed if a banana-like odor is detected during the test
 - You may also demonstrate the test exercises.
15. Have the employee perform the appropriate fit test exercises in Table 19.
- If the employee does **NOT** detect IAA while performing test exercises, the fit test has been **PASSED**. Proceed as follows:
 - **BEFORE** leaving the enclosure, have the employee break the respirator seal and inhale. If they **detect** IAA, the test is valid
 - When exiting the enclosure must remove the paper towel and give it to the individual conducting the fit test. This prevents IAA vapor from building up in the enclosure during subsequent tests
 - The individual conducting the fit test must keep used paper towels in a self-sealing plastic bag to prevent area contamination
 - If the employee detects IAA during any test exercise, the fit test has **FAILED**. **STOP** and have the employee do the following:
 - Quickly return to the selection room to remove the respirator. This avoids decreasing the employee's odor sensitivity
 - Select another respirator
 - Repeat screening and testing
 - At this stage, if the employee fails the screening part of this procedure, the employee can repeat it **AFTER** waiting at least five minutes for odor sensitivity to return.

Table 13

Saccharin Aerosol Test Procedure

Screening Preparations

Important:

- This is a qualitative fit-test (QLFT) procedure
- Taste threshold screening determines whether the employee being tested can detect the taste of saccharin
 - The employee must **NOT** eat, smoke, chew gum or drink anything but plain water for at least fifteen minutes **BEFORE** the fit test. Sweet foods or drink consumed before the test may make the employee unable to detect saccharin during screening
 - Nebulizers must be thoroughly rinsed in water and shaken dry:
 - Each morning and afternoon

Saccharin Aerosol Test Procedure

Screening Preparations

- OR**
- At least every four hours.
1. Obtain a test enclosure (hood) that meets the following specifications:
 - Twelve inches in diameter by fourteen inches tall
 - A clear front portion
 - Enough space inside to allow free movement of the head when a respirator is worn
 - A 3/4 inch (or 1.9 centimeter) hole to accommodate the nebulizer nozzle. The hole must line up in front of the wearer's nose and mouth.

Note:

 - An enclosure similar to the 3M hood assembly, parts #FT 14 and #FT 15 combined, meets these specifications
 - This enclosure can also be used for testing.
 2. Obtain and assemble two clean DeVilbiss Model 40 Inhalation Medication Nebulizers **OR** equivalent.
 3. Prepare the screening solution as follows:
 - Dissolve 83.0 milligrams of sodium saccharin USP in 100 ml of warm distilled water

OR

 - **IF** you have already prepared the fit test solution, you can make the screening solution by adding 1 ml of this solution to 100 ml of distilled water.
 4. Add about 1 ml of the screening solution to one of the nebulizers.
 - Mark this nebulizer to distinguish it from the one to be used for fit testing.

Test Preparations

5. Prepare the fit test solution as follows:
 - Add 83.0 grams of sodium saccharin to 100 ml of warm water.
6. Add about 1 ml of the test solution to the second nebulizer.
 - Mark this nebulizer to distinguish it from the one used for screening
7. Have particulate filters ready for the employee's chosen respirator or have filtering-facepiece respirators ready.

Screening

8. Have the employee, while **NOT** wearing a respirator, put on the test enclosure.
9. Instruct the employee to:
 - Breath through a slightly open mouth with tongue extended during screening **AND** testing
 - Immediately report when a sweet taste is detected.
10. Insert the nebulizer into the front hole of the test enclosure **AND** administer saccharin as follows:
 - Direct the nozzle away from the employee's nose and mouth

PROPOSED

Saccharin Aerosol Test Procedure
Screening Preparations
<ul style="list-style-type: none"> • Complete 10 squeezes in rapid succession • Each time firmly squeeze the bulb so it collapses completely, then release and allow it to fully expand. <p>11. Ask the employee if a sweet taste is detected.</p> <ul style="list-style-type: none"> • If YES, screening is completed. Proceed to conduct testing, Step 14, AFTER you: <ul style="list-style-type: none"> – Ask the employee to remember the taste for reference during the fit test – Note the employee's taste threshold as "10" regardless of the number of squeezes actually completed • If NO, screening must continue. Proceed to Step 12. <p>12. Repeat with 10 more squeezes. Then follow Step 11 again; EXCEPT this time note the employee's taste threshold as "20" IF a sweet taste is reported.</p> <ul style="list-style-type: none"> • If a sweet taste is still NOT detected, repeat with 10 more squeezes and follow Step 11 one last time; EXCEPT this time note "30" for the taste threshold IF a sweet taste is reported. <p>13. If NO sweet taste is reported after 30 squeezes, you must STOP and choose a different fit test protocol for the employee.</p>
Test
<p>Important!</p> <ul style="list-style-type: none"> • Periodically check nebulizers to make sure they do not clog during use. A test is NOT valid if the nebulizer is clogged at the end of the test. <p>14. Have the employee attach respirator filters, put on, properly adjust, and seal check the respirator. Have the employee put on the test enclosure (hood).</p> <p>15. Instruct the employee to immediately report if a sweet taste is detected.</p> <p>16. Insert the nebulizer into the front hole of the test enclosure AND administer the same number of squeezes, either 10, 20, or 30, as noted during screening.</p> <p>17. Have the employee perform the appropriate fit test exercises as described in Table 19. During this step:</p> <ul style="list-style-type: none"> • Replenish the aerosol in the hood EVERY 30 seconds using 1/2 the number of squeezes used in Step 16, either 5, 10, or 15 • The employee must report if a sweet taste is detected: <ul style="list-style-type: none"> – If NO saccharin is tasted, the test has been PASSED <ul style="list-style-type: none"> ■ If saccharin is tasted the test has FAILED, have the employee select another respirator AND

Saccharin Aerosol Test Procedure
Screening Preparations
■ Repeat screening and testing.

Table 14

Bitrex™ Aerosol Test Procedure
<p>Important!</p> <ul style="list-style-type: none"> • This is a qualitative fit-test (QLFT) procedure • Bitrex™ (denatonium benzoate) is routinely used as a taste aversion agent in household liquids that children should not drink and is endorsed by the American Medical Association, the National Safety Council, and the American Association of Poison Control Centers • The employee must NOT eat, smoke, chew gum or drink anything but plain water for at least fifteen minutes BEFORE the fit test.
Screening Preparations
<p>Important!</p> <ul style="list-style-type: none"> • Taste threshold screening determines whether the employee being tested can detect the taste of Bitrex™ • Nebulizers must be thoroughly rinsed in water and shaken dry: <ul style="list-style-type: none"> – Each morning and afternoon <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> – At least every four hours. <p>1. Obtain a test enclosure that meets the following specifications:</p> <ul style="list-style-type: none"> • Twelve inches in diameter by fourteen inches tall • A clear front portion • Enough space inside the front to allow free movement of the head when a respirator is worn • 3/4 inch (or 1.9 centimeter) hole to accommodate the nebulizer nozzle. The hole must line up in front of the wearer's nose and mouth. <p style="margin-left: 40px;">Note:</p> <ul style="list-style-type: none"> • An enclosure similar to the 3M hood assembly, parts #FT 14 and #FT 15 combined, meets these specifications • This enclosure can also be used for testing. <p>2. Obtain and assemble two clean DeVilbiss Model 40 Inhalation Medication Nebulizers OR equivalent:</p> <p>3. Prepare the screening solution as follows:</p> <ul style="list-style-type: none"> • Make up a 5% salt solution by dissolving 5.0 grams of salt (sodium chloride) into 100 ml of distilled water • Dissolve 13.5 milligrams of Bitrex™ in the salt solution. <p>4. Add about 1 ml of the screening solution to one of the nebulizers.</p> <ul style="list-style-type: none"> • Mark this nebulizer to distinguish it from the one to be used for fit testing.

PROPOSED

Bitrex™ Aerosol Test Procedure
Test Preparations
<p>5. Prepare the fit test solution.</p> <ul style="list-style-type: none"> • Dissolve 10.0 grams of salt (sodium chloride) into 200 ml of distilled water • Add 337.5 milligrams of Bitrex™ to the warmed salt solution. <p>6. Add about 1 ml of the test solution to the second nebulizer.</p> <ul style="list-style-type: none"> • Mark this nebulizer to distinguish it from the one used for screening. <p>7. Have particulate filters ready for the employee's chosen respirator or have filtering-facepiece respirators ready.</p>
Screening
<p>Important: The employee must NOT eat, smoke, chew gum or drink anything but plain water for at least fifteen minutes BEFORE the screening and test</p> <p>8. Have the employee, while NOT wearing a respirator, put on the test enclosure.</p> <p>9. Instruct the employee to:</p> <ul style="list-style-type: none"> • Breathe through a slightly opened mouth with tongue extended during screening AND testing • Immediately report when a bitter taste is detected. <p>10. Insert the nebulizer into the front hole of the test enclosure AND administer Bitrex™ as follows:</p> <ul style="list-style-type: none"> • Direct the nozzle away from the employee's nose and mouth • Complete 10 squeezes in rapid succession • Each time firmly squeeze the bulb so it collapses completely, then release and allow it to fully expand. <p>11. Ask the employee whether a bitter taste is detected.</p> <ul style="list-style-type: none"> • If YES, screening is completed. Proceed to conduct testing, Step 14, AFTER you: <ul style="list-style-type: none"> – Ask the employee to remember the taste for reference during the fit test – Note the employee's taste threshold as "10," regardless of the number of squeezes actually completed • If NO, screening must continue. Proceed to Step 12. <p>12. Repeat with 10 more squeezes. Then follow Step 11 again; EXCEPT this time note the employee's taste threshold as "20" IF a bitter taste is reported.</p> <ul style="list-style-type: none"> • If a bitter taste is still NOT detected repeat with 10 more squeezes and follow Step 11 one last time; EXCEPT this time note "30" for the taste threshold IF a bitter taste is reported.

Bitrex™ Aerosol Test Procedure
<p>13. If NO bitter taste is reported after 30 squeezes, you must STOP and choose a different fit test protocol for the employee.</p>
Test
<p>14. Have the employee attach respirator filters, put on, properly adjust, and seal check the respirator. Have the employee put on the test enclosure.</p> <p>15. Instruct the employee to:</p> <ul style="list-style-type: none"> • Breathe through a slightly opened mouth with tongue extended during screening AND testing • Immediately report when a bitter taste is detected. <p>16. Insert the nebulizer into the front hole of the test enclosure AND administer the same number of squeezes, either 10, 20, or 30, as noted during screening.</p> <p>17. Have the employee perform the appropriate fit test exercises as described in Table 19. During this step:</p> <ul style="list-style-type: none"> • Replenish the aerosol in the hood EVERY 30 seconds using 1/2 the number of squeezes used in Step 16, either 5, 10, or 15 • The employee must report if a bitter taste is detected: <ul style="list-style-type: none"> – If NO Bitrex™ is tasted, the test has been PASSED – If Bitrex™ is tasted the test has FAILED. Have the employee: <ul style="list-style-type: none"> ■ Select another respirator <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> ■ Repeat all screening and testing steps.

Table 15

Irritant Smoke (Stannic Chloride) Test Procedure
<p>Important:</p> <ul style="list-style-type: none"> • DO NOT USE A TEST ENCLOSURE OR HOOD FOR THIS FIT TEST! • This is a qualitative fit-test (QLFT) procedure • During this test an employee is exposed to irritating smoke containing hydrochloric acid produced by a stannic chloride ventilation smoke tube to detect leakage. The smoke will irritate eyes, lungs, and nasal passages • Employee sensitivity varies, and certain employees may respond more intensely than others exposed to irritant smoke. The individual conducting the fit test must take precautions to minimize the employees' exposure to irritant smoke • Conduct fit testing in an area with adequate ventilation to prevent exposure of the individual conducting the fit test and build-up of irritant smoke in the ambient air.

PROPOSED

Irritant Smoke (Stannic Chloride) Test Procedure
Screening AND Test Preparations
<p>Important: Sensitivity screening is necessary to determine whether the employee can detect a weak concentration of irritant smoke AND whether any gross facepiece leakage is detected.</p> <ol style="list-style-type: none"> Obtain only stannic chloride (ventilation) smoke tubes, AND an aspirator squeeze bulb OR use a low-flow air pump set to deliver 200 milliliters of air flow per minute. Equip the employee's chosen respirator with P100 series filters if a negative pressure air-purifying respirator will be tested. If a powered air-purifying respirator (PAPR) will be tested equip the respirator with high-efficiency particulate air (HEPA) filters.
Screening
<p>Important! When performing sensitivity screening checks use only the MINIMUM amount of smoke necessary to elicit a response from the employee.</p> <ol style="list-style-type: none"> Advise the employee that the smoke can be irritating to eyes, lungs, and nasal passages AND instruct the employee to keep eyes closed while exposed. Break both ends of the ventilation smoke tube AND fit a short piece of plastic tubing, for example, two-to-six inches of tygon tubing, over one end to prevent exposure to the sharp end of the tube. Connect the other end to an aspirator bulb or a low-flow air pump set to deliver a flow of 200 ml per minute. While the employee is NOT wearing a respirator, have the employee smell a weak concentration of irritant smoke to become familiar with its irritating properties. <ul style="list-style-type: none"> Carefully direct a small amount of irritant smoke toward the employee.
Test
<p>Test 6. Have the employee attach respirator filters, put on, adjust, and seal check the respirator without assistance. The employee must be proficient at these tasks.</p> <ol style="list-style-type: none"> Remind the employee to keep eyes closed during testing. Direct a stream of irritant smoke toward the respirator's face seal area as follows: <ul style="list-style-type: none"> Begin at least 12 inches from the facepiece AND move the smoke around the whole perimeter of the mask Gradually make two more passes around the perimeter of the facepiece, moving to within 6 inches of the respirator STOP at any time the employee detects smoke in the facepiece. If this occurs a different respirator will need to be chosen and tested, beginning with sensitivity screening.

Irritant Smoke (Stannic Chloride) Test Procedure
<ol style="list-style-type: none"> Have the employee perform appropriate fit test exercises in Table 19 IF the employee has NOT had an involuntary response such as evidence of coughing, flinching, or other response, OR detected smoke in the facepiece. <ul style="list-style-type: none"> Continue to direct smoke from a distance of 6 inches around the facepiece perimeter <ul style="list-style-type: none"> If smoke is detected at any time the test has FAILED. A different respirator must be chosen and tested, starting with sensitivity screening If NO smoke is detected proceed to Step 10. Have the employee remove the respirator AND perform another sensitivity screening check as follows: <ul style="list-style-type: none"> Continue to use the smoke tube used for fit testing Carefully direct a SMALL amount of irritant smoke toward the employee <ul style="list-style-type: none"> The test has been PASSED IF the employee responds to the smoke The fit test is VOIDED IF the employee does NOT respond to the smoke.

Table 16

Ambient Aerosol Condensation Nuclei Counter (Porta-count™) Test Procedure
<p>Important:</p> <ul style="list-style-type: none"> This is a quantitative (QNFT) fit-test procedure This method uses a particle counting instrument that measures and compares the particle concentration both inside and outside the respirator facepiece while the employee performs a series of test exercises Particles in the ambient air are used as the test aerosol.
Test Preparations
<ol style="list-style-type: none"> Obtain a test instrument such as a Portacount™. Have probed respirators available for each respirator model and size the employer uses, OR have a sampling adapter available if the employee's actual or chosen respirator will be tested. <p>Note:</p> <ul style="list-style-type: none"> A probed respirator has a special fitting installed on the facepiece designed to connect with the end of the test instrument's plastic sampling tube so that air samples can be taken inside the facepiece. Probed respirators can be obtained from the respirator manufacturer, or distributor, AND can only be used for fit testing purposes Contact TSI Inc., OR the respirator's manufacturer to obtain probed respirators or facepiece sampling adapters. Follow the test instrument manufacturer's instructions for test preparation, including particle, zero, and system checks. Make sure the instrument's pass OR fail criterion is programmed to the following MINIMUM performance levels:

PROPOSED

- For half-facepiece respirators, an overall minimum fit factor of 100 as a passing level
 - For full-facepiece respirators, an overall minimum fit factor of 500 as a passing level
4. Have high-efficiency particulate air (HEPA) filters, **OR** other respirator filters available that are capable of preventing significant penetration by particles generated by the test instrument such as, P100 or N95 series filters.
- If you will use a sampling adapter instead of probed respirators be sure to have the correct type for the respirators chosen.

Test

5. Properly attach the sampling line to the facepiece probe or sampling adapter.
6. Have the employee attach respirator filters, put on, properly adjust, and wear the respirator five minutes **BEFORE** the fit test. During this time you and the employee must evaluate the respirator's general fit by checking:
- Proper chin placement
 - Properly tightened straps (do **NOT** over tighten)
 - Acceptable fit across the nose bridge
 - Respirator size. It must span the distance from nose to chin
 - To see if the respirator stays in position.
- Note:**
Wearing the respirator for five minutes permits the employee to make certain the respirator is comfortable **AND** allows for purging of ambient particles trapped inside the facepiece.
7. Have the employee perform a seal check. Make sure the sampling line is crimped to avoid leakage during the seal check. If **NO** leakage is detected, proceed to Step 8. If leakage is detected:
- Determine the cause
- AND**
- If leakage is due to a poorly fitting facepiece, have the employee:
 - Choose another respirator size or model
- AND**
- Start again at Step 6.
8. Start the fit test cycle.
- Follow the manufacturer's instructions for operating the test instrument
 - Have the employee perform the appropriate fit test exercises in Table 19
 - The test instrument will automatically stop and calculate the overall fit factor. Use this result to determine whether or not the test is passed
 - The test has been **PASSED** if the overall fit factor is at least 100 for a half facepiece, **OR** 500 for a full facepiece

- The test has **FAILED** if the overall fit factor is below 100 for a half facepiece or 500 for a full facepiece.
- Note:** If the test has failed, have the employee select another respirator model or size following Table 11 **AND** repeat this procedure.

Table 17

Controlled Negative Pressure (CNP) Test Procedure

- Important!**
- This is a quantitative fit-test (QNFT) procedure
 - This method determines respirator fit by measuring how much the facepiece leaks when it is subject to a slight negative pressure **AFTER** various test exercises
 - Measurements occur while employees remain still **AND** hold their breath for 10 seconds
 - No test aerosols are used. Respirator cartridges are not needed for this test.

Test Preparations

1. Make sure the individual conducting the fit test is thoroughly trained to perform this test.
 2. Obtain a CNP test instrument such as a FitTester 3000™. Make sure:
 - Defaults are set at:
 - 15mm (-0.58 inches) of water test pressure
 - AND**
 - A modeled inspiratory flow rate of 53.8 liters per minute
 - It has an effective audio warning device that signals when employees fail to hold their breath.
- Note:**
- You are not required to obtain test recording and printing equipment such as computers **OR** printers. Hand recording results is acceptable
 - Check the instrument's "REDON protocol" to see default settings.
3. Obtain facepiece adapters appropriate for each test respirator.

Note:

 - Adapters are either a one-piece (for SCBA facepieces), **OR** two-piece (for dual cartridge facepieces) device providing a manifold and breathing valve system. For positive pressure respirators, you will need to obtain an additional fitting, available from the respirator manufacturer, to convert the facepiece to negative pressure
 - To obtain adapters, contact the CNP instrument's distributor, Occupational Health Dynamics, **OR** the respirator manufacturer.

Test

- Important!**
- After the test, you must ask the employee about the comfort of the respirator **AND** if the respirator has become unacceptable, another size or model must be chosen and tested.
4. Explain the test procedure to the employee.

PROPOSED

Controlled Negative Pressure (CNP) Test Procedure

5. Train the employee on how to hold a breath for at least 20 seconds.
6. Prepare the respirator for the fit test as follows:
 - Remove or prop open the inhalation valves. If a breathing tube is present, disconnect it
 - Replace cartridges, if present, with the manifold and breathing valve attachments
 - For positive pressure facepieces, mount the manufacturer's additional fitting followed by the manifold-breathing valve attachment
 - Connect the respirator to the CNP device according to the CNP instrument manufacturer's directions.
7. Have the employee put on, adjust, and seal check the respirator.
8. Turn on the instrument **AND** have the employee stand and perform the fit test exercises in Table 19.
9. Interpret the test results:
 - The test is **PASSED IF** the overall fit factor obtained is at least 100 for a half facepiece, or at least 500 for a full facepiece
 - The test has **FAILED IF** the fit factor is less than 100 for a half facepiece; 500 for a full facepiece
 - If the test has **FAILED** you must have the employee select another respirator model or size following the steps in Table 11 **AND** repeat this procedure, starting at Step 6.

Table 18

Generated Aerosol Test Procedure

Important:

- This is a quantitative (QNFT) fit-test procedure
- In this method, a test aerosol is used to challenge the facepiece seal while aerosol concentrations inside and outside the facepiece are measured during test exercises
- Special equipment is needed to generate, disperse, detect, and measure test aerosols.

Test Preparations

1. Test aerosol.
 - Use a particulate, for example, corn oil, polyethylene glycol 400, di-2-ethyl hexyl sebacate, or sodium chloride.
2. Instrumentation.
 - Do **ALL** the following:
 - Obtain and use aerosol generation, dilution, and measurement systems appropriate for particulates
 - Use an aerosol-generating instrument that will maintain test concentrations within a 10% variation
 - Select a sampling instrument that allows for a computer record or strip chart record to be created
 - The record must show the rise and fall of test agent concentration during each inhalation and exhalation at fit factors of at least 2000.
 - Note:** Integrators, or computers that integrate the amount of test agent penetration leakage into the respirator for each exercise, may be used if a record of the readings is made.
 - Minimize the time interval between the activity and the recording of the activity so you can clearly connect what you see to what is being recorded. For example, use a small diameter and length of sampling line.

Generated Aerosol Test Procedure

3. Test enclosure.

- Do ALL the following:
 - Make sure the enclosure is equipped and constructed to effectively:
 - Maintain a uniform concentration of the test agent inside the enclosure. For example, the enclosure must be large enough to allow ALL employees freedom of movement during testing WITHOUT disturbing the test concentration or measurement instrument
 - Keep the test agent from contaminating the air outside the enclosure. For example, use a HEPA filter to purify exhausted air
 - Allow the individual conducting the fit test to view the employee during the test
 - Make sure the tubing used to collect samples from the enclosure AND respirator is the same material, diameter, AND length. This makes the effect of aerosol loss caused by deposition in each sample line equal
 - If sodium chloride is used, relative humidity inside the enclosure must be kept below 50%.

4. Prepare test respirators.

- Do ALL the following:
 - Inspect test respirators regularly for missing parts AND damage
 - Keep test respirators in proper working order
 - Make sure in-mask sampling probes are:
 - Designed and installed so the air sample will be drawn from the employee's breathing zone; midway between the nose and mouth
 - AND
 - The probe extends inside the facepiece at least 1/4 inch
 - Make sure sampling ports such as probes, or adapters on respirators are constructed and installed so they do NOT:
 - Block air flow into the sampling line
 - Leak
 - Interfere with the respirator's fit or performance
- Have high efficiency particulate air (HEPA) filters OR P100 series filter available
 - Replace filters when increased breathing resistance is detected OR when the test agent has altered the filter material's integrity.

Test

Important!

- Throughout the test, maintain the employee's exposure to any test agent below the established exposure limit. Exposures allowed must be based on exposure time and exposure limit duration
- If a single peak penetration exceeds 5% for half facepieces OR 1% for full facepieces:
 - STOP the test

AND

- Have the employee select another respirator for testing.

5. Have the employee attach filters, put on, adjust, and seal check the respirator.

- Be sure to crimp the sampling line to avoid pressure leaks during the seal check

AND

- Have the employee adjust the respirator straps, without assistance, so the fit is comfortable. Do NOT over tighten.

6. **OPTIONAL Step.** To save time conduct a screening test to quickly identify poorly fitting respirators.

Note: You may use a qualitative screening test OR an ambient aerosol condensation nuclei counter instrument in the count mode.

7. Make sure test aerosol concentration is reasonably stable.

- If a canopy or shower curtain enclosure is used, determine stability of the test aerosol concentration AFTER the employee enters the enclosure.

PROPOSED

Generated Aerosol Test Procedure

8. Have the employee enter the test enclosure and connect the respirator to the sample lines.
9. Immediately after entering the enclosure measure test aerosol concentration inside the respirator.
 - Make sure the peak penetration does NOT exceed 5% for half facepieces, OR 1% for full facepieces.
10. Have employee perform the appropriate fit test exercises in Table 19.
 - Do NOT adjust the respirator once exercises begin.
11. Calculate the overall fit factor as specified in Steps 12-13. The fit test is:
 - **PASSED IF** the minimum fit factor of 100 for half facepieces OR 500 for full facepieces is obtained
 - OR**
 - IF a passing fit factor is NOT obtained, the test has **FAILED** and you must have the employee select and test another respirator.

Calculations

Important!

- Do NOT count the grimace exercise measurements during these calculations
 - Take into account the limitations of instrument detection when determining fit factors.
12. Calculate individual fit factors for EACH exercise by applying the following:
 Exercise fit factor (ffE) =
$$\frac{\text{Average test enclosure concentration}}{\text{Test aerosol concentration inside the respirator}}$$
 - To determine the average test enclosure concentration use one of the following methods:
 - Arithmetic average of the concentration before and after each test (an average of two values per entire test)
 - Arithmetic average of concentration before and after each exercise (an average of two values per exercise)
 - True average measured continuously during the respirator sample
 - Determine the test aerosol concentration inside the respirator in one of the following ways:
 - Average peak penetration values. Determine aerosol penetration for each exercise by:
 - Using integrators or computers that calculate the actual test agent penetration
 - OR**
 - Average the peak heights shown on the strip chart recording, graph, or by computer integration
 - Maximum peak penetration. Use strip chart recordings to determine the highest peak penetration for each exercise and use this value
 - Area under the peaks. Use computerized integration or other appropriate calculations to integrate the area under individual peaks for each exercise.
 13. Using individual exercise fit factors (ffE) calculate the **overall fit factor** by doing ALL of the following:
 - Convert each exercise fit factor to a penetration value
 - Determine the average penetration value
 - Convert the average penetration value back to a fit factor

OR

Use this equation to calculate the **overall fit factor**:

$$\text{Overall fit factor} = \frac{n}{1/\text{ffE}1 + 1/\text{ffE}2 + 1/\text{ffE}3 \dots + 1/\text{ffE}n}$$

Table 19

Fit Test Exercises

Important:

- This list applies when you use any fit test
- Employees tested must perform ALL exercises marked with an "X" as described for the fit test procedure used
 - Once exercises are begun, any adjustments made void the test AND you must begin again

PROPOSED

Fit Test Exercises			
<p>– After test exercises are completed, you must ask the employee about the comfort of the respirator. If it has become unacceptable, have the employee choose another one for testing</p> <p>• When the controlled negative pressure procedure is used, STOP and repeat the test if the employee adjusts the respirator OR takes a breath and fails to hold it for 10 seconds</p> <p>• Controlled negative pressure tests conducted according to the method published in 29 CFR 1910.134, Appendix A are an acceptable alternative to the method outlined below.</p>			
Description of Required Fit Test Exercises	Fit Test Procedures		
	Qualitative Procedures	Quantitative Procedures; EXCEPT the CNPP	Controlled Negative Pressure Procedure (CNPP)
<p>• Normal breathing</p> <p>– Breathe normally, while standing for one minute</p> <p>– If using the CNPP:</p> <p style="padding-left: 20px;">■ After the exercise the employee takes a breath AND holds it for 10 seconds.</p>	X	X	X
<p>• Deep breathing</p> <p>– Breathe slowly and deeply while standing for one minute</p> <p>– Take caution to avoid hyperventilating</p> <p>– If using the CNPP:</p> <p style="padding-left: 20px;">■ After the exercise the employee looks straight ahead, takes a breath AND holds it for 10 seconds.</p>	X	X	Optional
<p>• Head side to side</p> <p>– Slowly turn head from side to side while standing for one minute, pausing at each extreme position to inhale</p> <p>– Be careful to NOT bump the respirator</p> <p>– If using the CNPP:</p> <p style="padding-left: 20px;">■ After the exercise employee holds head to the left position, takes a breath and holds it for 10 seconds. Repeat for the right side position.</p>	X	X	Optional
<p>• Head up and down</p> <p>– Slowly move head up and down while standing for one minute, inhaling in the up position</p> <p>– Be careful to NOT bump the respirator</p> <p>– If using the CNPP:</p> <p style="padding-left: 20px;">■ After the exercise employee holds head in the up position, takes a breath and holds it for 10 seconds. Repeat for the down position.</p>	X	X	Optional
<p>• Talking</p> <p>– Talk slowly and loud enough to be heard clearly by the individual conducting fit testing for one minute. Choose ONE of the following:</p> <p style="padding-left: 20px;">■ Read from a prepared text such as the Rainbow Passage¹</p> <p style="padding-left: 20px;">■ Count backward from 100</p>	X	X	X

PROPOSED

Fit Test Exercises			
■ Recite a memorized poem or song.			
• Grimace – Smile or frown for fifteen seconds.		X	
• Bending over – Bend over to touch toes while standing. Repeat at a comfortable pace for one minute OR – Jog in place for one minute if the test enclosure, such as a hood, does not permit bending over – If using the CNPP: ■ After the exercise the employee holds the bending position with face parallel to the floor, takes a breath, AND holds it for 10 seconds.	X	X	X
• Normal breathing – Breathe normally while standing for one minute.	X	X	
• Head shaking – The employee vigorously shakes head from side to side for fifteen seconds while making the "BRRRR" sound loudly – After the exercise the employee remains still, takes a breath, and holds it for 10 seconds during the test measurement.			X
• Redonning and normal breathing – The employee removes the respirator completely, puts it back on, AND breathes normally for a duration of one minute – After the exercise the employee takes a breath AND holds it for 10 seconds – Repeating this exercise is OPTIONAL			X

The Rainbow Passage:

"When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond

reach, his friends say he is looking for the pot of gold at the end of the rainbow."

NEW SECTION

WAC 296-842-22015 Follow procedures established for cleaning and disinfecting respirators.

You must:

- Follow the procedure in Table 20 for cleaning and disinfecting respirators.

**Table 20
Respirator Cleaning Procedure**

Step	Task
1.	Remove filters, cartridges, canisters, speaking diaphragms, demand and pressure valve assemblies, hoses, or any components recommended by the manufacturer. • Discard or repair any defective parts.
2.	Wash components in warm (43°C [110°F] maximum) water with a mild detergent or with a cleaner recommended by the manufacturer • A stiff bristle (not wire) brush may be used to help remove the dirt

PROPOSED

Step	Task
	<ul style="list-style-type: none"> • If the detergent or cleaner does not contain a disinfecting agent, respirator components should be immersed for two minutes in one of the following: <ul style="list-style-type: none"> – A bleach solution (concentration of 50 parts per million of chlorine). Make this by adding approximately one milliliter of laundry bleach to one liter of water at 43°C (110°F) – A solution of iodine (50 parts per million iodine). Make this in two steps: <ul style="list-style-type: none"> ■ First, make a tincture of iodine by adding 6-8 grams of solid ammonium iodide and/or potassium iodide to 100 cc of 45% alcohol approximately ■ Second, add 0.8 milliliters of the tincture to one liter of water at 43°C (110°F) to get the final solution – Other commercially available cleansers of equivalent disinfectant quality when used as directed, if their use is recommended or approved by the respirator manufacturer.
3.	<p>Rinse components thoroughly in clean, warm (43°C [110°F] maximum), preferably, running water.</p> <p>Note: The importance of thorough rinsing cannot be overemphasized. Detergents or disinfectants that dry on facepieces could cause dermatitis. In addition, some disinfectants may cause deterioration of rubber or corrosion of metal parts, if not completely removed.</p>
4.	Drain components.
5.	Air-dry components or hand dry components with a clean, lint-free cloth.
6.	<p>Reassemble the facepiece components.</p> <ul style="list-style-type: none"> • Replace filters, cartridges, and canisters, if necessary (for testing).
7.	Test the respirator to make sure all components work properly.

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 296-842-22020 Follow procedures established for seal checking respirators.

IMPORTANT:

- User seal checks are **NOT** a substitute for fit tests. See WAC 296-842-22005 for fit test procedures.

- You may use a seal check procedure recommended by the respirator manufacturer **INSTEAD** of the procedure outlined in Table 21 if you can demonstrate the procedure is based on a scientific study that, for example, demonstrates the procedure effectively identifies respirators that fit poorly when put on or adjusted.

You must:

- Make sure employees perform a user seal check as outlined in Table 21, **EACH TIME** the respirator is worn, to make sure the seal is adequate.

Table 21

User Seal Check Procedure
<p>Important information for employees:</p> <ul style="list-style-type: none"> • You need to conduct a seal check each time you put your respirator on BEFORE you enter the respirator use area. The purpose of a seal check is to make sure your respirator (which has been previously fit tested by your employer) is properly positioned on your face to prevent leakage during use and to detect functional problems

User Seal Check Procedure
<ul style="list-style-type: none"> • The procedure below has two parts; a positive pressure check and a negative pressure check. You must complete both parts each time. It should only take a few seconds to perform, once you learn it ◆ If you cannot pass both parts, your respirator is NOT functioning properly, see your supervisor for further instruction.
<p>Positive pressure check:</p> <ol style="list-style-type: none"> 1. Remove exhalation valve cover, if removable. 2. Cover the exhalation valve completely with the palm of your hand WHILE exhaling gently to inflate the facepiece slightly. 3. The respirator facepiece should remain inflated (indicating a build-up of positive pressure and NO outward leakage). <ul style="list-style-type: none"> • If you detect NO leakage, replace the exhalation valve cover (if removed), and proceed to conduct the negative pressure check • If you detect evidence of leakage, reposition the respirator (after removing and inspecting it), and try the positive pressure check again.

User Seal Check Procedure

Negative pressure check:

4. Completely cover the inhalation opening(s) on the cartridges or canister with the palm(s) of your hands **WHILE** inhaling gently to collapse the facepiece slightly.
 - If you cannot use the palm(s) of your hands to effectively cover the inhalation openings on cartridges or canisters, you may use:
 - Filter seal(s) (if available)
- OR**
- Thin rubber gloves.
5. Once the facepiece is collapsed, hold your breath for 10 seconds **WHILE** keeping the inhalation openings covered.
6. The facepiece should remain slightly collapsed (indicating negative pressure and **NO** inward leakage).
 - If you detect **NO** evidence of leakage, the tightness of the facepiece is considered adequate, the procedure is completed, and you may now use the respirator
 - If you detect leakage, reposition the respirator (after removing and inspecting it) and repeat **BOTH** the positive and negative fit checks.

NEW SECTION

WAC 296-842-300 Definitions.

Air-purifying respirator (APR)

A respirator equipped with an air-purifying element such as a filter, cartridge, or canister, **OR** having a filtering facepiece, for example, a dust mask.

The element or filtering facepiece is designed to remove specific contaminants, such as particles, vapors, or gases, from air that passes through it.

Air-line respirator

An atmosphere-supplying respirator for which breathing air is drawn from a source separate from and not worn by the user, such as:

- A cylinder or a tank
- A compressor
- An uncontaminated environment.

Air supplied respirator (see air-line respirator)

Assigned protection factor (APF)

Indicates the expected level of workplace respiratory protection **WHEN** the respirator is:

- Functioning properly

AND

- Fitted to the user

AND

- Worn by trained individuals

AND

• Used with the limitations specified on the NIOSH approval label.

Atmosphere-supplying respirator

A respirator that supplies the user with breathing air from sources, such as:

- A cylinder or a tank
- A compressor
- An uncontaminated environment.

Breathing air

Air supplied to an atmosphere-supplying respirator. This air meets the specifications found in WAC 296-842-200.

Canister or cartridge (air-purifying)

Part of an air-purifying respirator that consists of a container holding materials such as fiber, treated charcoal, or a combination of the two, that removes contaminants from the air passing through the cartridge or canister.

Cartridge respirator (see also air-purifying respirator)

An air-purifying respirator equipped with one or more cartridges. These respirators have a facepiece made from silicone, rubber **OR** other plastic-like materials.

Demand respirator

An atmosphere-supplying respirator that sends breathing air to the facepiece only when suction (negative pressure) is created inside the facepiece by inhalation. Demand respirators are "**negative pressure**" respirators.

Dust mask

A name used to refer to filtering-facepiece respirators. Dust masks may or may not be NIOSH certified. See filtering facepiece.

Emergency respirator

Respirators suitable for rescue, escape, or other activities during emergency situations.

Emergency situation

Any occurrence that could **OR** does result in a significant uncontrolled release of an airborne contaminant. Causes of emergency situations include, but are not limited to, equipment failure, rupture of containers, or failure of control equipment.

End-of-service-life indicator (ESLI)

A system that warns the air-purifying respirator user that cartridges or canisters must be changed. An example of an ESLI is a dot on the respirator cartridge that changes color.

Escape-only respirator

A respirator that can only be used to exit during emergencies. Look for this use limitation on the respirator's NIOSH approval label.

Exposed, or exposure

The contact an employee has with a toxic substance, harmful physical agent, or oxygen deficient condition. Exposure can occur through various routes of entry, such as inhalation, ingestion, skin contact, or skin absorption.

Filter

Fibrous material that removes dust, spray, mist, fume, fog, smoke particles, **OR** other aerosols from the air.

Filtering-facepiece respirator

A tight-fitting, half-facepiece, negative-pressure, particulate air-purifying respirator with the facepiece **MAINLY** composed of filter material. These respirators do not use cartridges or canisters and may have sealing surfaces composed

of rubber, silicone or other plastic-like materials. They are sometimes referred to as "dust masks."

Fit factor

A number providing an estimate of fit for a particular respiratory inlet covering to a specific individual during quantitative fit testing.

Fit test (see also qualitative fit test and quantitative fit test)

Fit testing is an activity where the facepiece seal of a respirator is challenged, using a WISHA accepted procedure, to determine if the respirator provides an adequate seal.

Full-facepiece respirator

A tight-fitting respirator that covers the wearer's nose, mouth, and eyes.

Gas mask

An air-purifying respirator equipped with one or more canisters. These respirators have a facepiece made from silicone, rubber OR other plastic-like materials.

Half-facepiece respirator

A tight-fitting respirator that only covers the wearer's nose and mouth.

Helmet

The rigid part of a respirator that covers the wearer's head AND also provides head protection against impact or penetration.

High-efficiency particulate air filter (HEPA)

A powered air purifying respirator (PAPR) filter that removes at least 99.97% of monodisperse dioctyl phthalate (DOP) particles with a mean particle diameter of 0.3 micrometer from contaminated air.

Note: Filters designated, under 42 CFR Part 84, as an "N100," "R100," or "P100" provide the same filter efficiency (99.97%) as HEPA filters.

Hood

The part of a respirator that completely covers the wearer's head and neck AND may also cover some or all of the shoulders and torso.

Immediately dangerous to life or health (IDLH)

An atmospheric condition that:

- Poses an immediate threat to life

OR

- Would cause irreversible adverse health effects

OR

- Would impair an individual's ability to escape from a dangerous atmosphere.

Licensed health care professional (LHCP)

An individual whose legally permitted scope of medical practice allows him or her to provide **SOME OR ALL** of the health care services required for respirator users' medical evaluations.

Loose-fitting facepiece

A respiratory inlet covering that is designed to form a partial seal with the face.

Negative-pressure respirator

Any tight-fitting respirator in which the air pressure inside the facepiece is less than the air pressure outside the respirator during inhalation.

NIOSH

The National Institute for Occupational Safety and Health. NIOSH is the federal agency that certifies respirators for occupational use.

Oxygen deficient

An atmosphere with an oxygen content below 19.5% by volume.

Permissible exposure limit (PEL)

Permissible exposure limits (PELs) are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules.

Positive-pressure respirator

A respirator in which the air pressure inside the respiratory-inlet covering is greater than the air pressure outside the respirator.

Powered air-purifying respirators (PAPRs)

An air-purifying respirator equipped with a blower that draws ambient air through cartridges or canisters. These respirators, as a group, are **NOT** classified as positive pressure respirators and must not be used as such.

Pressure-demand respirator

A positive-pressure atmosphere-supplying respirator that sends breathing air to the respiratory inlet covering when the positive pressure is reduced inside the facepiece by inhalation or leakage.

Qualitative fit test (QLFT)

A test that determines the adequacy of respirator fit for an individual. The test relies on the employee's ability to detect a test substance. Test results are either "pass" or "fail."

Quantitative fit test (QNFT)

A test that determines the adequacy of respirator fit for an individual. The test relies on specialized equipment that performs numeric measurements of leakage into the respiratory inlet covering. Test results are used to calculate a "fit factor."

Respiratory hazard

Harmful airborne hazards and oxygen deficiency that are addressed in chapter 296-841 WAC, Identifying and controlling airborne hazards and oxygen deficiency.

Required use

Respirator use that is required by either:

- WISHA rules as being necessary to protect against respiratory hazards

OR

- The employer for his or her own reasons. For example, the employer decides to follow more rigorous exposure limits, OR the employer is required to follow a medical recommendation.

Respirator

A type of personal protective equipment designed to protect the wearer from harmful airborne hazards, oxygen deficiency, or both.

Respiratory inlet covering

The part of a respirator that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source or both. The respiratory inlet

PROPOSED

covering may be a facepiece, helmet, hood, suit, or mouth-piece respirator with nose clamp.

Seal check

Actions conducted by the respirator user each time the respirator is put on, to determine if the respirator is properly seated on the face.

Self-contained breathing apparatus (SCBA)

An atmosphere-supplying respirator designed for the breathing air source, to be carried by the user.

Sorbent

Rigid, porous material, such as charcoal, used to remove vapor or gas from the air.

Supplied-air respirator (see air-line respirator)

Tight-fitting facepiece

A respiratory inlet covering forming a complete seal with the face OR neck. Mouthpiece respirators are not tight-fitting facepieces.

Voluntary use

Respirator use that is requested by the employee AND permitted by the employer when NO respiratory hazard exists.

WSR 03-08-051

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 28, 2003, 2:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-095.

Title of Rule: Title 390 WAC, rules relating to redemption of primary election pledges (WAC 390-16-245) and sponsor identification of broadcast political advertising (WAC 390-18-010).

Purpose: To clarify sponsor identification requirement for broadcast political advertising and to update administrative rules consistent with statutory provisions of RCW 42.17.640.

Other Identifying Information: WAC 390-16-245 Pledges and 390-18-010 Political advertising—Identification of sponsor.

Statutory Authority for Adoption: RCW 42.17.370.

Statute Being Implemented: RCW 42.17.640(1).

Summary: The proposed rule amendment to WAC 390-16-245 would allow pledges to be made and redeemed after the date of the primary election conforming to the statutory changes in RCW 42.17.640(1). The proposed rule amendment to WAC 390-18-010 would remove the requirement that broadcast political advertising conform to the requirements of the Federal Communications Commission (FCC) and clarify the sponsor identification requirements for political advertisement undertaken as an independent expenditure.

Reasons Supporting Proposal: The proposed amendments will clarify the statutory requirements under RCW 42.17.640 and provide guidance to those entities required to disclose sponsor identification of broadcast political advertising.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, Public Disclosure Commission, 711 Capitol Way, Room 206, Olympia, (360) 664-2735; and Enforcement: Phil Stutzman, Public Disclosure Commission, 711 Capitol Way, Room 206, Olympia, (360) 664-8853.

Name of Proponent: [Public Disclosure Commission], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule would allow pledges to be made and redeemed after the date of the primary election in accordance with RCW 42.17.640(1) and WAC 390-17-302. Amendments to WAC 390-16-245 would conform to the statutory changes allowing state office candidates who lost in the primary election to accept primary related pledges up to thirty days after the election to pay debts outstanding as of the date of the primary and treat the redemption of pledges in the same manner as standard monetary contributions received by a candidate or political committee.

Amendments to WAC 390-18-010 would remove the requirement that broadcast political advertising conform to the requirements of the FCC and clarify the sponsor identification requirements for political advertisement undertaken as an independent expenditure. The current requirement under RCW 42.17.510 (3)(d) that the sponsor identification be "clearly spoken on any broadcast advertisement" is repeated in the rule for emphasis. Reference to independent expenditure advertising is also included to remind sponsors of their statutory requirements when they engage in this type of advertising.

Proposal Changes the Following Existing Rules: The proposed rule changes clarify and provide guidance to individuals, candidates and political committees on the statutory requirements of chapter 42.17 RCW.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of this rule has minimal impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. The Public Disclosure Commission (PDC) is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Commission Hearing Room, Evergreen Plaza Building, 711 Capitol Way, Room 206, Olympia, WA, on May 27, 2003, at 9 a.m.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by phone (360) 753-1111.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, fax (360) 753-1112, dellis@pdc.wa.gov, by May 23, 2003.

Date of Intended Adoption: May 27, 2003.

March 28, 2003

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 94-07-141, filed 3/23/94, effective 4/23/94)

WAC 390-16-245 Pledges. (1) A pledge shall not be made or redeemed within twenty-one days of an election specified in RCW 42.17.105(8) if the amount of the pledge or redemption exceeds the ~~((limits))~~ maximum amount provided in RCW 42.17.105(8). However, if payment of a pledge is in the possession of the recipient twenty-two or more days before the election, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17.060.

(2) If a pledge is made in an election campaign subject to the contribution limits provided in RCW 42.17.640:

(a) Except as provided in WAC 390-17-302, a pledge made with respect to the primary election shall not be made or redeemed after the date of the primary; however, if the payment of a pledge is made on or before the date of the primary, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17.060; and

(b) A pledge made with respect to the general election shall not be made or redeemed after the final day of the applicable election cycle; however, if the payment of a pledge is made on or before the final day of the election cycle, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17.060.

(3) During the time limit specified in RCW 42.17.710, a state official or a person employed by or acting on behalf of a state official shall not solicit or accept a pledge or the redemption of a pledge for any purpose specified in RCW 42.17.710.

AMENDATORY SECTION (Amending WSR 00-22-055, filed 10/27/00, effective 11/27/00)

WAC 390-18-010 Political advertising—Identification of sponsor. (1) For the purposes of RCW 42.17.510 and this rule, "sponsor" means the candidate, political committee or other person paying for the advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(2) With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee or person who solicits or arranges for the advertising to be displayed or broadcast.

(3) If more than one person sponsors specific advertising, the identity of each sponsor must be shown. However, if a person contributes in cash or in-kind to a candidate or political committee to assist in paying the cost of advertising, it is unnecessary to include that contributor's name as a sponsor provided the contribution is reported in accordance with applicable provisions of chapter 42.17 RCW.

(4) Printed advertising shall clearly state, in an area set apart from any other printed matter, that it has been paid for by the sponsor (Example: (1) Paid for by the XYZ committee, mailing address, city, state, zip code; (2) Vote for John Doe, paid for by John Doe, mailing address, city, state, zip code). ~~((Broadcast advertising shall conform to the requirements of the Federal Communications Commission.))~~ How-

ever, printed advertising undertaken as an independent expenditure as defined in RCW 42.17.020 shall comply with the "Notice to Voters" and, if relevant, the "Top Five Contributors" provisions of RCW 42.17.510 and provide this information in an area set apart from any other printed matter. Political committees, other than a bona fide political party, that sponsor independent expenditure printed advertising are required to provide the "Top Five Contributors" to that political committee pursuant to WAC 390-18-025.

(5)(a) Political advertising consisting of more than one page but intended to be presented as a single item (i.e. 3-page letter with return envelope) must identify the sponsor on the first page or fold of the advertising. Identification on an enclosed return envelope or the envelope in which the advertising is sent is not sufficient.

(b) Political advertising which is a collection of several items relating to more than one candidate or committee and distributed simultaneously must show the respective sponsor on the respective items.

(6) The name of the sponsor of all radio or television political advertising shall be clearly spoken. However, all radio and television political advertising undertaken as an independent expenditure as defined in RCW 42.17.020 shall comply with the "Notice to Voters" and, if relevant, the "Top Five Contributors" provisions of RCW 42.17.510 and this information shall be clearly spoken. Political committees, other than a bona fide political party, that sponsor independent expenditure radio and television political advertising are required to clearly speak the "Top Five Contributors" to that political committee pursuant to WAC 390-18-025.

WSR 03-08-056

PROPOSED RULES

PENINSULA COLLEGE

[Filed March 31, 2003, 10:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-091.

Title of Rule: Title 132A WAC, Community colleges—Peninsula College.

Purpose: Updating Title 132A WAC.

Statutory Authority for Adoption: RCW 28B.50.140 and chapter 28B.50 RCW.

Statute Being Implemented: RCW 28B.50.140.

Summary: Updating Title 132A WAC.

Reasons Supporting Proposal: To correspond with current policies, practices, and procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bonnie Cauffman, Peninsula College, Port Angeles, (360) 417-6212.

Name of Proponent: Community College District No. 1, Peninsula College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

Proposal Changes the Following Existing Rules: Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Peninsula College, Room A12, 1502 East Luridsen Boulevard, Port Angeles, WA 98362, on May 15, 2003, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bonnie Cauffman by May 12, 2003, TDD (360) 417-6339.

Submit Written Comments to: Bonnie Cauffman, fax (360) 417-6315, by May 14, 2003.

Date of Intended Adoption: June 16, 2003.

March 27, 2003

Bonnie Cauffman

Director of Human Resources

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

WAC 132A-116-011 Parking fees. All employees (~~on campus~~) with assigned parking and all students will pay fees for campus parking. Fees for parking will be established by the board of trustees.

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

WAC 132A-150-010 Animals on campus. With the exception of trained (~~guide dogs~~) service animals, animals are not allowed in public areas of buildings or in areas shared by staff. Any animal on college property must be attended and on a leash at all times. Animals may not be tied up and left unattended. Animals found locked in vehicles on college property will be reported to the animal control authority. Violators are subject to institutional discipline and/or dismissal from campus.

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

WAC 132A-320-010 Grounds for ineligibility. Any student found to have violated chapter 69.41 or 69.50 RCW or provisions of WAC 132A-120-011 (1) through (3) or by virtue of a criminal conviction or otherwise, insofar as it prohibits the possession, use or sale, or furnishing of legend drugs, including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

WSR 03-08-058
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed March 31, 2003, 10:40 a.m.]

Original Notice.

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

Title of Rule: Pilotage rates for the Puget Sound pilotage district.

Purpose: To establish a Puget Sound pilotage district annual tariff.

Other Identifying Information: WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

Summary: The proposed rule reflects a 1.66% decrease in all categories except transportation to be charged for pilotage services in the Puget Sound pilotage district for the 2003-2004 tariff year.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

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: Puget Sound Pilots, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 2003. New rates must be set annually.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed by the Puget Sound pilots would decrease the tariff for pilotage services in the Puget Sound pilotage district by 1.66% from the present tariff in all categories except transportation.

Proposal Changes the Following Existing Rules: The proposed rule is a 1.66% decrease from the existing tariff in all categories except transportation.

The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from other interested parties and the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services.

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 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 May 8, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by May 5, 2003.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2911 2nd Avenue, Suite 100, Seattle, WA 98121, fax (206) 515-3969, by May 1, 2003.

Date of Intended Adoption: May 8, 2003.
 March 27, 2003
 Peggy Larson
 Administrator

Two or three pilots required:
 In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

AMENDATORY SECTION (Amending WSR 02-12-008, filed 5/23/02, effective 7/1/02)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ((2002)) 2003, through 2400 hours June 30, ((2003)) 2004.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section
Boarding fee:	((\$41.00)) <u>\$40.00</u>
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	Zone

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges:

Ships up to 90' beam:
 A charge of ((~~\$216.00~~)) \$212.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ((~~\$103.00~~)) \$101.00 per bridge.

Ships 90' beam and/or over:

A charge of ((~~\$292.00~~)) \$287.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ((~~\$205.00~~)) \$202.00 per bridge.
 (The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Compass adjustment	((\$291.00)) <u>\$286.00</u>
Radio direction finder calibration	((\$291.00)) <u>\$286.00</u>
Launching vessels	((\$438.00)) <u>\$431.00</u>
Trial trips, 6 hours or less (Minimum ((\$822.00)) <u>\$810.00</u>)	<u>\$135.00</u> per hr.
Trial trips, over 6 hours (two pilots)	((\$274.00)) <u>\$270.00</u> per hr.
Shilshole Bay – Salmon Bay	((\$171.00)) <u>\$168.00</u>
Salmon Bay – Lake Union	((\$134.00)) <u>\$132.00</u>
Lake Union – Lake Washington (plus LOA zone from Webster Point)	((\$171.00)) <u>\$168.00</u>
Cancellation charge	LOA Zone I

Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.) LOA Zone II

Docking delay after anchoring: ((~~\$137.00~~)) \$135.00 per hr.

Applicable harbor shift rate to apply, plus ((~~\$137.00~~)) \$135.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$137.00~~)) \$135.00 for every hour or fraction thereof.

Sailing delay: ((~~\$137.00~~)) \$135.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$137.00~~)) \$135.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown: ((~~\$137.00~~)) \$135.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ((~~\$137.00~~)) \$135.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

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Tonnage charges:

0 to 20,000 gross tons:
 Additional charge to LOA zone mileage of (~~(\$0.0069)~~) \$0.0068 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
 Additional charge to LOA zone mileage of (~~(\$0.0706)~~) \$0.0694 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
 In excess of 50,000 gross tons, the charge shall be (~~(\$0.0846)~~) \$0.0832 per gross ton.

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

Delayed arrival-Port Angeles: (~~(\$137.00)~~) \$135.00 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of (~~(\$137.00)~~) \$135.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ 144.00
Bangor	84.00
Bellingham	158.00
Bremerton	44.00
Cherry Point	175.00
Dupont	85.00
Edmonds	27.00
Everett	52.00
Ferndale	173.00
Manchester	66.00
Mukilteo	52.00
Olympia	108.00
Point Wells	27.00
Port Gamble	77.00
Port Townsend (Indian Island)	109.00
Seattle	15.00
Semiahmoo (Blaine)	196.00
Tacoma	56.00
Tacoma Smelter	66.00
Winslow	42.00

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over	
Up to 449	214	329	564	841	1,132	1,468
450-459	221	336	567	853	1,150	1,475
460-469	224	341	576	867	1,166	1,482
470-479	232	350	584	884	1,169	1,485
480-489	238	357	586	901	1,176	1,492
490-499	241	361	594	917	1,191	1,498
500-509	254	367	603	928	1,199	1,508
510-519	256	374	609	942	1,212	1,512
520-529	259	386	618	946	1,222	1,527
530-539	267	392	626	956	1,242	1,543
540-549	271	397	640	967	1,262	1,556
550-559	276	411	644	981	1,271	1,572
560-569	286	427	657	989	1,284	1,587
570-579	292	431	660	994	1,297	1,597
580-589	304	439	675	1,002	1,305	1,613
590-599	319	447	679	1,006	1,323	1,632
600-609	329	460	687	1,010	1,339	1,640

PROPOSED

((LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
610-619	349	465	701	1,015	1,353	1,654
620-629	362	471	707	1,027	1,368	1,674
630-639	379	479	715	1,029	1,380	1,688
640-649	394	491	723	1,032	1,392	1,701
650-659	422	499	735	1,040	1,409	1,719
660-669	430	504	741	1,045	1,423	1,732
670-679	445	517	749	1,063	1,440	1,742
680-689	452	527	760	1,074	1,453	1,760
690-699	465	535	770	1,092	1,468	1,795
700-719	486	552	784	1,105	1,496	1,816
720-739	515	567	804	1,121	1,527	1,847
740-759	535	594	819	1,132	1,556	1,879
760-779	556	615	839	1,150	1,587	1,905
780-799	584	641	853	1,166	1,613	1,938
800-819	607	660	870	1,172	1,640	1,967
820-839	626	683	891	1,191	1,674	1,990
840-859	652	711	906	1,203	1,700	2,024
860-879	677	735	924	1,235	1,732	2,053
880-899	701	757	942	1,264	1,760	2,083
900-919	721	780	958	1,295	1,795	2,112
920-939	743	804	981	1,323	1,814	2,140
940-959	770	825	995	1,353	1,847	2,168
960-979	788	850	1,012	1,380	1,879	2,199
980-999	815	870	1,030	1,409	1,905	2,226
1000-1019	863	926	1,076	1,483	1,994	2,323
1020-1039	887	953	1,109	1,527	2,054	2,392
1040-1059	913	976	1,142	1,572	2,114	2,463
1060-1079	942	1,011	1,175	1,620	2,179	2,537
1080-1099	969	1,040	1,211	1,667	2,243	2,612
1100-1119	997	1,071	1,246	1,718	2,310	2,691
1120-1139	1,028	1,104	1,285	1,768	2,379	2,771
1140-1159	1,058	1,136	1,322	1,821	2,451	2,855
1160-1179	1,089	1,169	1,362	1,876	2,524	2,940
1180-1199	1,123	1,205	1,402	1,932	2,600	3,028
1200-1219	1,156	1,241	1,444	1,990	2,677	3,118
1220-1239	1,191	1,278	1,487	2,049	2,757	3,211
1240-1259	1,226	1,315	1,531	2,110	2,840	3,307
1260-1279	1,262	1,354	1,577	2,173	2,925	3,406
1280-1299	1,299	1,396	1,624	2,239	3,012	3,508
1300-1319	1,338	1,436	1,672	2,305	3,103	3,612
1320-1339	1,379	1,479	1,723	2,374	3,195	3,722
1340-1359	1,419	1,524	1,774	2,445	3,290	3,833

((LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1360-1379	1,462	1,569	1,827	2,518	3,389	3,947
1380-1399	1,505	1,615	1,882	2,593	3,490	4,066
1400-1419	1,551	1,664	1,937	2,671	3,594	4,187
1420-1439	1,596	1,714	1,996	2,751	3,702	4,313
1440-1459	1,645	1,765	2,056	2,832	3,813	4,442
1460-1479	1,692	1,818	2,116	2,917	3,927	4,575
1480-1499	1,743	1,871	2,180	3,004	4,044	4,711
1500 & Over	1,796	1,928	2,245	3,096	4,165	4,852))

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	210	324	555	827	1,113	1,444
450 - 459	217	330	558	839	1,131	1,451
460 - 469	220	335	566	853	1,147	1,457
170 - 479	228	344	574	869	1,150	1,460
480 - 489	234	351	576	886	1,156	1,467
490 - 499	237	355	584	902	1,171	1,473
500 - 509	250	361	593	913	1,179	1,483
510 - 519	252	368	599	926	1,192	1,487
520 - 529	255	380	608	930	1,202	1,502
530 - 539	263	385	616	940	1,221	1,517
540 - 549	267	390	629	951	1,241	1,530
550 - 559	271	404	633	965	1,250	1,546
560 - 569	281	420	646	973	1,263	1,561
570 - 579	287	424	649	977	1,275	1,570
580 - 589	299	432	664	985	1,283	1,586
590 - 599	314	440	668	989	1,301	1,605
600 - 609	324	452	676	993	1,317	1,613
610 - 619	343	457	689	998	1,331	1,627
620 - 629	356	463	695	1,010	1,345	1,646
630 - 639	373	471	703	1,012	1,357	1,660
640 - 649	387	483	711	1,015	1,369	1,673
650 - 659	415	491	723	1,023	1,386	1,690
660 - 669	423	496	729	1,028	1,399	1,703
670 - 679	438	508	737	1,045	1,416	1,713
680 - 689	444	518	747	1,056	1,429	1,731
690 - 699	457	526	757	1,074	1,444	1,765
700 - 719	478	543	771	1,087	1,471	1,786

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra	0-30	31-50	51-75	76-100	101
	Harbor	Miles	Miles	Miles	Miles	Miles
						& Over
<u>720 - 739</u>	<u>506</u>	<u>558</u>	<u>791</u>	<u>1,102</u>	<u>1,502</u>	<u>1,816</u>
<u>740 - 759</u>	<u>526</u>	<u>584</u>	<u>805</u>	<u>1,113</u>	<u>1,530</u>	<u>1,848</u>
<u>760 - 779</u>	<u>547</u>	<u>605</u>	<u>825</u>	<u>1,131</u>	<u>1,561</u>	<u>1,873</u>
<u>780 - 799</u>	<u>574</u>	<u>630</u>	<u>839</u>	<u>1,147</u>	<u>1,586</u>	<u>1,906</u>
<u>800 - 819</u>	<u>597</u>	<u>649</u>	<u>856</u>	<u>1,153</u>	<u>1,613</u>	<u>1,934</u>
<u>820 - 839</u>	<u>616</u>	<u>672</u>	<u>876</u>	<u>1,171</u>	<u>1,646</u>	<u>1,957</u>
<u>840 - 859</u>	<u>641</u>	<u>699</u>	<u>891</u>	<u>1,183</u>	<u>1,672</u>	<u>1,990</u>
<u>860 - 879</u>	<u>666</u>	<u>723</u>	<u>909</u>	<u>1,214</u>	<u>1,703</u>	<u>2,019</u>
<u>880 - 899</u>	<u>689</u>	<u>744</u>	<u>926</u>	<u>1,243</u>	<u>1,731</u>	<u>2,048</u>
<u>900 - 919</u>	<u>709</u>	<u>767</u>	<u>942</u>	<u>1,274</u>	<u>1,765</u>	<u>2,077</u>
<u>920 - 939</u>	<u>731</u>	<u>791</u>	<u>965</u>	<u>1,301</u>	<u>1,784</u>	<u>2,104</u>
<u>940 - 959</u>	<u>757</u>	<u>811</u>	<u>978</u>	<u>1,331</u>	<u>1,816</u>	<u>2,132</u>
<u>960 - 979</u>	<u>775</u>	<u>836</u>	<u>995</u>	<u>1,357</u>	<u>1,848</u>	<u>2,162</u>
<u>980 - 999</u>	<u>801</u>	<u>856</u>	<u>1,013</u>	<u>1,386</u>	<u>1,873</u>	<u>2,189</u>
<u>1000 - 1019</u>	<u>849</u>	<u>911</u>	<u>1,058</u>	<u>1,458</u>	<u>1,961</u>	<u>2,284</u>
<u>1020 - 1039</u>	<u>872</u>	<u>937</u>	<u>1,091</u>	<u>1,502</u>	<u>2,020</u>	<u>2,352</u>
<u>1040 - 1059</u>	<u>898</u>	<u>960</u>	<u>1,123</u>	<u>1,546</u>	<u>2,079</u>	<u>2,422</u>
<u>1060 - 1079</u>	<u>926</u>	<u>994</u>	<u>1,155</u>	<u>1,593</u>	<u>2,143</u>	<u>2,495</u>
<u>1080 - 1099</u>	<u>953</u>	<u>1,023</u>	<u>1,191</u>	<u>1,639</u>	<u>2,206</u>	<u>2,569</u>
<u>1100 - 1119</u>	<u>980</u>	<u>1,053</u>	<u>1,225</u>	<u>1,689</u>	<u>2,272</u>	<u>2,646</u>
<u>1120 - 1139</u>	<u>1,011</u>	<u>1,086</u>	<u>1,264</u>	<u>1,739</u>	<u>2,340</u>	<u>2,725</u>
<u>1140 - 1159</u>	<u>1,040</u>	<u>1,117</u>	<u>1,300</u>	<u>1,791</u>	<u>2,410</u>	<u>2,808</u>
<u>1160 - 1179</u>	<u>1,071</u>	<u>1,150</u>	<u>1,339</u>	<u>1,845</u>	<u>2,482</u>	<u>2,891</u>
<u>1180 - 1199</u>	<u>1,104</u>	<u>1,185</u>	<u>1,379</u>	<u>1,900</u>	<u>2,557</u>	<u>2,978</u>
<u>1200 - 1219</u>	<u>1,137</u>	<u>1,220</u>	<u>1,420</u>	<u>1,957</u>	<u>2,633</u>	<u>3,066</u>
<u>1220 - 1239</u>	<u>1,171</u>	<u>1,257</u>	<u>1,462</u>	<u>2,015</u>	<u>2,711</u>	<u>3,158</u>
<u>1240 - 1259</u>	<u>1,206</u>	<u>1,293</u>	<u>1,506</u>	<u>2,075</u>	<u>2,793</u>	<u>3,252</u>
<u>1260 - 1279</u>	<u>1,241</u>	<u>1,332</u>	<u>1,551</u>	<u>2,137</u>	<u>2,876</u>	<u>3,349</u>
<u>1280 - 1299</u>	<u>1,277</u>	<u>1,373</u>	<u>1,597</u>	<u>2,202</u>	<u>2,962</u>	<u>3,450</u>
<u>1300 - 1319</u>	<u>1,316</u>	<u>1,412</u>	<u>1,644</u>	<u>2,267</u>	<u>3,051</u>	<u>3,552</u>
<u>1320 - 1339</u>	<u>1,356</u>	<u>1,454</u>	<u>1,694</u>	<u>2,335</u>	<u>3,142</u>	<u>3,660</u>
<u>1340 - 1359</u>	<u>1,395</u>	<u>1,499</u>	<u>1,745</u>	<u>2,404</u>	<u>3,235</u>	<u>3,769</u>
<u>1360 - 1379</u>	<u>1,438</u>	<u>1,543</u>	<u>1,797</u>	<u>2,476</u>	<u>3,333</u>	<u>3,881</u>
<u>1380 - 1399</u>	<u>1,480</u>	<u>1,588</u>	<u>1,851</u>	<u>2,550</u>	<u>3,432</u>	<u>3,999</u>
<u>1400 - 1419</u>	<u>1,525</u>	<u>1,636</u>	<u>1,905</u>	<u>2,627</u>	<u>3,534</u>	<u>4,117</u>
<u>1420 - 1439</u>	<u>1,570</u>	<u>1,686</u>	<u>1,963</u>	<u>2,705</u>	<u>3,641</u>	<u>4,241</u>
<u>1440 - 1459</u>	<u>1,618</u>	<u>1,736</u>	<u>2,022</u>	<u>2,785</u>	<u>3,750</u>	<u>4,368</u>
<u>1460 - 1479</u>	<u>1,664</u>	<u>1,788</u>	<u>2,081</u>	<u>2,869</u>	<u>3,862</u>	<u>4,499</u>
<u>1480 - 1499</u>	<u>1,714</u>	<u>1,840</u>	<u>2,144</u>	<u>2,954</u>	<u>3,977</u>	<u>4,633</u>
<u>1500 & Over</u>	<u>1,766</u>	<u>1,896</u>	<u>2,208</u>	<u>3,045</u>	<u>4,096</u>	<u>4,771</u>

WSR 03-08-061
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION

[Filed March 31, 2003, 2:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-113.

Title of Rule: Guides for control of access on crossroads and interchange ramps.

Purpose: This WAC rule will detail department procedures for regulating wireless communication access to limited access state highways.

Other Identifying Information: For the interstate system, FHWA is the regulatory authority. The Washington State Department of Transportation (WSDOT) is the regulatory authority for limited access state highways.

Statutory Authority for Adoption: RCW 47.52.027.

Statute Being Implemented: Chapter 47.52 RCW.

Summary: The current rules do not allow wireless communication sites direct access onto full and partial control limited access highways under any circumstances. The adoption of this rule would provide an immediate avenue for the review and assessment of such access applications to facilitate the provision of wireless communication services to the public.

Reasons Supporting Proposal: An emergency rule has allowed wireless communication sites direct access onto partial control limited access highways. The adoption of this rule would make the emergency provision permanent.

Name of Agency Personnel Responsible for Drafting: Darlene Sharar, Olympia, (360) 705-7251; Implementation: Don Nelson, Olympia, (360) 705-7101; and Enforcement: Region contacts, region offices around the state.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This is included in the wording of WAC 458-58-080.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently the specific WAC section does not capture specific wireless communication site processes requirements.

This WAC adoption will detail department procedures for regulating wireless communication access to limited access state highways.

The proposed rule has been developed by WSDOT with input from the Governor's Telecommunication Committee and the telecommunication industry. The final WAC wording has taken into consideration comments received.

Proposal Changes the Following Existing Rules: The current rules do not allow wireless communication sites direct access onto full and partial control limited access highways under any circumstances. The adoption of this rule would provide an immediate avenue for the review and assessment of such access applications to facilitate the provision of wireless communication services to the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The WAC rule does

PROPOSED

[not] apply to any type of use other than wireless communications.

RCW 34.05.328 does not apply to this rule adoption. This is not specific to Asian Pacific affairs.

Hearing Location: Washington State Department of Transportation, Commission Board Room, 310 Maple Park Avenue, Olympia, WA 98504, on May 6, 2003, at 8:00 a.m.

Submit Written Comments to: Darlene K. Sharar, P.O. Box 47329, Olympia, WA 98504-7329, fax (360) 705-7268.

Date of Intended Adoption: May 6, 2003.

March 31, 2003

John F. Conrad

Assistant Secretary

Engineering and Regional

AMENDATORY SECTION (Amending Order 109, filed 7/8/87)

WAC 468-58-080 Guides for control of access on crossroads and interchange ramps. (1) Fully controlled highways, including interstate.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a fully controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) There shall be no direct connections from the limited access facility in rural areas to local service or frontage roads except through interchanges.

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(d) Full control of access should be provided along the crossroad from the centerline of a ramp or terminus of a transition taper for a minimum distance of three hundred feet. Upon determination by the department, full control of access may be provided for the first one hundred thirty feet from the centerline of the ramp or terminus of a transition taper and partial control or modified control of access may be provided for the remainder of the distance to the frontage road or local road for a total minimum distance for the two types of control of three hundred feet. Type A, B, C, D (~~(and)~~), E, and F road approaches, as defined hereafter under subsection (3) of this section, "general," may be permitted on that portion of the crossroad on which partial or modified control of access is established.

(2) Partially controlled highways.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a partially controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) In both urban and rural areas access control on a partially controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(c) Access control limits at the crossroads on a partially controlled highway should be established along the crossroad at a grade intersection for a minimum distance of three hundred feet from the centerline of the nearest directional roadway. If a parallel road is located within three hundred fifty feet of said grade intersection, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad. Type D (~~(and)~~), E, and F approaches may be permitted closer than one hundred thirty feet from the center of the intersection only when they already exist and cannot reasonably be relocated.

(d) Access control limits at intersections on modified control highways should be established along the cross road for a minimum distance of one hundred thirty feet from the centerline of a two-lane highway or for a minimum of one hundred thirty feet from centerline of the nearest directional roadway of a four-lane highway. Type D (~~(and)~~), E, and F approaches should be allowed within this area only when no other reasonable alternative is available.

(3) General.

(a) Access control may be increased or decreased beyond or under the minimum requirements to fit local conditions if so determined by the department.

(b) Type A, B, C, D (~~(and)~~), E, and F approaches are defined as follows:

(i) Type A approach. Type A approach is an off and on approach in legal manner, not to exceed thirty feet in width, for sole purpose of serving a single family residence. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(ii) Type B approach. Type B approach is an off and on approach in legal manner, not to exceed fifty feet in width, for use necessary to the normal operation of a farm, but not for retail marketing. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(iii) Type C approach. Type C approach is an off and on approach in legal manner, for special purpose and width to be

agreed upon. It may be specified at a point satisfactory to the state at or between designated highway stations.

(iv) Type D approach is an off and on approach in a legal manner not to exceed fifty feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(v) Type E approach is a separated off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(vi) Type F approach is an off and on approach in a legal manner, not to exceed thirty feet in width, for the sole purpose of serving a wireless communication site. It may be specified at a point satisfactory to the state at or between designated highway stations.

The state shall only authorize such approach by the issuance of a nonassignable permit. The permit allows site access for the normal construction, operation and maintenance of the wireless communication site for the permit holder and its contractors but not its subtenants. If a sale or merger occurs that affects an existing wireless communication site, the new wireless communication provider will be authorized to utilize said approach upon the state's receipt of written notice of the sale or merger action. The wireless communication site access permit may be canceled upon written notice for reasons specified in the wireless communication site access permit general provisions. The permit will only be issued if it meets all state criteria, including, but not limited to, design and safety standards.

Only one wireless communication site access user per permit shall be allowed, but more than one permit may be issued for a single Type F approach.

Each permitted access user shall be required to pay to the state five hundred dollars annually in compensation for use of the state-owned access rights, at the time of the issuance of the permit and each year thereafter.

Since the state is the owner of the access, Type F approach permits shall not be issued pursuant to chapter 47.50 RCW and shall not confer a property right upon the permittee(s). An applicant for a Type F approach permit shall pay a nonrefundable access application fee when application is made in the amount of five hundred dollars for investigating, handling and granting the permit.

An application for wireless communication site access permit shall receive a response from the department of transportation within thirty working days from date of receipt of said application.

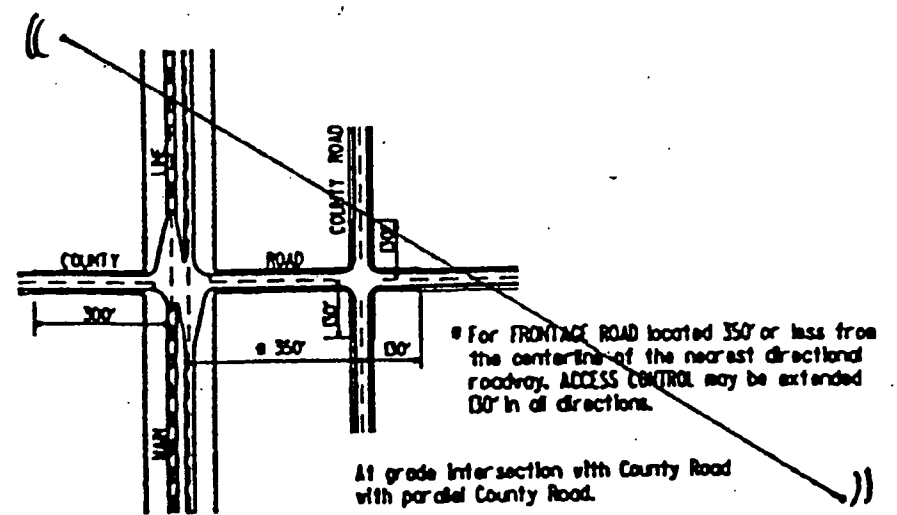
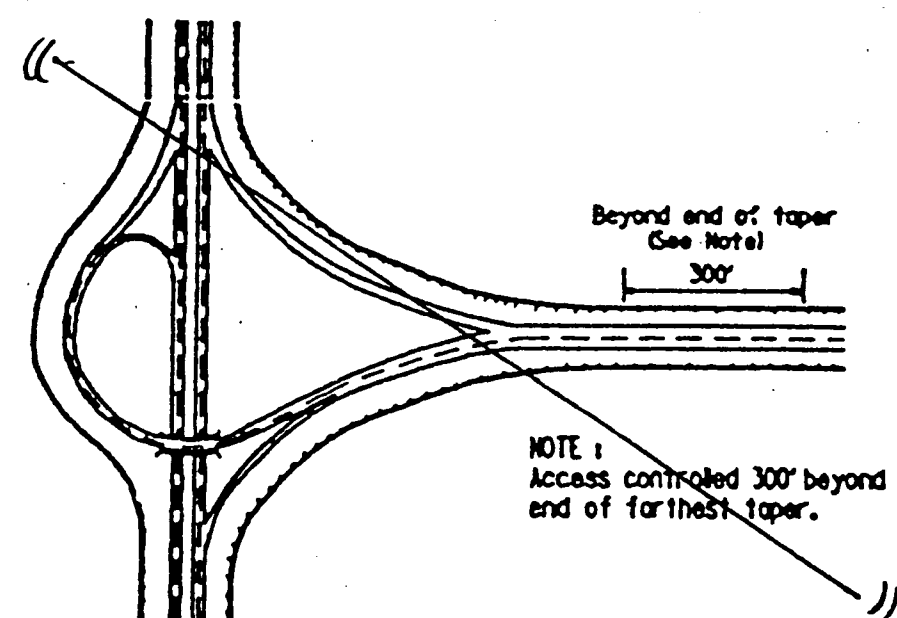
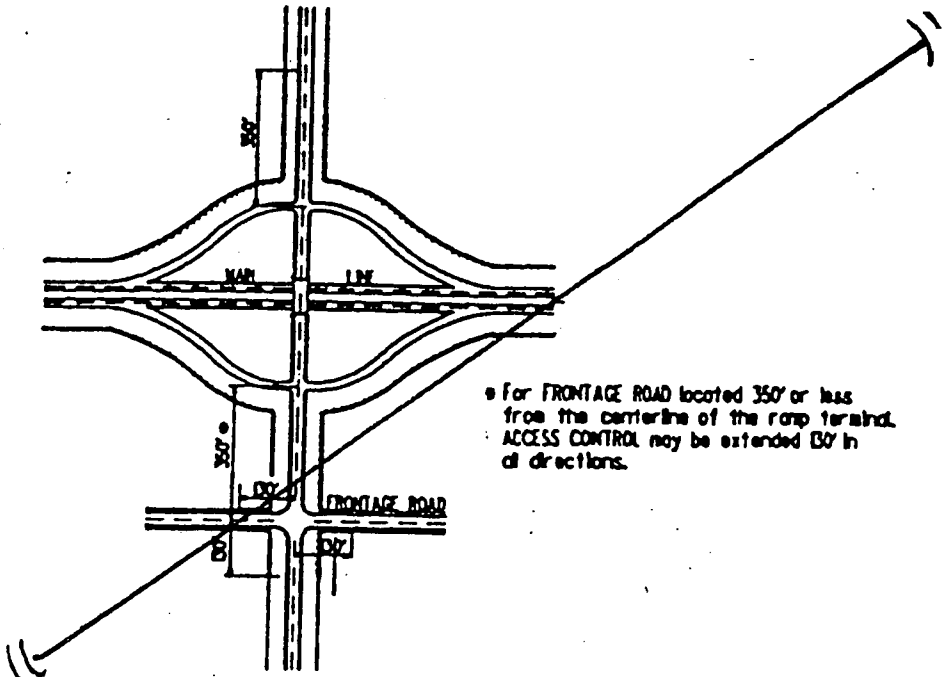
(c) Under no circumstances will a change in location or width of an approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.

(d) Commercial approaches shall not be permitted within the limits of access control except where modified access control has been approved by the department.

(e) All access control shall be measured from the centerline of the ramps, crossroads or parallel roads or from the terminus of transition tapers. On multiple lane facilities mea-

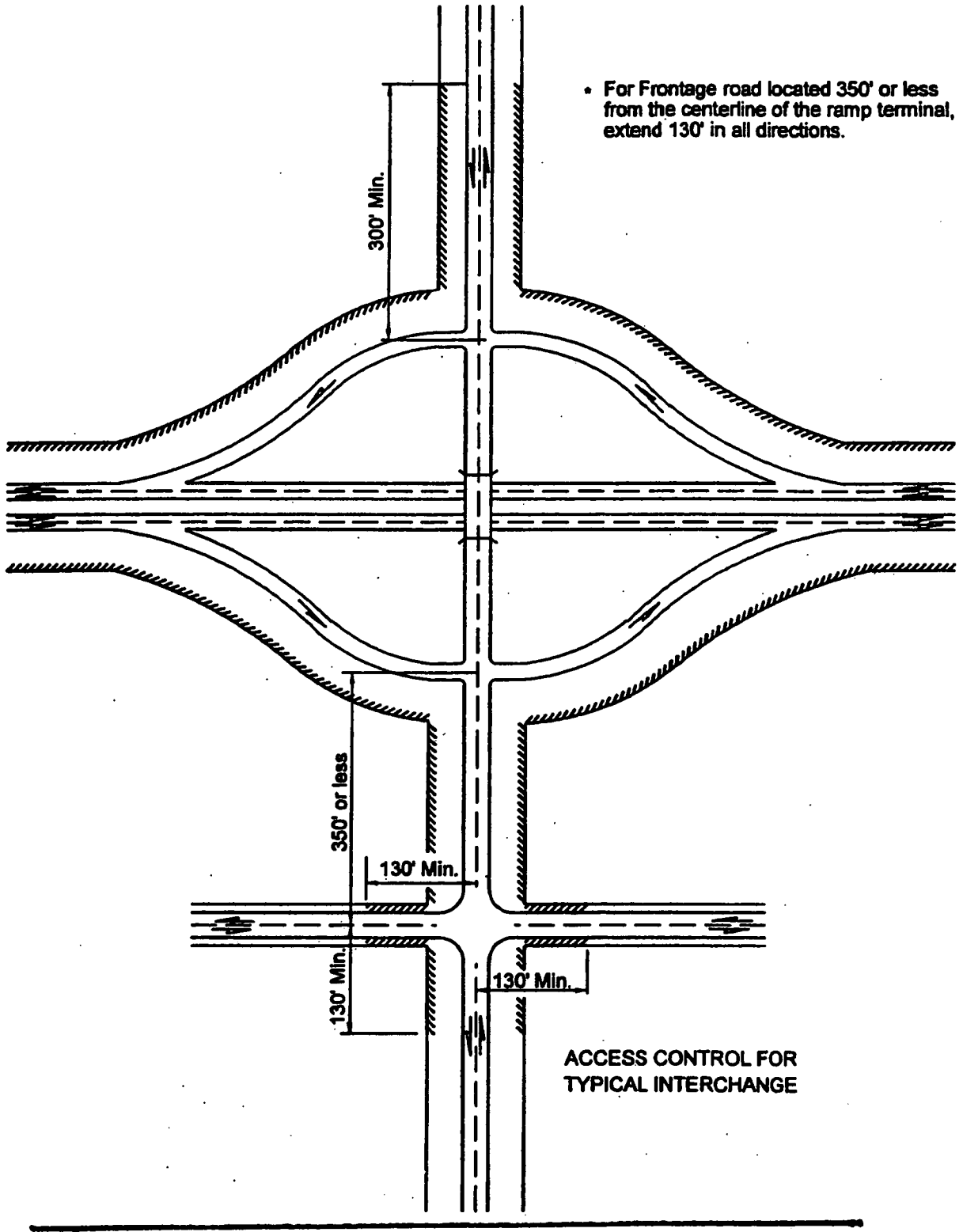
surement shall be from the centerline of the nearest directional roadway.

PROPOSED



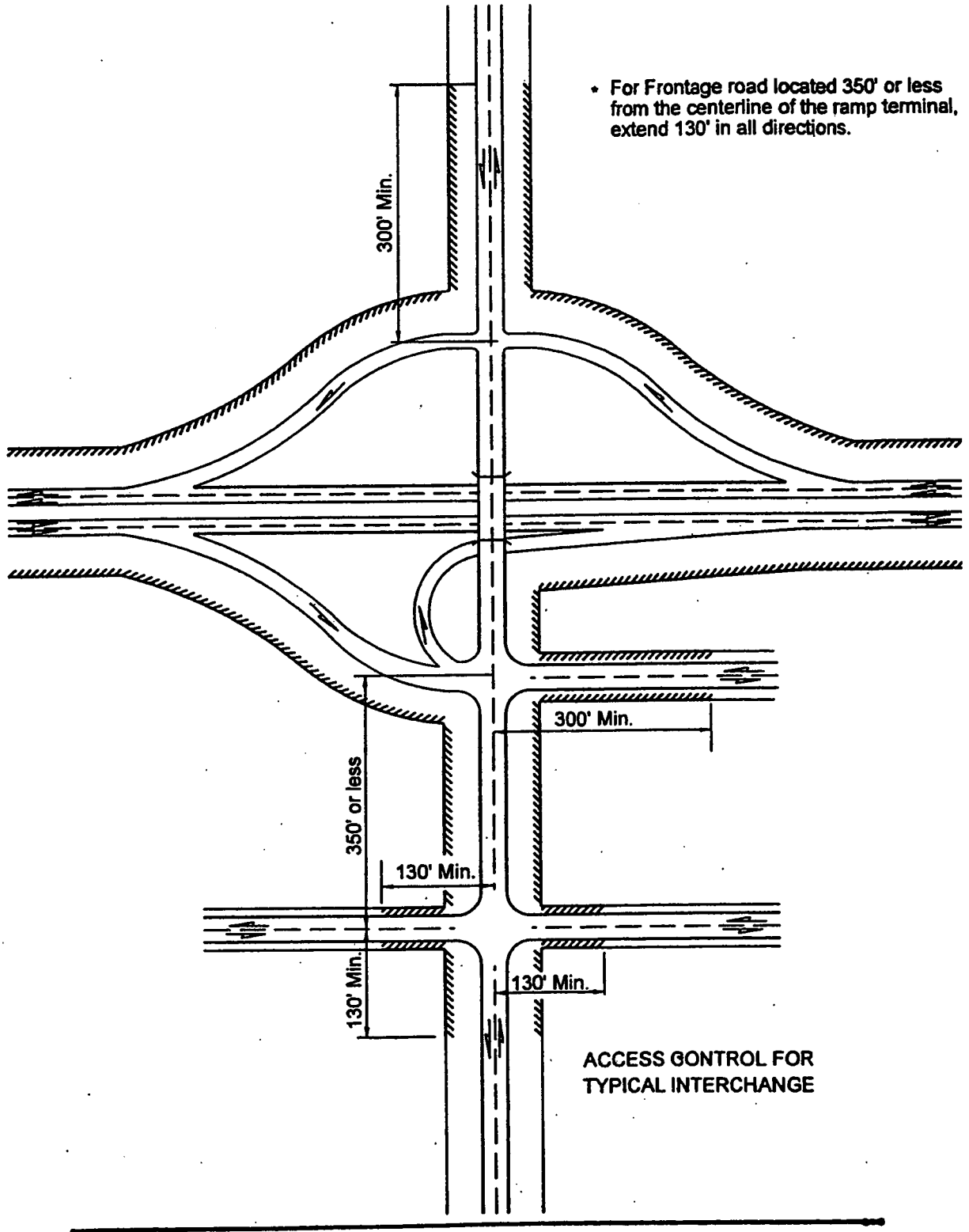
PROPOSED

- For Frontage road located 350' or less from the centerline of the ramp terminal, extend 130' in all directions.



ACCESS CONTROL FOR
TYPICAL INTERCHANGE

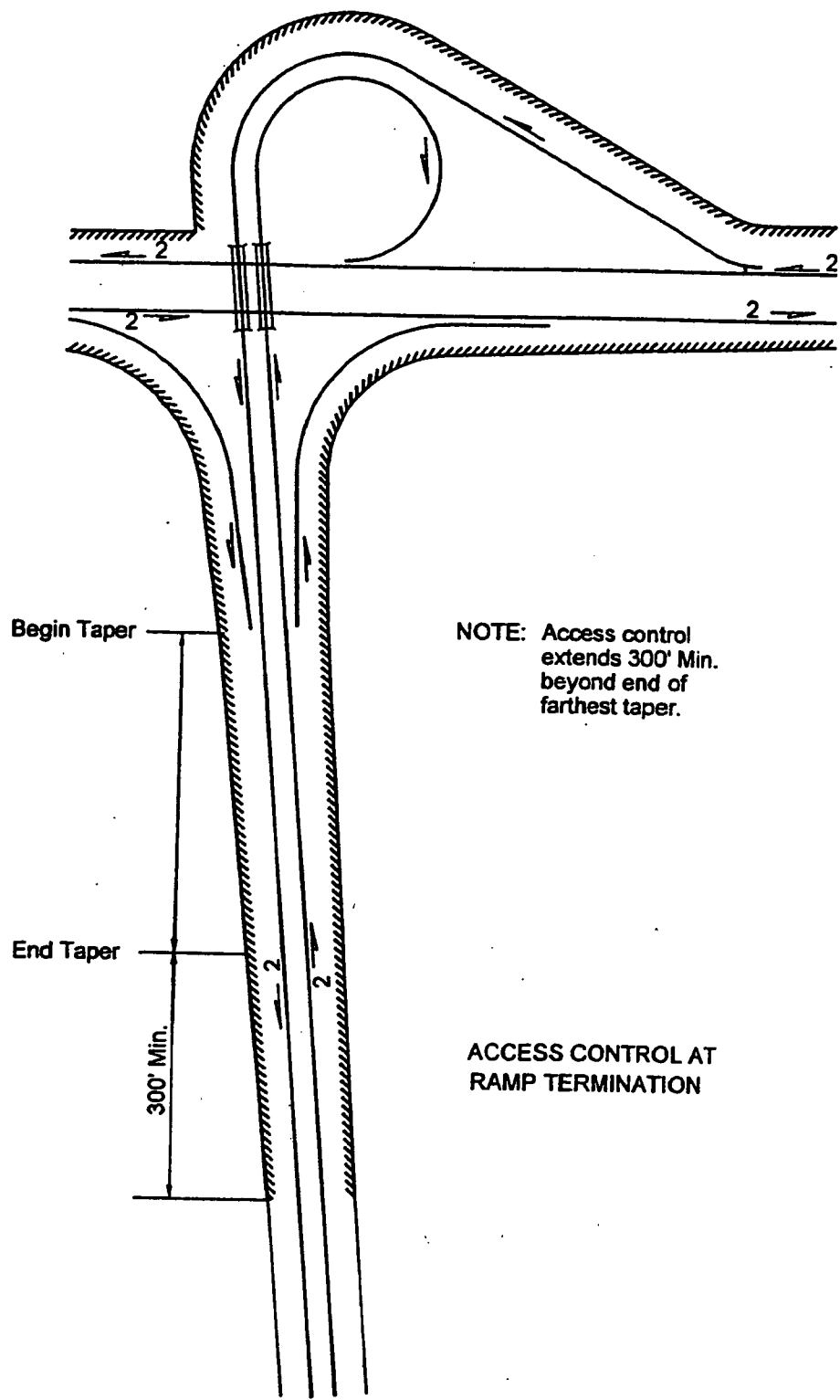
PROPOSED



- For Frontage road located 350' or less from the centerline of the ramp terminal, extend 130' in all directions.

ACCESS CONTROL FOR
TYPICAL INTERCHANGE

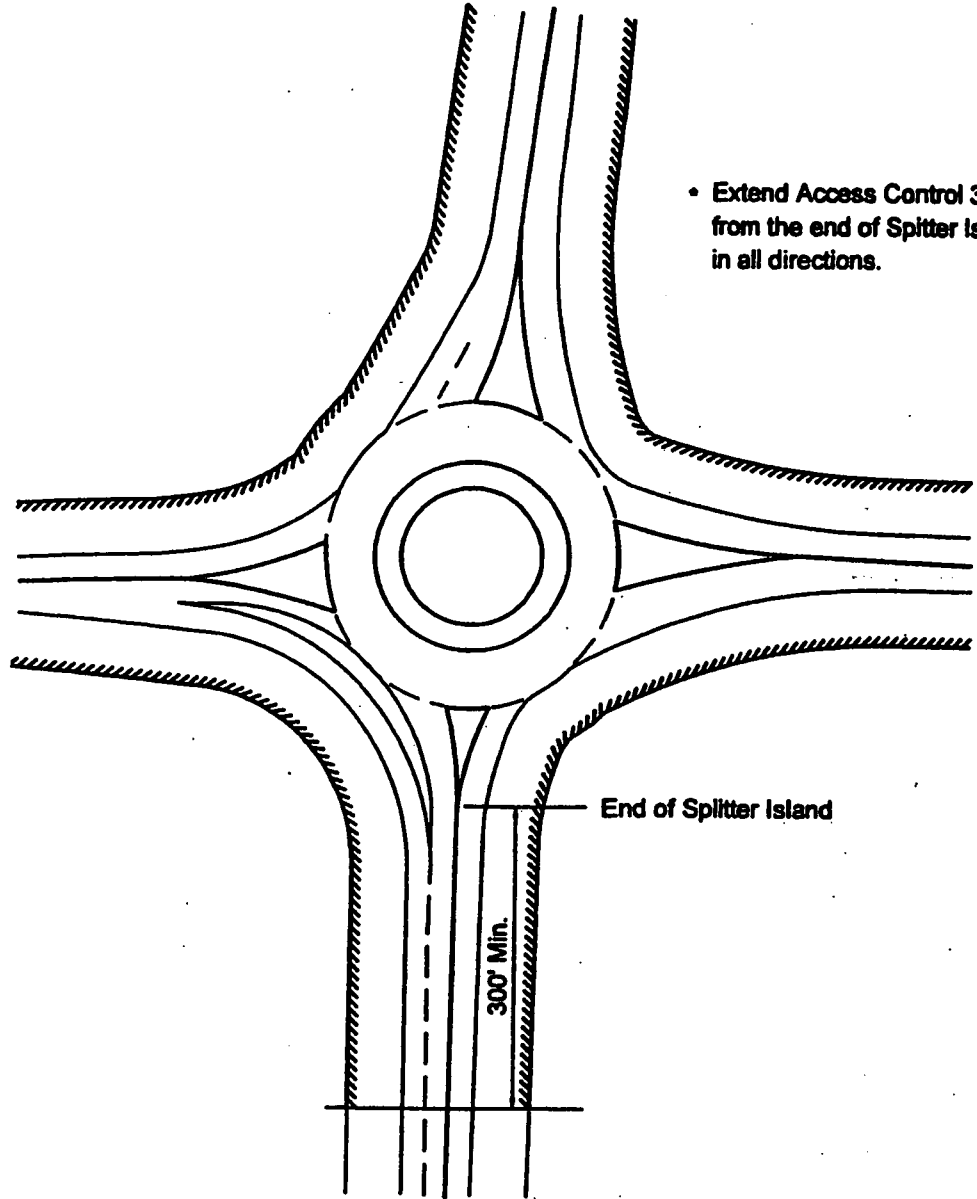
PROPOSED



NOTE: Access control extends 300' Min. beyond end of farthest taper.

ACCESS CONTROL AT RAMP TERMINATION

PROPOSED



- Extend Access Control 300' from the end of Splitter Island in all directions.

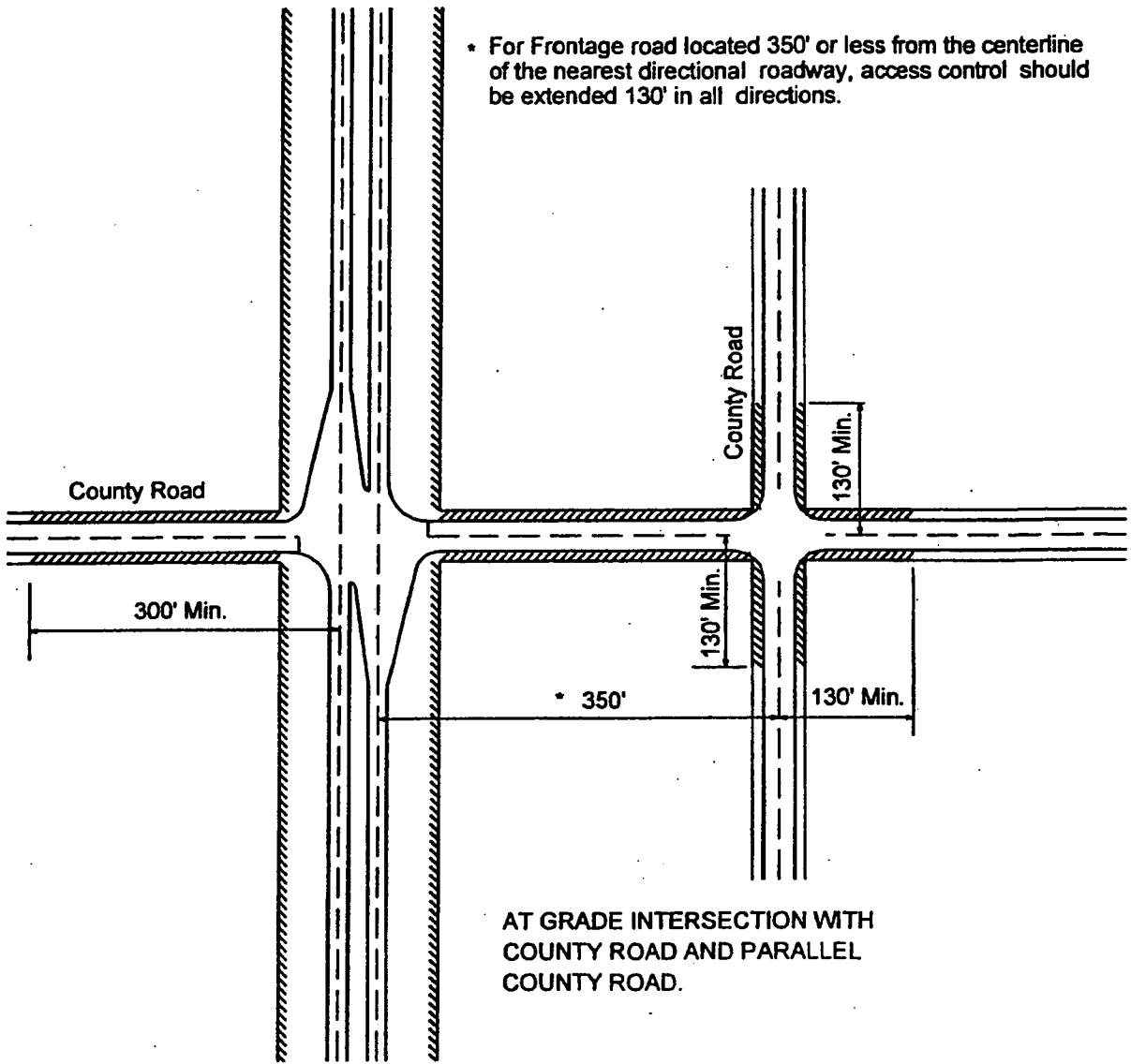
End of Splitter Island

300' Min.

ACCESS CONTROL FOR TYPICAL ROUNDABOUT

PROPOSED

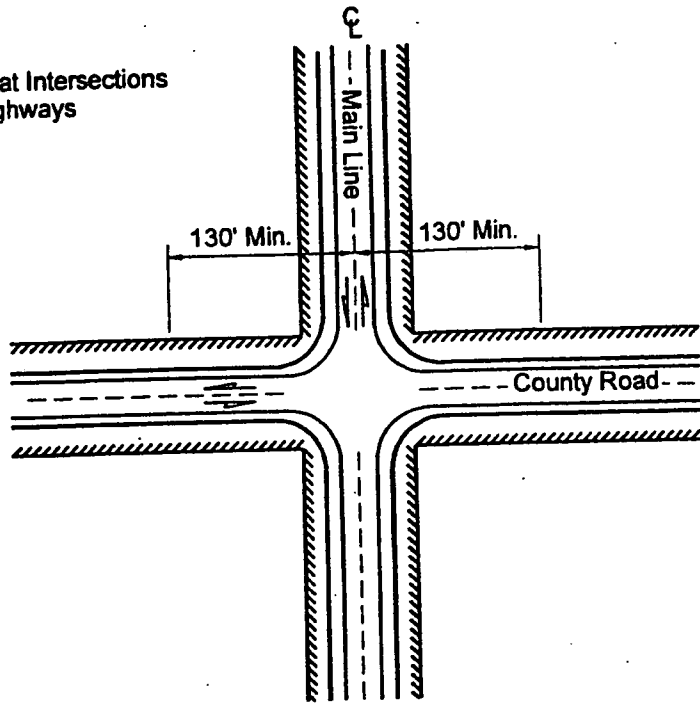
- For Frontage road located 350' or less from the centerline of the nearest directional roadway, access control should be extended 130' in all directions.



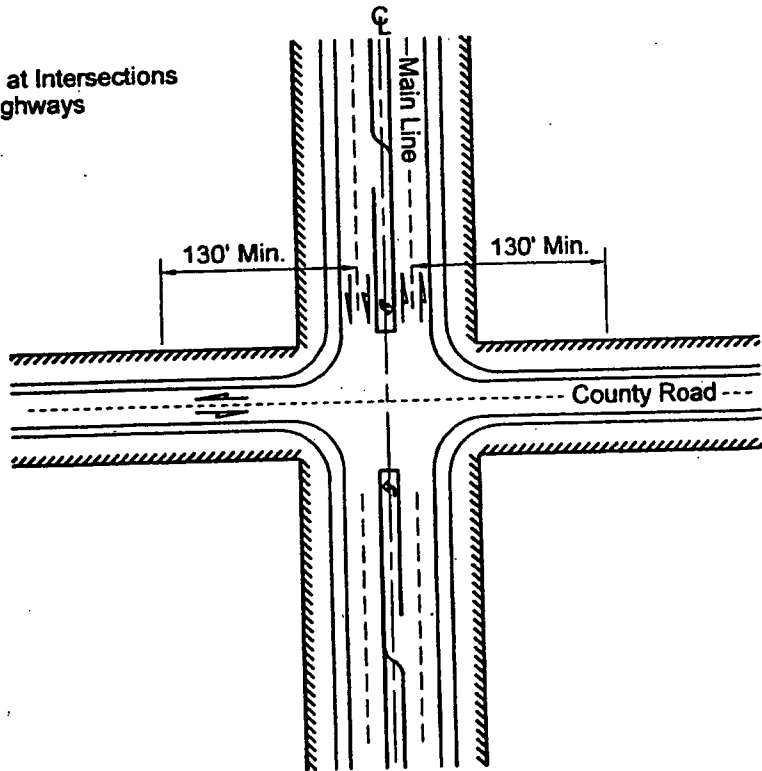
AT GRADE INTERSECTION WITH
COUNTY ROAD AND PARALLEL
COUNTY ROAD.

PROPOSED

Access Control Limits at Intersections
Modified Control Highways
Two-Lane



Access Control Limits at Intersections
Modified Control Highways
Multi-Lane



ACCESS CONTROL LIMITS AT INTERSECTIONS

WSR 03-08-062
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed March 31, 2003, 3:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-056.

Title of Rule: WAC 308-13-150 Landscape architect fees.

Purpose: This rule is needed to increase the charge that candidates pay for the landscape architect registration examination (LARE) and the department collects on the vendor's behalf.

Statutory Authority for Adoption: RCW 18.96.080 Applications—Contents—Fees.

Statute Being Implemented: RCW 43.24.086 Fee policy for professions, occupations and businesses, requires fees to be at a sufficient level to defray the costs of administering the program.

Summary: This is a national driven fee increase and not the request of the department.

Reasons Supporting Proposal: The cost of the examinations are charged directly to the candidates for registration.

Name of Agency Personnel Responsible for Drafting: Joan Robinson, 405 Black Lake Boulevard, Olympia, WA, (360) 664-1387; Implementation and Enforcement: Margaret Epting, 405 Black Lake Boulevard, Olympia, WA, (360) 664-1386.

Name of Proponent: Board of Registration for Landscape Architects, Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The examination vendor has increased the examination charges. This rule is needed to increase the examination charges that candidates pay for the examination, to a sufficient level to meet the cost of purchasing the examinations for the candidates.

Proposal Changes the Following Existing Rules: It increases the charges that are collected from candidates for the examinations ordered from the test vendor. The charges recovered by the department shall be refunded to the vendor for the cost of the examinations.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This increase in charges is to individual applicants not business enterprises. The vendor will provide the tests only at these prices. The costs are not negotiable.

Without these increases in examination charges the refund account would be a deficit with the first examination session.

RCW 34.05.328 does not apply to this rule adoption. This section of regulations is not a "significant legislative rule" as defined by RCW 34.05.328 (5)(c)(iii) and is exempt under the provisions of RCW 34.05.328 (5)(b)(vi).

Hearing Location: Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on May 19, 2003, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Joan Robinson by May 14, 2003, TTY (360) 664-8885 or call (360) 664-1387.

Submit Written Comments to: Margaret Epting, Board of Registration for Landscape Architects, P.O. Box 9045, Olympia, WA 98507, fax (360) 664-2551, by May 14, 2003.

Date of Intended Adoption: May 20, 2003.

March 31, 2003

Margaret Epting
 Administrator

AMENDATORY SECTION (Amending WSR 02-16-018, filed 7/26/02, effective 8/26/02)

WAC 308-13-150 Landscape architect fees and charges. The following fees will be collected from the candidates:

Title of Fee	Fee
Application fee	\$150.00
Reexamination administration fee	50.00
Exam proctor	100.00
Renewal (2 years)	300.00
Late renewal penalty	100.00
Duplicate license	25.00
Initial registration (2 years)	300.00
Reciprocity application fee	200.00
Certification	45.00
Replacement wall certificate	20.00

Those charges collected from candidates for the costs of the examinations shall be paid to CLARB.

Examination and Sections	Charges
Entire examination	((\$720.00)) <u>\$770.00</u>
Examination sections:	
Section A: Legal and administrative aspects of practice	((60.00)) <u>65.00</u>
Section B: Analytical aspects of practice	((100.00)) <u>105.00</u>
Section C:	
Planning and site design	((200.00)) <u>215.00</u>
Section D:	
Structural considerations and materials and methods of construction	((160.00)) <u>170.00</u>

PROPOSED

Section E:

Grading, drainage and stormwater management

((200.00))
215.00

WSR 03-08-069
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed March 31, 2003, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-101.

Title of Rule: WAC 458-20-24003 Tax incentives for high technology businesses.

Purpose: To identify and explain the sales and use tax deferrals for high technology businesses provided by chapter 82.63 RCW and the business and occupation tax credit for qualified research and development expenditures provided by RCW 82.04.4452.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 82.63.010.

Statute Being Implemented: Chapter 82.63 RCW and RCW 82.04.4452.

Summary: The proposed rule gives definitions, procedures, and examples relating to the tax incentives for high technology businesses.

Reasons Supporting Proposal: The proposed rule provides guidelines to both taxpayers and Department of Revenue staff on eligibility for and administration of the tax incentive programs for high technology businesses. RCW 82.63.010 calls for the Department of Revenue to adopt a rule on cost apportionment of qualified buildings.

Name of Agency Personnel Responsible for Drafting: Greg Potegal, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6132; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

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 proposed rule defines terms, explains procedures, and gives examples for the business and occupation tax credit and sales and use tax deferral programs for high technology businesses. It provides guidelines to both taxpayers and Department of Revenue staff on eligibility for, and administration of, these programs. It will lead to better understanding, improved voluntary compliance, and reduced administrative burdens.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any performance requirement upon any small business that is not already separately imposed by existing laws.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretive rule as defined in RCW 34.05.328.

Hearing Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on May 6, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

Submit Written Comments to: Greg Potegal, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail Gregg@dor.wa.gov, by May 6, 2003.

Date of Intended Adoption: May 13, 2003.

March 31, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

NEW SECTION

WAC 458-20-24003 Tax incentives for high technology businesses. (1) **Introduction.** This rule explains the tax incentives, contained in chapter 82.63 RCW and RCW 82.04.4452, which apply to businesses engaged in research and development or pilot scale manufacturing in Washington in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology. Eligibility for high technology or research and development tax incentives offered by the federal government or any other jurisdiction does not establish eligibility for Washington's programs.

(2) **Definitions.** For purposes of this rule, the following definitions apply unless otherwise required by the context.

(a) "Advanced computing" means technologies used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

(b) "Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

(c) "Applicant" means a person applying for a tax deferral under chapter 82.63 RCW.

(d) "Biotechnology" means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics, including genomics, gene expression and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, or to transform biological systems into useful processes and products or to develop microorganisms for specific uses.

(e) "Electronic device technology" means technologies involving microelectronics; semiconductors; electronic equipment and instrumentation; radio frequency, microwave,

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and millimeter electronics; optical and optic-electrical devices; and data and digital communications and imaging devices.

(f) "Eligible investment project" means an investment project which either initiates a new operation, or expands or diversifies a current operation by expanding, renovating, or equipping an existing facility. The lessor or owner of the qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(g) "Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, and the development of alternative energy sources.

(i) The assessment and prevention of threats or damage to human health or the environment concerns assessing and preventing potential or actual releases of pollutants into the environment that are damaging to human health or the environment. It also concerns assessing and preventing other physical alterations of the environment that are damaging to human health or the environment.

(A) Pollutants include waste materials or by-products from manufacturing or other activities.

(B) Environmental technology includes technology to reduce emissions of harmful pollutants but does not include technology to increase fuel economy. Where technology both reduces emissions and increases fuel economy, it is environmental technology if the primary purpose is to reduce emissions. That reducing emissions is the primary purpose of technology can be demonstrated by showing the technology is developed to meet governmental emission standards.

(C) Environmental technology does not include technology for preventive health measures for, or medical treatment of, human beings.

(ii) Environmental cleanup is corrective or remedial action to protect human health or the environment from releases of pollutants into the environment.

(iii) Alternative energy sources are those other than traditional energy sources such as fossil fuels, nuclear power, and hydroelectricity. However, when traditional energy sources are used in conjunction with the development of alternative energy sources, all the development will be considered the development of alternative energy sources.

(h) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction or improvement of the project.

(i) "Person" has the meaning given in RCW 82.04.030.

(j) "Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of biotechnology, advanced computing, electronic device technology, advanced materials, and environmental technology other than for commercial sale. "Commercial sale" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(k) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for pilot scale manufacturing or qualified research and development, including plant offices and other facilities that are an essential or an integral part of a structure used for pilot scale manufacturing or qualified research and development.

(i) If a building is used partly for pilot scale manufacturing or qualified research and development and partly for other purposes, the applicable tax deferral shall be determined as follows:

(A) Tax on the cost of construction of areas devoted solely to pilot scale manufacturing or research and development may be deferred.

(B) Tax on the cost of construction of areas not used at all for pilot scale manufacturing or research and development may not be deferred.

(C) Tax on the cost of construction of areas used in common for pilot scale manufacturing or research and development and for other purposes, such as hallways, bathrooms, and conference rooms, may be deferred by apportioning the costs of construction on a square footage basis. The apportioned costs of construction eligible for deferral are established by using the ratio, expressed as a percentage, of the square feet of the construction, expansion, or renovation devoted to pilot scale manufacturing or qualified research and development, excluding areas used in common to the total square feet of the construction, expansion, or renovation, excluding areas used in common. That percentage is applied to the cost of construction of the common areas to determine the costs of construction eligible for tax deferral. Expressed as a formula, apportionment of the cost of the common areas is determined by:

$$\frac{\text{Square feet devoted to research and development or pilot scale manufacturing, excluding square feet of common areas}}{\text{Total square feet, excluding square feet of common areas}} = \text{Percentage of total cost of construction of common areas eligible for deferral}$$

Total square feet, excluding square feet of common areas

(ii) Building construction does not include the construction of landscaping or most other work outside the building itself. It does include the construction of parking lots connected to or adjacent to the building if the parking lots are for the use of workers performing pilot scale manufacturing or research and development in the building.

(l) "Qualified machinery and equipment" means fixtures, equipment, and support facilities that are an integral and necessary part of a pilot scale manufacturing or qualified research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment, instrumentation,

and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, invention, or similar property; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; vats, tanks, and fermenters; operating structures; and all other equipment used to control, monitor, or operate the machinery. For purposes of this rule, qualified machinery and equipment must be either new to the taxing jurisdiction of the state or new to the certificateholder, except that used machinery and equipment may be treated as qualified machinery and equipment if the certificateholder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(i) Machinery and equipment is an integral and necessary part of pilot scale manufacturing or qualified research and development if the pilot scale manufacturing or qualified research and development could not be accomplished without it. A laboratory table would be integral and necessary to qualified research and development. Decorative artwork would not be integral and necessary to qualified research and development.

(ii) Qualified machinery and equipment must be used exclusively for pilot scale manufacturing or qualified research and development to qualify for the deferral. However, *de minimis* nonqualifying use will not cause the loss of the deferral. An example of *de minimis* use is the occasional use of a computer for personal e-mail.

(iii) Unlike buildings, if machinery and equipment is used for both qualifying and nonqualifying purposes, the costs may not be apportioned. Sales or use tax may not be deferred on the purchase or use of machinery and equipment used for both qualifying and nonqualifying purposes.

(m) "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(n) "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the business and occupation tax credit provided by RCW 82.04.4452. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(i) In order for an operating expense to be a qualified research and development expenditure, it must be directly incurred in qualified research and development. If an employee performs qualified research and development activities and also performs other activities, only the wages and benefits proportionate to the time spent on qualified research and development activities are qualified research and development expenditures under this rule. The wages of employees who supervise or are supervised by persons performing qualified research and development are qualified

research and development expenditures to the extent the work of those supervising or being supervised involves qualified research and development.

(ii) The compensation of a proprietor or a partner is determined in one of two ways:

(A) If there is net income for federal income tax purposes, the amount reported subject to self-employment tax is the compensation.

(B) If there is no net income for federal income tax purposes, reasonable cash withdrawals or cash advances are the compensation.

(iii) Depreciable property within the meaning of this rule is any property with a useful life that extends beyond the accounting year in which it is acquired, regardless of whether the property is depreciated or currently expensed. Expenditures related to depreciable property are not qualified research and development expenditures within the meaning of this rule even though they are currently expensed.

(iv) Computer expenses do not include the purchase, lease, rental, or repair of equipment. They do include Internet subscriber fees, run time on a mainframe computer, and outside processing.

(v) Training expenses for employees are qualified research and development expenditures if the training is directly related to the research and development being performed. Training expenses include registration fees, materials, and travel expenses. Although the research and development must occur in Washington, training may take place outside of Washington.

(vi) Qualified research and development expenditures include the cost of clinical trials for drugs and certification by Underwriters Laboratories.

(vii) Qualified research and development expenditures do not include legal expenses, patent fees, or any other expense not incurred directly for qualified research and development.

(viii) Stock options granted as compensation to employees performing qualified research and development are qualified research and development expenditures to the extent they are reported on the W-2 forms of the employees and are taken as a deduction for federal income tax purposes by the employer.

(ix) Preemployment expenses related to employees who perform qualified research and development are qualified research and development expenditures. These expenses include recruiting and relocation expenses and employee placement fees.

(o) "Research and development" means activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the Federal Food and Drug Administration under chapter 21 CFR, as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or

testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(i) A person need not both discover technological information and translate technological information into new or improved products, processes, techniques, formulas, inventions, or software in order to engage in research and development. A person may perform either activity alone and be engaged in research and development.

(ii) To discover technological information means to gain knowledge of technological information through purposeful investigation. The knowledge sought must be of something not previously known or, if known, only known by persons who have not made the knowledge available to the public.

(iii) Technological information is information related to the application of science, especially with respect to industrial and commercial objectives. Industrial and commercial objectives include both sale and internal use (other than internal use software). The translation of technological information into new or improved products, processes, techniques, formulas, inventions, or software does not require the use of newly discovered technological information to qualify as research and development.

(iv) The translation of technological information requires both technical and nonroutine activities. An activity is technical if it involves the application of scientific, engineering, or computer science methods or principles. Indicia of nonroutine activities include, but are not limited to:

(A) The activity requires the overcoming of technological barriers;

(B) The activity has not been done before; or

(C) The activity involves a process of experimentation.

(v) A product is substantially improved when it functions fundamentally differently because of the application of technological information. This fundamental difference must be objectively measured. Examples of objective measures include increased value, faster operation, greater reliability, and more efficient performance.

(vi) Computer software is developed for internal use if it is to be used only by the person by whom it is developed. If it is to be available for sale, lease, or license, it is not developed for internal use, even though it may have some internal applications. If it is to be available for use by persons, other than the person by whom it is developed, who access or download it remotely, such as through the Internet, it is not usually deemed to be developed for internal use. However, remotely accessed software is deemed to be developed for internal use if its purpose is to assist users in obtaining goods, services, or information provided by or through the person by whom the software is developed. For example, software is developed for internal use if it enables or makes easier the ordering of goods from or through the person by whom the software is developed. On the other hand, a search engine used to search the World Wide Web is an example of software that is not developed for internal use because the search engine itself is the service sought.

(vii) Research and development is complete when the product, process, technique, formula, invention, or software can be reliably reproduced for sale or commercial use.

(p) "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(q) "Taxable amount" means the taxable amount subject to business and occupation tax required to be reported on the person's combined excise tax returns for the year for which the credit is claimed, less any taxable amount for which a multiple activities tax credit is allowed under RCW 82.04.440. See WAC 458-20-19301 for information on the multiple activities tax credit.

(3) **Sales and use tax deferral.** Chapter 82.63 RCW provides for the deferral of sales and use taxes on eligible investment projects. These are projects that involve research and development or pilot scale manufacturing in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(a) **Application process.**

(i) Applicants must apply for deferral to the department of revenue before the initiation of construction of, or acquisition of equipment or machinery for the investment project. The date of application is the earlier of the postmark date or the date of receipt by the department.

(A) Construction is initiated when workers start on-site building tasks. The initiation of construction does not include land clearing or site preparation prior to excavation of the building site. Also, the initiation of construction does not include design or planning activities. In the case of tenant improvements, construction is initiated when workers start demolition tasks.

(B) Equipment or machinery is acquired at the time the applicant or its agent obtains dominion and control of the equipment or machinery.

(ii) Application forms may be obtained at department of revenue district offices, by downloading from the department's website (dor.wa.gov), by telephoning the telephone information center (800-647-7706), or by contacting the department's special programs division at:

Department of Revenue
Special Programs Division
Post Office Box 448
Olympia, WA 98504-0448
FAX 360-586-2163

(iii) Applicants must mail or fax applications to the special programs division at the address or fax number given above.

(iv) The application form shall include information regarding the location of the investment project, the applicant's average employment in Washington for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, and time schedules for completion and operation. The application form may also include other information relevant to the project and the applicant's eligibility for deferral.

(v) Applicants must agree to supply the department with nonproprietary information necessary to measure the results of the tax deferral program.

(vi) Applications and other information received by the department in connection with the deferral program are not confidential and are subject to public disclosure.

(vii) The department must rule on an application within sixty days. If an application is denied, the department must explain in writing the basis for the denial. An applicant may appeal a denial within thirty days under WAC 458-20-100.

(b) Deferral certificate.

(i) If an application is approved, the department must issue the applicant a sales and use tax deferral certificate.

(ii) The certificate provides for deferral of state and local sales and use taxes on the eligible investment project. The certificate will state the amount of tax deferral for which the recipient is eligible. It will also state the date by which the project will be operationally complete. The deferral is limited to investment in qualified buildings or qualified machinery and equipment. The deferral does not apply to the taxes of persons with whom the recipient does business, persons the recipient hires, or employees of the recipient.

(iii) A successful applicant, hereafter referred to as a recipient, must present a copy of the certificate to sellers of goods or retail services provided in connection with the eligible investment project in order to avoid paying sales or use tax. Sellers who accept these certificates in good faith are relieved of the responsibility to collect sales or use tax on transactions covered by the certificates. Sellers must retain copies of certificates as documentation for why sales or use tax was not collected on a transaction.

(iv) In cases of leases of qualifying machinery and equipment, the deferral certificate allows for deferral of tax on payments made during the initial term of the lease, and does not allow for deferral for extensions or renewals of the lease. Deferral of tax is not allowed for lease payments for any period after the seventh calendar year following the calendar year for which the project is certified as operationally complete.

(v) The certificate may not be used to defer tax on repairs to, or replacement parts for, qualified machinery and equipment.

(vi) The department may not issue a certificate for an investment project that has already received a deferral under chapters 82.60, 82.61, or 82.63 RCW, except that an investment project for qualified research and development that has already received a deferral may also receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing.

(c) Amendment of application or certificate.

(i) Applicants and recipients may make written requests to the special programs division to amend an application or certificate.

(ii) Grounds for requesting amendment include, but are not limited to:

(A) The project will exceed the costs originally stated;

(B) The project will take more time to complete than originally stated;

(C) The original application is no longer accurate because of changes in the project;

(D) Transfer of ownership of the project.

(iii) The department must rule on the request within sixty days. If the request is denied, the department must explain in writing the basis for the denial. An applicant may appeal a denial within thirty days under WAC 458-20-100.

(d) Certification.

(i) When the building, machinery, or equipment is ready for use, the recipient must notify the special programs division in writing that the eligible investment project is operationally complete. The department shall, after appropriate investigation: Certify that the project is operationally complete; not certify the project; or certify only a portion of the project. The certification will include the year in which the project is operationally complete.

(ii) If all or any portion of the project is not certified, the recipient must repay all or a proportional part of the deferred taxes. The department will notify the recipient of the amount due, including interest, and the due date.

(iii) The department must explain in writing the basis for not certifying all or any portion of a project. The decision of the department to not certify all or a portion of a project may be appealed under WAC 458-20-100 within thirty days.

(e) Repayment of deferred taxes.

(i) Deferred taxes need not be repaid if the investment project is used only for qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete and during the succeeding seven calendar years.

(ii) Deferred taxes must be repaid if an investment project is used for purposes other than qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete or at any time during any of the succeeding seven calendar years. Taxes are immediately due according to the following schedule:

Year in which nonqualifying use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

Interest on the taxes, but not penalties, must be paid retroactively to the date of deferral.

(iii) However, if the investment project is used for purposes other than qualified research and development or pilot scale manufacturing during the first eight years, deferred taxes need not be repaid on particular items if the purchase or use of the item would have qualified for the machinery and equipment sales and use tax exemptions provided by RCW

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82.08.02565 and 82.12.02565 (discussed in WAC 458-20-13601) at the time of purchase or first use.

(iv) Deferred taxes need not be repaid if qualified machinery and equipment on which the taxes were deferred is destroyed, becomes inoperable and cannot be reasonably repaired, wears out, or becomes obsolete and is no longer practical for use in the project. The use of machinery and equipment which becomes obsolete for purposes of the project and is used outside the project is subject to use tax at the time of such use.

(f) **Transfer of deferral.** Transfer of ownership does not terminate the deferral. The deferral may be transferred to the new owner if the new owner meets all eligibility requirements for the remaining periods of the deferral. The new owner must apply for an amendment to the deferral certificate. If the deferral is transferred, the new owner is liable for repayment of deferred taxes under the same terms as the original owner. If the new owner is a successor to the previous owner under the terms of WAC 458-20-216 and the deferral is not transferred, the new owner's liability for deferred taxes is limited to those that are due for payment at the time ownership is transferred.

(g) **No extinguishment of debt.** The debt for deferred taxes will not be extinguished by the insolvency or other failure of the recipient.

(h) **Expiration of sales and use tax deferral program.** The authority of the department to issue deferral certificates expires July 1, 2004.

(4) Examples relating to the sales and use tax deferral program.

(a) Lessor and lessee examples.

(i) Prior to the initiation of construction, Owner/Lessor A enters into an agreement with Lessee B, a company engaged in qualified research and development. Under the agreement, A will build a building to house B's research and development activities, will apply for a tax deferral on construction of the building, will lease the building to B, and will pass on the value of the deferral through reduced rent payments. A applies for the deferral before construction begins. A is entitled to a deferral on building construction costs.

(ii) After construction has begun, Lessee C asks that certain tenant improvements be added to the building. Lessor D and Lessee C each agree to pay a portion of the cost of the improvements. C and D each apply for a deferral on the costs of the tenant improvements before work on the tenant improvements has begun. Both applications may be approved. While construction of the building was initiated before the applications were submitted, tenant improvements on a building under construction are deemed to be the expansion or renovation of an existing structure.

(iii) After construction has begun but before machinery or equipment has been acquired, Lessee E applies for a deferral on machinery and equipment. The application will be approved. Even though it is too late to apply for a deferral of tax on building costs, it is not too late to apply for a deferral for the machinery and equipment.

(b) **Apportionment of building costs.** A building to be constructed will be partially devoted to research and development and partially devoted to marketing, a nonqualifying pur-

pose. The total area of the building is one hundred thousand square feet. Sixty thousand square feet are used only for research and development, twenty thousand square feet are used only for marketing, and the remaining twenty thousand square feet are used in common by research and development employees and marketing employees. Tax on the cost of constructing the sixty thousand square feet used only for research and development may be deferred. Tax on the cost of constructing the twenty thousand square feet used only for marketing may not be deferred. Tax on seventy-five percent of the cost of constructing the common areas may be deferred. (Sixty thousand square feet devoted solely to research and development divided by eighty thousand square feet devoted solely to research and development and marketing results in a ratio expressed as seventy-five percent.)

(5) **Business and occupation tax credit.** RCW 82.04.4452 provides for a business and occupation tax credit for persons engaging in research and development in Washington in five areas of high technology: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(a) **Eligibility for the credit.** Persons are eligible for the credit if their research and development spending in the calendar year for which credit is claimed exceeds 0.92 percent of the person's taxable amount for the same calendar year.

(b) **Calculating the credit.**

(i) Prior to July 1, 1998. The amount of the credit is equal to the greater of:

the person's qualified research and development expenditures

or

eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00515 in the case of a nonprofit corporation or association, and

multiplied by 0.025 in the case of all other persons.

(ii) On and after July 1, 1998. The amount of the credit is equal to the greater of:

the person's qualified research and development expenditures

or

eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00484 in the case of a nonprofit corporation or association, and

multiplied by 0.015 in the case of all other persons.

(iii) Persons calculating the credit on the basis of amounts received for conducting qualified research and development must actually perform the research and development themselves. Amounts received for conducting qualified research and development that are paid to other persons who actually perform some or all of the qualified research and development contracted for may not be included in the calculation.

(iv) The credit for any calendar year may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due for the calendar year.

(v) Credits may not be carried forward or carried back to other calendar years.

(c) Claiming the credit.

(i) The first time persons claim the credit they must complete an Initial Survey, Research and Development Credit form (26 0005) and mail it to the address indicated on the form. The purpose of the initial survey is to gather information necessary to measure the results of the credit program. By law, persons claiming the credit must agree to provide this information.

(ii) Credits are claimed on the person's combined excise tax return. Every time a credit is claimed, the person making the claim must complete and attach a Declaration, Research and Development Credit form (26 0003) to the return.

(iii) The Initial Survey and Declaration forms used in the credit program may be obtained at department of revenue district offices, by downloading from the department's website (dor.wa.gov), or by telephoning the telephone information center (800-647-7706).

(d) **Assignment of the credit.**

(i) A person entitled to the credit because of qualified research and development conducted under contract for another person may assign all or a portion of the credit to the person who contracted for the performance of the qualified research and development.

(ii) The assignment is accomplished by use of the Declaration, Research and Development Credit form, referred to in (c)(ii) of this subsection.

(iii) Both the person assigning the credit and the person receiving the credit must be eligible under (a) of this subsection for the assignment to be valid.

(iv) The total of the credit claimed and the credit assigned by a person assigning credit may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignor in any calendar year.

(v) The total of the credit claimed, including credit received by assignment, may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignee in any calendar year.

(e) **Expiration.** The business and occupation tax credit program for high technology businesses expires December 31, 2004.

(6) **Examples relating to the credit program.**

(a) A business, not a nonprofit corporation or association, which engages in qualified research and development has a taxable amount of ten million dollars in 2002. It pays eighty thousand dollars in 2002 in wages and benefits to employees directly engaged in qualified research and development. Also during 2002, it pays twenty thousand dollars to a person that is not a public educational or research institute to conduct qualified research and development. It is eligible to claim the credit for 2002. Its research and development spending, ninety-six thousand dollars (eighty thousand dollars in wages plus eighty percent of twenty thousand dollars for contracted research and development) is more than

ninety-two thousand dollars (0.92 percent of its taxable amount, ten million dollars).

The amount of credit is one thousand two hundred dollars. This is determined by multiplying its qualified research and development expenditures, eighty thousand dollars, by 0.015. The contracted amount is not included in the credit computation.

(b) A company that engages in environmental cleanup contracted to clean up a site. It had never faced exactly the same situation before, but guaranteed at the outset that it could do the job. It used a variety of existing technologies to accomplish the task in a combination it had never used before. The company was not engaged in research and development in performing this contract. It applied existing technologies in a routine manner, considering the nature of its business, and the outcome was certain.

(c) Company A is engaged in research and development in biotechnology and needs to perform standard blood tests as part of its development of a drug. It contracts with a lab, B, to perform the tests. The costs of the tests are qualified research and development expenditures for A, the company engaged in the research and development. Although the tests themselves are routine, they are only a part of what A is doing in the course of developing the drug. B, the lab contracted to perform the testing, is not engaged in research and development with respect to the drug being developed. B is neither discovering technological information nor is it translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. B is not entitled to a credit on account of the compensation it receives for conducting the tests.

(d) Company C is engaged in research and development. It enters into a contract with Company D requiring Company D to provide employees to work under the direction of Company C. Company D's only obligation is to provide employees. It is not obligated to perform any other task. Company D's provision of employees is not research and development and it is not entitled to the credit on account of the contract. Company D is neither discovering technological information nor is it translating technological information into new or improved products, processes, techniques, formulas, inventions, or software.

WSR 03-08-071

WITHDRAWAL OF PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

(By the Code Reviser's Office)

[Filed April 1, 2003, 9:20 a.m.]

WAC 284-30-505, proposed by the Office of the Insurance Commissioner in WSR 02-19-011 appearing in issue 02-19 of the State Register, which was distributed on October 2, 2002, 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 03-08-076
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Board of Boiler Rules)
 [Filed April 1, 2003, 4:31 p.m.]

Date of Intended Adoption: May 28, 2003.

April 1, 2003
 Craig Hopkins, Chair
 Board of Boiler Rules

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-129.

Title of Rule: General fee increase for the Board of Boiler Rules, chapter 296-104 WAC.

Purpose: The Board of Boiler Rules is proposing a 3.29% (rounded down to the nearest tenth of a dollar) general fee increase. The 3.29% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2003. The general fee increase is necessary to help offset inflation and to maintain the financial health and operational effectiveness of the program.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Statute Being Implemented: Chapter 70.79 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, Tumwater, (360) 902-5270; Implementation and Enforcement: Robb Marvin, Tumwater, (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed rules will not place a more than minor impact on any business, contractor, or other entity.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does apply to these rule changes because the exempt criteria outlined in RCW 34.05.328(5) was not met.

Hearing Location: Labor and Industries Building, 950 Broadway, Suite 200, Tacoma, WA 98402-4453, on May 20, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by May 16, 2003, at (360) 902-6411 or swaj235@LNI.wa.gov for special assistance/accommodation needs.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lni.wa.gov, fax (360) 902-5292, by May 20, 2003. Comments submitted by fax must be ten pages or less.

AMENDATORY SECTION (Amending WSR 02-12-021, filed 5/28/02, effective 6/28/02)

WAC 296-104-055 Administration—What are the examination fees? A fee of \$((~~63.40~~)) 65.40 will be charged for each applicant sitting for an inspection examination(s). If an applicant fails to pass the examination this fee shall be good for one year during which a reexamination may be taken. Checks for examination fees shall be made payable to the state treasurer.

AMENDATORY SECTION (Amending WSR 02-23-036, filed 11/13/02, effective 12/14/02)

WAC 296-104-700 What are the inspection fees—Certificate fees—Expenses? The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	((28.50))	((22.80))
	<u>29.40</u>	<u>23.50</u>
All other boilers less than 500 sq. ft.	((34.30))	((22.80))
	<u>35.40</u>	<u>23.50</u>
500 sq. ft. to 2500 sq. ft.	((57.20))	((28.50))
	<u>59.00</u>	<u>29.40</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((22.80))	((11.40))
	<u>23.50</u>	<u>11.70</u>
Power boilers:	Internal	External
Less than 100 sq. ft.	((28.50))	((22.80))
	<u>29.40</u>	<u>23.50</u>
100 sq. ft. to less than 500 sq. ft.	((34.30))	((22.80))
	<u>35.40</u>	<u>23.50</u>
500 sq. ft. to 2500 sq. ft.	((57.20))	((28.50))
	<u>59.00</u>	<u>29.40</u>
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	((22.80))	((11.40))
	<u>23.50</u>	<u>11.70</u>
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		((5.60))
		<u>5.70</u>

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All other pressure vessels:

Square feet shall be determined by multiplying the length of the shell by its diameter.

	Internal	External
Less than 15 sq. ft.	((22.80)) <u>23.50</u>	((17.10)) <u>17.60</u>
15 sq. ft. to less than 50 sq. ft.	((34.30)) <u>35.40</u>	((17.10)) <u>17.60</u>
50 sq. ft. to 100 sq. ft.	((39.90)) <u>41.20</u>	((22.80)) <u>23.50</u>
For each additional 100 sq. ft. or any portion thereof	((39.90)) <u>41.20</u>	((11.40)) <u>11.70</u>

Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$ ((~~17.10~~)) 17.60 per object.

Boiler and pressure vessel installation/reinstallation permit (excludes inspection and certificate of inspection fee) \$50.00

Nonnuclear shop inspections, field construction inspections, and special inspection services:

For each hour or part of an hour up to 8 hours	((34.30)) <u>35.40</u>
For each hour or part of an hour in excess of 8 hours	((51.40)) <u>53.00</u>

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours	((51.40)) <u>53.00</u>
For each hour or part of an hour in excess of 8 hours	((80.00)) <u>82.60</u>

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours	((34.30)) <u>35.40</u>
For each hour or part of an hour in excess of 8 hours	((51.40)) <u>53.00</u>

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours	((51.40)) <u>53.00</u>
For each hour or part of an hour in excess of 8 hours	((80.00)) <u>82.60</u>

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$((~~317.20~~)) 327.60 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

WSR 03-08-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed April 1, 2003, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-24-064.

Title of Rule: WAC 388-448-0130 Treatment and referral requirements and 388-448-0140 Good cause for refusing medical treatment or other agency referrals.

Purpose: (1) To describe employment services offered as an optional program and clarify that a client cannot be penalized for not participating.

(2) To clarify language on refusal to accept medical treatment based on religious principles.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.005 (6)(c).

Statute Being Implemented: RCW 74.04.005 (6)(c).

Summary: WAC 388-448-0130 Treatment and referral requirements, adds a new subsection to identify optional employment support services that department may choose to offer recipients.

WAC 388-448-0140 Good cause for refusing medical treatment or other agency referrals, revises the language on refusal of medical treatment on religious grounds and adds the fact that employment support services are optional as a good cause for failure to accept those services.

Reasons Supporting Proposal: Clients are losing benefits contrary to department intent.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Doug Sevin, 1009 College S.E., Lacey, WA 98504, (360) 413-3097.

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

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

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Explanation of Rule, its Purpose, and Anticipated Effects: Rule: WAC 388-448-0130 Treatment and referral requirements and 388-448-0140 Good cause for refusing medical treatment or other agency referrals.

Purpose and Effect: WAC 388-448-0130 implements the state statute requiring clients who may become able to work or reduce their need for state cash assistance to cooperate with the medical treatment or services from other agencies that will achieve those goals.

WAC 388-448-0140 implements the state statute that a cash assistance recipient can refuse to accept medical treatment or referral to another agency when the recipient presents good cause. The rule defines good cause and describes some situations that the department accepts as good cause.

The effects are that department workers and recipients will be aware of the statutory requirements and administer those requirements in a uniform manner.

Proposal Changes the Following Existing Rules: The department has been authorized to offer employment supports to general assistance recipients and choose which recipients will be offered those supports. It is not the department's intent to use this choice to penalize recipients but this intent is not reflected in the current rule. WAC 388-448-0130 is being changed to make it clear that choosing clients to offer the services makes the recipient's participation voluntary. WAC 388-448-0140 includes the fact that employment supports are voluntary as good reason for a recipient to decline or stop using these employment supports.

The current rule granting good cause for refusing medical treatment on religious grounds is limited to a person who practices an "organized religion." The current language puts the department in the position of deciding what constitutes a religion. The change is meant to focus on how an individual's religious beliefs affect accepting medical treatment.

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 clarify eligibility criteria for the general assistance program.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 6, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 2, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernax@dshs.wa.gov, by 5:00 p.m., May 6, 2003.

Date of Intended Adoption: Not earlier than May 7, 2003.

March 28, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0130 Treatment and referral requirements. We refer you to medical providers for available medical treatment or other agencies for treatment, rehabilitation or work activities when we decide it will improve your ability to be gainfully employed or reduce your need for GAU. "Available medical treatment" means medical, surgical, chemical dependency, or mental health services, or a combination of them.

(1) When you are first approved and at each review determination, we give you written information regarding your treatment requirements.

(2) You must accept and follow through on required medical treatment and referrals to other agencies and services, including applying for SSI, unless you have good cause for not doing so. Examples of good cause are found in WAC 388-448-0140.

(3) We may require you to undergo alcohol or drug treatment before reviewing your eligibility for GAU.

(4) You may request a fair hearing if you disagree with the treatment or referral requirements we set for you (see WAC 388-458-0040).

(5) Within available resources and at our discretion, you may be offered work activities and support services that we refer to as the WorkPlus program. Your participation is voluntary and we will not penalize you if you choose to decline or discontinue participation.

AMENDATORY SECTION (Amending WSR 01-14-059, filed 6/29/01, effective 8/1/01)

WAC 388-448-0140 Good cause for refusing medical treatment or other agency referrals. We may determine that you have good cause for refusing required treatment or referrals to other agencies. We may require you to provide proof to support your good cause claim. Valid reasons for refusing treatment and other agency referrals include, but are not limited to, the following:

(1) Valid reasons for refusing treatment referrals:

(a) You are so fearful of the treatment that your fear could interfere with the treatment or reduce its benefits;

(b) Treatment could cause further limitations or loss of a function or an organ and you are not willing to take that risk;

(c) ~~((You practice an organized religion that prohibits treatment))~~ Your refusal is based on religious belief; or

(d) Treatment is not available without cost to you.

(2) Valid reasons for refusing treatment or other agency referrals:

(a) We did not give you enough information about the requirement;

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- (b) You did not receive written notice of the requirement;
- (c) The requirement was made in error;
- (d) You are temporarily unable to participate because of documented interference((,-of));
- (e) You volunteered for an optional work activity, treatment or referral to another agency; or
- (f) Your medical condition or limitations are consistent with the definition of necessary supplemental accommodation (NSA), WAC, 388-472-0020 and your condition or limitations contributed to your refusal, per WAC 388-472-0050.

WSR 03-08-089
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed April 2, 2003, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-13-051.

Title of Rule: Vehicle suncreening devices.

Purpose: To allow transit city buses to keep the sun-screening devices that are being installed when busses are manufactured.

Statutory Authority for Adoption: RCW 46.37.005.

Summary: Will allow transit city buses to keep the sun-screening devices that are installed on the buses at the time of manufacture. Transit city buses will be exempt from provisions of WAC 204-92A-050 (1) and (2).

Reasons Supporting Proposal: Seattle Transit and Olympia Transit have requested these suncreening devices be allowed on transit buses.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Christine Fox, Commercial Vehicle Division, (360) 753-3697.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this revision is to include transit city buses to the list of types of vehicles that are exempt from the provisions of WAC 204-82A-050 (1) and (2).

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol, Commercial Vehicle Division Headquarters Conference Room, 210 11th Avenue S.W., Room G21, General Administration Building, Olympia, WA 98504, on May 6, 2003, at 1000.

Assistance for Persons with Disabilities: Contact Ms. Christine Fox by May 2, 2003, (360) 753-3697.

Submit Written Comments to: Ms. Christine Fox, 210 11th Avenue S.W., Room G21, General Administration Building, P.O. Box 42614, Olympia, WA 98504-2614, fax (360) 586-8233, by May 2, 2003.

Date of Intended Adoption: May 7, 2003.

March 31, 2003

Ronal W. Serpas

Chief

AMENDATORY SECTION (Amending WSR 89-24-023, filed 11/30/89, effective 12/31/89)

WAC 204-82A-060 Exceptions. Due to the nature of use, function and operation of such vehicles, transit city buses are exempt from the provisions of WAC 204-92A-050 (1) and (2). The following are exempted from the provisions of WAC 204-82A-050(2):

(1) Hearses.

(2) Ambulances.

(3) Limousines ((and)), passenger buses, and transit city buses used to transport persons for compensation.

Such vehicles shall have mirrors on both the right and left to provide vision at least two hundred feet to the rear. This section does not limit liability of the operators and/or owners of such vehicles involved in accidents resulting from reduced visibility.

WSR 03-08-093

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed April 2, 2003, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-05-014.

Title of Rule: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc.

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

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

Statutory Authority for Adoption: RCW 46.01.110, 46.12.101.

Summary: Amending WAC 308-56A-070 Leased vehicles, 308-56A-300 Application for certificate of ownership for abandoned vehicles, 308-56A-305 Law enforcement sale, 308-56A-315 Name change, 308-56A-320 Transfer by court order, 308-56A-325 Owner incompetent, and 308-56A-330 Owner bankrupt.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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 107, 1125 Washington Street S.E., Olympia, WA 98507, on May 7, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by 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 May 6, 2003.

Date of Intended Adoption: June 3, 2003.

April 1, 2003

D. McCurley, Administrator
Title and Registration Services
by Katherine Vasquez

AMENDATORY SECTION (Amending WSR 99-08-064, filed 4/5/99, effective 5/6/99)

WAC 308-56A-070 Leased vehicles. (1) How are the lessee and lessor designated on Washington certificates of ownership?

(a) The ~~((application for))~~ certificate of ownership ~~((shall))~~ will show the name of the lessee as registered owner, followed by ~~((the word lessee))~~ LSE. The name of the lessor ~~((shall))~~ will be shown as the secured party or legal owner, followed by ~~((the word lessor))~~ LSR.

(b) If the vehicle is subject to a security agreement ~~((the application shall be completed as above with))~~ the certificate of ownership will show the lessor's name immediately below the lessee's name as ~~((second))~~ a subsequent registered owner ~~((and shall be))~~ followed by ~~((the word lessor))~~ LSR. The address shown ~~((shall))~~ will be the lessee's. The secured party's name and address ~~((shall))~~ will be shown as the legal owner.

(c) Dealers and persons engaged in the business of vehicle leasing may simply ~~((show the lessor))~~ be shown as sole registered owner if a copy of the lease or rental agreement is attached to the application. This does not apply if the lease contains an option to purchase or if it is for more than one year.

(2) How ~~((is a lessee and sublessee designated on the Washington certificate of ownership?~~

~~((a) Lessees who enter into a lease agreement with another party will be shown on a certificate of ownership as the registered owner followed by the designation LESSEE. The sublessee will be shown on a certificate of ownership as the registered owner followed by the designation SUBLSEEE.~~

~~Only the sublessee must sign the application for certificate of ownership:~~

~~((b) The name of the lessor shall be shown as either:~~

~~((i) The secured party or legal owner, followed by the word lessor; or~~

~~((ii) If the vehicle is subject to a security agreement, the application shall be completed as above with the lessor's name immediately below the lessee's name as third registered owner and shall be followed by the word lessor. The address shown shall be the sublessee's. The secured party's name and address shall be shown as the legal owner.~~

(3)) does a lien holder release interest on a leased vehicle? To release a lien on a vehicle that is being leased the lien holder must follow procedures outlined in WAC 308-56A-265.

(3) What if a sublessee is to be shown on the Washington certificate of ownership?

(a) Sublessees will be shown on the certificate of ownership as first registered owner, followed by SUBLSE. Lessees, lessor, and secured parties will be shown successively as described in subsection (1) of this section.

(b) The address of the registered owner will be that of the sublessee.

(c) Any person to be shown on the certificate of ownership as a registered owner as described in subsections (1) and (3)(a) of this section must sign the application for certificate of ownership.

(4) Do I need to surrender my out-of-state certificate of ownership to the department when I register my leased vehicle in Washington? If the out-of-state certificate of ownership shows lessee and lessor designations as required by Washington state law or rule, the certificate of ownership need not be surrendered. A certificate of registration will be issued, however, a Washington certificate of ownership will not. If the out-of-state certificate of ownership is not in name agreement or does not show lessee and lessor designations as required by Washington law or rule, the out-of-state certificate of ownership ~~((shall))~~ must be surrendered and a Washington certificate of ownership will be issued to the lessor/legal owner.

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-300 Application for certificate of ownership for abandoned vehicles. What proof of ownership ~~((document does the department require to issue a certificate of ownership for a vehicle which has been abandoned? A properly completed, department required, abandoned vehicle report—affidavit of sale form, as provided in chapter 46.55 RCW))~~ do I need to submit for a vehicle I purchased at a Washington abandoned vehicle auction as authorized under chapter 46.55 RCW? You must submit:

(1) A Washington Abandoned Vehicle Report - Affidavit of Sale form as provided for in WAC 308-61-026(1); and

(2) Certificate of ownership application and other documents required by RCW 46.12.030(3).

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-305 Law enforcement sale. (1) ~~What ((ownership document does the department require to issue a certificate of ownership for a vehicle which has been purchased at a law enforcement sale? The department requires, in addition to other))~~ documents must I submit to obtain a certificate of ownership for a vehicle that has been purchased at a law enforcement sale? You must submit:

(a) ~~Documents required by chapters 46.01 and 46.12 RCW((:~~

~~(a) The current certificate of ownership, if it is available; and))~~;

(b) A bill of sale from law enforcement to the purchaser stating that the vehicle was sold in accordance with chapter 63.32, 63.35 or 63.40 RCW; ~~((or))~~

(c) A copy of an order from any district or superior court of any county of this state authorizing law enforcement to sell the vehicle; or

~~(d) The current certificate of ownership, if it is available.~~

(2) Does the sale of a vehicle at a law enforcement sale remove any previous security interest? Yes, the security interests are released ((upon)) at the time of sale ((of a vehicle at a law enforcement sale)).

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-315 Name change. ~~What ((documentation does the department require to change my name shown on the certificate of ownership? In addition to other))~~ document must I submit to change my name shown on the certificate of ownership? You must submit:

(1) ~~Documents required by chapters 46.01 and 46.12 RCW((, the department requires:~~

~~(1) A court order)); and~~

~~(2) If the name was changed by a court order, a copy of that order; or~~

~~((2) An))~~ (3) A notarized/certified affidavit signed by you stating:

(a) Your previous and current names; and

(b) The reason for the name change; and

(c) That the purpose of the name change is not to defraud ~~((creditors)).~~

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-320 Transfer by court order. (1) ~~What ((does the department require if ownership of a vehicle is awarded by court order? In addition to other documents required by chapters 46.01 and 46.12 RCW, the department requires))~~ documents must I submit if ownership of a vehicle is awarded by court order? In addition to ownership documents required by chapter 46.12 RCW and registration documents required by chapter 46.16 RCW, you must submit:

(a) A copy of the Washington state court order, or certification from the clerk of the court confirming the courts action~~((, for vehicles titled in Washington state)); or~~

(b) Finding of fact, conclusion of law and decision from the Washington state office of administrative hearings per RCW 46.12.330 for vehicles titled in Washington state; or

(c) A copy of the foreign court order if a vehicle for which ownership was most recently established is in the same jurisdiction as the court action, example: California court order and California vehicle ownership documents; or

~~((e))~~ (d) The court order to be filed in accordance with RCW 6.36.025 if the court order and vehicle certificate of ownership are not from the same jurisdiction; or

~~((d) Obtain))~~ (e) A certificate of ownership from a foreign jurisdiction in ((their)) the applicant's name ((from a foreign jurisdiction)).

(2) What information ((needs to be)) does the department require on the court order ((for the department to accept it)) or legal decision as defined in RCW 46.12.330? ((The department requires)) At a minimum, the court order ((to)) or legal decision must contain:

(a) The full name of the person to whom the property is awarded;

(b) A description of the vehicle(s) awarded~~((, including the vehicle identification number or Washington license plate, if available));~~

(c) Validation that the court order has been filed;

(d) An indication that the court order is the final judgment of the court in this matter; and

(e) A signature of an authorized representative of the court.

(3) Does the department require all pages of the final court order or legal decision as defined in RCW 46.12.330? No, the department requires only copies of pages of the final court order ((containing)) or legal decision that contain:

(a) The information listed in subsection (2) of this section; and

(b) If the court order or legal decision identifies any collateral agreements, ~~((those portions of the collateral agreement identifying the vehicle and its disposition;))~~ include the first page ~~((and)),~~ the signature page ~~((of that collateral agreement)), and vehicle description; and~~

(c) The page of the order or decision actually signed by the judge~~((commissioner))~~ or legal official.

(4) Does the copy of the court order or legal decision need to be certified? ((The copy of the court order does not need to be certified.)) No.

(5) What does the department require if the court order or legal decision does not describe the vehicle by vehicle identification number (VIN) or Washington license plate number? The department requires a certified or notarized statement from the owner describing the vehicle in the court order or legal decision by year, make and VIN or vehicle license plate number.

(6) Does the court order or legal decision allow the department to remove the security interest recorded on the current certificate of ownership? The department ((shall:

~~((a))~~ will remove the security interest only if the court order or legal decision specifically directs the department to do so.

~~((b) Not remove the security interest if not specified to do so in the court order.)~~ **(7) How do I get the security interest removed if the court order or legal decision does not specifically direct the department to do so?** The new owner may:

~~((i))~~ **(a)** Negotiate with ~~((a))~~ the secured party to obtain either a release of interest or a new security agreement; or

~~((ii))~~ **(b)** Petition the original court or legal official that issued the order or decision, or a higher court, to have the matter of the secured interest resolved.

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-325 Owner incompetent. **(1) What documentation does the department require to show ~~((guardianship))~~ a guardian has been appointed for a person who has been declared incompetent?** The department requires a copy of ~~((an))~~ the order issued from any district or superior court of competent jurisdiction.

(2) How is the interest of a person who has been declared incompetent by the court recorded on the certificate of ownership issued by the department? The department will record ~~((on the certificate of ownership))~~ the name of the court appointed guardian(s) followed by the designation GDN and the name of the estate of the person declared incompetent on the certificate of ownership. Example: John Doe GDN, Estate of Mary Smith.

(3) Who releases interest on a vehicle ownership document if the owner is declared incompetent? Only the court appointed guardian may release interest in ~~((a))~~ the vehicle ~~((owned by an individual who has been declared incompetent)).~~ If guardianship is not recorded on the current certificate of ownership, a copy of the court order appointing the guardian must accompany the release of interest ~~((must be accompanied by a copy of the court order appointing the guardian if guardianship is not recorded on the current certificate of ownership)).~~ The guardian may not appoint any person through power of attorney to release interest.

AMENDATORY SECTION (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

WAC 308-56A-330 Owner bankrupt. Who releases interest in a vehicle when an owner has been declared bankrupt? The owner or ~~((a))~~ the trustee appointed by the bankruptcy court has the authority to release interest ~~((an))~~ in a vehicle ~~((certificate of ownership when the owner has been declared bankrupt)).~~ A copy of the court order appointing the trustee must accompany the release of interest ~~((shall be accompanied by a copy of the court order appointing the trustee)).~~

WSR 03-08-094
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed April 2, 2003, 10:50 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Regulation I, Sections 3.03 and 6.04.

Purpose: To adjust the general regulatory order and notice of construction fees to cover agency costs.

Other Identifying Information: Section 3.03 pertains to General Regulatory Orders; Section 6.04 pertains to Notice of Construction Fees.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will adjust the fees the agency charges for the notice of construction program and for general regulatory orders, which will help to cover agency costs.

Reasons Supporting Proposal: The fees charged for the notice of construction program and general regulatory orders need to cover agency costs.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4052; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on May 22, 2003, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by May 15, 2003, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by May 12, 2003.

Date of Intended Adoption: May 22, 2003.

April 1, 2003
 Steve M. Van Slyke
 Supervisory Engineer

PROPOSED

AMENDATORY SECTION

REGULATION I SECTION 3.03 GENERAL REGULATORY ORDERS

(a) **Purpose.** The Board may, by regulatory order, apply to a specific source or sources any applicable provision of chapter 70.94 RCW or the rules adopted thereunder.

(b) **Public Involvement Process.** The Board may issue a regulatory order after the following public involvement process has been completed:

(1) Public notice of the proposed order shall be published in a newspaper of general circulation in the area where the source that is the subject of the order is located. Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator. The public notice shall include, at a minimum, the following information:

(A) The name and address of the owner or operator and the source;

(B) A brief description of the purpose of the proposed order and the requirements included in the proposed order;

(C) The deadline for submitting written comments to the Agency; and

(D) The opportunity for a public hearing if the Agency determines that there is significant public interest in the proposed order.

(2) The initial public comment period shall be at least 30 days.

(3) During the initial 30-day public comment period, any person may request a public hearing be held. Any such request shall be submitted in writing to the Agency, shall indicate the interest of the entity filing it, and describe why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held before a hearing officer and upon such notice and at a time and place as the Agency deems reasonable. The hearing officer shall hear testimony at the public hearing and prepare a written summary of the testimony received at the hearing. The Agency shall provide at least 30 days prior notice of any hearing. If a public hearing is held, the public comment period shall extend through the hearing date.

(c) **Board Action.** The Board shall only issue an order under this section after:

(1) The public comment period has ended;

(2) Any public hearing scheduled has been held; and

(3) The Board has considered all information and data related to the proposed order received by the Agency, including all written comments received and any summary of testimony prepared by the hearing officer.

The Board shall take action on a proposed order at a Board meeting. Unless otherwise ordered by the Board, an order issued under this section shall be effective on the date the Board approves the order.

(d) **Appeals.** Orders issued by the Board under this section may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.

(e) **Fees.** The Agency shall assess a fee of ~~(\$1,000.00)~~ \$4,000 to cover the costs of processing and issuing a general

regulatory order under this section. The Agency shall also assess a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of this regulation. These fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

AMENDATORY SECTION

REGULATION I SECTION 6.04 NOTICE OF CONSTRUCTION FEES

(a) A Notice of Construction application is incomplete until the Agency has received fees as shown below:

Filing Fee (for each application, to be paid prior to any review)	\$750
Spray-Coating Booth (commercially manufactured)	\$250
Coffee Roaster (less than 40 pounds/batch, with thermal oxidizer)	\$500
Hot Mix Asphalt Batch Plant	\$7,000
Soil Thermal Desorption Unit	\$5,000
Electric Generation Project: (combined heat input capacity)	
10 - 100 million Btu/hr (2.9 - 29 MW)	\$5,000
101 - 250 million Btu/hr (29 - 73 MW)	\$10,000
> 250 million Btu/hr (> 73 MW)	(\$15,000) <u>\$25,000</u>
Composting Facility	(\$5,000) <u>\$10,000</u>
Commercial Solid Waste Handling Facility	(\$5,000) <u>\$10,000</u>
Landfill Gas System	\$2,500
Refuse Burning Equipment: (rated charging capacity)	
≤ 12 tons per day	\$5,000
> 12 tons and ≤ 250 tons per day	\$20,000
> 250 tons per day	\$50,000
Other (not listed above) for each Piece of Equipment and Control Equipment	\$500
Additional Charges (for each application):	
SEPA Threshold Determination	\$500
(DNS, under Regulation I, Section 2.04)	
SEPA Threshold Determination	\$1,500
(MDNS, under Regulation I, Section 2.07)	
Public Notice	\$500
(under Regulation I, Section 6.06)	(+publication costs)
NSPS or NESHAP	\$1,000
(per subpart of 40 CFR Parts 60, 61, and 63)	
Refined Dispersion Modeling Analysis	\$500
(under Regulation III, Section 2.07 (c)(2))	
Major Source, Major Modification, or Emission Increases Greater than Prevention of Significant Deterioration (PSD) Thresholds	\$5,000
(under WAC 173-400-112 or WAC 173-400-113)	(+ Ecology fees)
<u>Inapplicability Determination for PSD Program Requiring Written Coordination with Ecology</u>	<u>\$5,000</u>
<u>Approval Actions Pursuant to PSD Regulations Allowable through Notice of Construction Review and Approval</u>	<u>\$5,000</u>

PROPOSED

Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (see Regulation I, Section 1.07)	\$2,500
Tier II Air Toxics Review	\$5,000
(under WAC 173-460-090)	(+ Ecology fees)
Opacity/Grain Loading Correlation	\$5,000

(b) A notification under Section 6.03 (b)(1) through Section 6.03 (b)(9) of this regulation is incomplete until the Agency has received a fee of \$100. An application processed as a Notice of Construction exemption under Section 6.03 (b)(10) requires payment of the Notice of Construction filing fee only.

(c) The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant (~~for review of complex projects, which require an environmental impact statement,;~~) as provided in RCW 70.94.085.

(d) Additional Fee for Service - Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application only if, within 30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as the Washington State Environmental Policy Act (SEPA).

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee - Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application when a subsequent revised application is submitted after the original application was determined to be complete and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee shall be the amount of the fee that was charged for

the original Notice of Construction application, including the filing fee. The resulting total fee is the fee for the original Notice of Construction application plus the revision fee.

WSR 03-08-095
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed April 2, 2003, 10:51 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Regulation III, Section 4.03.

Purpose: To adjust the asbestos program fees to cover the cost of the program.

Other Identifying Information: Section 4.03 pertains to asbestos notification requirements.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will adjust the fees the agency charges for the asbestos program, which will help to cover the cost of the program.

Reasons Supporting Proposal: The fees charged for the asbestos program need to cover the cost of the program.

Name of Agency Personnel Responsible for Drafting: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

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Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on May 22, 2003, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by May 15, 2003, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by May 12, 2003.

PROPOSED

Date of Intended Adoption: May 22, 2003.

April 1, 2003
James L. Nolan
Director - Compliance

AMENDATORY SECTION

REGULATION III SECTION 4.03 ASBESTOS NOTIFICATION REQUIREMENTS

(a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the Agency on approved forms, in accordance with the advance notification period requirements contained in Section 4.03(d) of this Regulation.

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

(2) Notification is not required for asbestos projects involving less than 10 linear feet of friable, asbestos-containing material on pipes or 48 square feet of friable, asbestos-containing material on other components (per structure, building, or vessel, per calendar year).

(3) Notification is not required for removal and disposal of nonfriable, asbestos-containing material.

(4) Notification is required for all demolitions involving structures with a projected roof area greater than 120 square feet, even if no asbestos-containing material is present.

(5) The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.

(6) A copy of the notification, all amendments to the notification, and the asbestos survey shall be available for inspection at all times at the asbestos project or demolition site.

(7) A property owner may file notification for multiple asbestos projects or demolitions on one form if all the following criteria are met:

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

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

(8) Annual Notification

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

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

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

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

(b) Amendments

(1) Mandatory Amendments

An amendment shall be submitted to the Control Officer for the following changes in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency:

(A) Increases in the project type or job size category that increase the fee;

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

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

(2) Optional Amendments

(A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.

(B) Contractors and property owners participating in the Agency work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to the Control Officer for the removal of additional, friable, asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of Section 4.03(a), including notification periods and fees, shall apply.

(c) Emergencies

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

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

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

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

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

(d) Notification Period and Fees

Project	Notification Period	Non-Refundable Fee	Demolition Surcharge**
Single-Family Residence Asbestos Project*	prior notice	\$25	
Demolition (with or without asbestos project)	10 days	\$50	
All Other Demolitions (without asbestos project)	10 days	\$200	
All Other Asbestos Projects			
10 - 259 linear ft* and/or 48 - 159 square ft	prior notice (asbestos only) <u>10 days (demolition)</u>	(\$150) \$100	(\$50) \$100
260 - 999 linear ft and/or 160 - 4,999 square ft	10 days	(\$300) \$200	\$100
1,000± (-9,999) linear ft and/or 5,000± (-49,999) square ft	10 days	\$750	\$250
((10,000+ linear ft and/or 50,000+ square ft)	10 days	\$2,000	(\$1,000)
Emergency - 4.03(c)***	prior notice	twice the applicable fees	
Amendment - 4.03(b)	prior notice	\$25	
Annual Notice - 4.03(a)(8)	prior notice	(no fee) \$1,500	

PROPOSED

*Contractors participating in the Agency work schedule fax program are not required to file a Notice of Intent for asbestos removals in this project category and no fee will be assessed.

**Additional fee for demolitions. All demolitions require a Notice of Intent and a 10-day notification period unless waived per Section 4.03(c).

***The 10-day notification period may be waived per Section 4.03(c) and with payment of twice the applicable fees. Single-family residences are exempt from the emergency fee; however, property owners must still provide a written request per Section 4.03(c).

The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) friable, asbestos-containing material.

~~((e) Repeal of Fees~~

~~The repeal of fees for alternate means of compliance requests and annual notifications as formerly set forth in Section 4.03(d) of these regulations shall be applied retroactively and take effect as of March 9, 2000.)~~

WSR 03-08-096
 PROPOSED RULES
 PUGET SOUND
 CLEAN AIR AGENCY
 [Filed April 2, 2003, 10:52 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Regulation I, Sections 5.05 and 5.07.

Purpose: To adjust the registration fees to cover program costs.

Other Identifying Information: Section 5.05 pertains to general reporting requirements for registration; Section 5.07 pertains to registration fees.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will adjust the fees the agency charges for the registration program, which will help to cover the cost of the program.

Reasons Supporting Proposal: The fees charged for the registration program need to cover the cost of the program.

Name of Agency Personnel Responsible for Drafting and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; and Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect the amendments to Section 5.05(d), (f), and (g)(1).

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on May 22, 2003, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by May 15, 2003, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by May 12, 2003.

Date of Intended Adoption: May 22, 2003.

April 1, 2003
James L. Nolan
Director - Compliance

AMENDATORY SECTION

REGULATION I SECTION 5.05 GENERAL REPORTING REQUIREMENTS FOR REGISTRATION

(a) **General.** The owner or operator of an air contaminant source for which registration is required by Section 5.03, shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(b) **Registration Form.** Registration information shall be provided on forms supplied by the Agency and shall be completed and returned within the time specified on the form.

(c) **Reporting Responsibility.** The owner, operator, or a designated representative shall sign Agency registration and reporting forms for each source. The owner or operator of the source shall be responsible for notifying the Agency of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

(d) **Emission Reporting.** An emission report shall be required from the owner or operator of a source requiring registration, listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions	25.0
facility combined total of all <u>hazardous air pollutant (HAP)</u> ((toxic air contaminant (TAC))) emissions	6.0
any single <u>hazardous air pollutant (HAP)</u> ((toxic air contaminant (TAC))) emission(s)	2.0
nitrogen oxide (NOx) emissions	25.0
particulate matter (PM ₁₀) emissions	25.0
particulate matter (PM _{2.5}) emissions	25.0
sulfur oxide (SOx) emissions	25.0
volatile organic compounds (VOC) emissions	25.0

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above.

(e) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Section 5.03 above shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;
- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to assure compliance with Section 9.15 of Regulation I; and
- (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

(f) **Removal from Registration Program.** ~~((Report of Closure:))~~ Continued payment of the annual registration fee to the Agency maintains the registration of the source with the Agency, as well as the status of the source as an operating facility. The Agency shall remove a source from the registration program if a registration fee has not been paid within 90 days of the date of the original fee invoice, or upon ((A source shall only be removed from the registration program after a)) written request ~~((has been received))~~ from the owner or operator of the source. It shall be unlawful for any person to operate a source that has been removed from the registration program, unless the owner or operator has submitted and received an approval for a "Notice of Construction and Application for Approval", in compliance with Article 6.

(g) **Report of Change of Ownership and Fee.**

- (1) A new owner of a registered source shall report in writing any change of ownership to the Agency within ~~((90))~~ 45 days of such a change, and
- (2) Pay a fee of \$100.

AMENDATORY SECTION

REGULATION I SECTION 5.07 ANNUAL REGISTRATION FEES

(a) The Agency shall ~~((levy))~~ assess annual fees as set forth in Section 5.07(c) below for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program. Registration fees do not apply to sources subject to Article 7 of Regulation I.

(b) Upon assessment by the Agency, registration fees are due and payable within ~~((30))~~ 45 days of the date of the invoice. They shall be deemed delinquent if not fully paid within ~~((90))~~ 45 days of the date of the invoice and ((will)) shall be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$1,000. In accordance with Section 5.05(f), sources that have not paid their fee within 90

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days of the date of the invoice shall be removed from the registration program.

(c) Annual registration fees are assessed either by the emission reporting thresholds or, if below emission thresholds, by the primary North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997) (~~or Standard Industrial Classification (SIC) codes (*Standard Industrial Classification Manual*, Executive Office of the President, Office of Management and Budget, 1987))):~~

(1) Emission reporting sources under Section 5.05(d) that equal or exceed any of the emission thresholds in that paragraph shall be charged an annual registration fee of ~~(\$1,750)~~ \$1,802.50 plus an additional emission rate fee of:

- ~~(\$22)~~ \$23 for each ton of CO reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of NOx reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of PM₁₀ reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of SOx reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of VOC reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of HAP reported in the previous calendar year.

(2) Emission reporting sources under Section 5.05(d) that equal or exceed twice any of the emission thresholds in that paragraph shall be charged the annual registration fee of ~~(\$3,500)~~ \$3,605 plus an additional emission rate fee of:

- ~~(\$22)~~ \$23 for each ton of CO reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of NOx reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of PM₁₀ reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of SOx reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of VOC reported in the previous calendar year, and
- ~~(\$44)~~ \$46 for each ton of HAP reported in the previous calendar year.

(3) Automobile body repair and painting (~~(((SIC = 7532))~~ NAICS = 811121)..... \$309
facilities that qualified for the EnviroStar rebate in 2002..... \$51.50
~~((without EnviroStar rating of 3, 4, or 5 stars..... \$300~~
~~with EnviroStar rating of 3, 4, or 5 stars..... \$50))~~

(4) Perchloroethylene dry-cleaning plants, except rug cleaning (~~(((SIC = 7216))~~ NAICS = 812322)
 vented ~~(\$500)~~ \$515
 unvented ~~(\$50)~~ \$51.50

(5) Gasoline service stations with gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:

- (i) more than 6,000,000 gallons subject to Section 5.07
- (c)(1) above

- (ii) 3,600,001 to 6,000,000 gallons . . . ~~(\$1,000)~~ \$1,030
- (iii) 1,200,001 to 3,600,000 gallons ~~(\$600)~~ \$618
- (iv) 840,001 to 1,200,000 gallons ~~(\$300)~~ \$309
- (v) 200,000 to 840,000 gallons ~~(\$200)~~ \$206
- (vi) less than 200,000 gallons ~~(\$100)~~ \$103

(6) Except as provided in Section 5.07 (c)(8), ~~(\$)~~ sources requiring registration under Section 5.03 in the following NAICS (~~or SIC~~) codes, or as subsequently assigned to Section 5.07 (c)(6) by the Control Officer, shall be charged an annual registration fee of ~~(\$1,600)~~ \$1,648:

NAICS	(((SIC))	NAICS Description
212312	(((1422))	Crushed and Broken Limestone Mining and Quarrying
212319	(((1429))	Other Crushed and Broken Stone Mining and Quarrying
212321	(((1442))	Construction Sand and Gravel Mining
212322	(((1446))	Industrial Sand Mining
221122	(((4911))	Electric Power Distribution
22132	(((4952))	Sewage Treatment Facilities
23411	(((1611))	Highway and Street Construction
311111	(((2047))	Dog and Cat Food Manufacturing
311119	(((2048))	Other Animal Food Manufacturing
311612	(((2013))	Meat Processed from Carcasses
311613	(((2077))	Rendering and Meat Byproduct Processing
311999	(((2099))	All Other Miscellaneous Food Manufacturing
321114	(((2491))	Wood Preservation
324121	(((2951))	Asphalt Paving Mixture and Block Manufacturing
324122	(((2952))	Asphalt Shingle and Coating Materials Manufacturing
325311	(((2873))	Nitrogenous Fertilizer Manufacturing
325314	(((2875))	Fertilizer (Mixing Only) Manufacturing
325412	(((2834))	Pharmaceutical Preparation Manufacturing
325612	(((2842))	Polish and Other Sanitation Good Manufacturing
32591	(((2893))	Printing Ink Manufacturing
326199	(((3089))	All Other Plastics Product Manufacturing
326291	(((3061))	Rubber Product Manufacturing for Mechanical Use
327211	(((3211))	Flat Glass Manufacturing
32731	(((3241))	Cement Manufacturing
32732	(((3273))	Ready-Mix Concrete Manufacturing
32739	(((3272))	Other Concrete Product Manufacturing

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32742	((3275))	Gypsum Product Manufacturing	481111	((4512))	Scheduled Passenger Air Transportation
32791	((3291))	Abrasive Product Manufacturing			
327992	((3295))	Ground or Treated Mineral and Earth Manufacturing	48691	((4613))	Pipeline Transportation of Refined Petroleum Products
327999	((3292, 3299))	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing	48819	((4584))	Other Support Activities for Air Transportation
331111	((3312))	Iron and Steel Mills	48821	((4013))	Support Activities for Rail Transportation
331222	((3315))	Steel Wire Drawing			
331312	((3334))	Primary Aluminum Production	48849	((4173))	Other Support Activities for Road Transportation
331492	((3341))	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	562111	((4953))	Solid Waste Collection
			62211	((8062))	General Medical and Surgical Hospitals
331511	((3321))	Iron Foundries			
331512	((3324))	Steel Investment Foundries	62221	((8063))	Psychiatric and Substance Abuse Hospitals
331513	((3325))	Steel Foundries (except Investment)			
331524	((3365))	Aluminum Foundries (except Die-Casting)	62231	((8069))	Specialty (except Psychiatric and Substance Abuse) Hospitals
331525	((3366))	Copper Foundries (except Die-Casting)	81221	((7264))	Funeral Homes and Funeral Services
			81222	((7264))	Cemeteries and Crematories
331528	((3369))	Other Nonferrous Foundries (except Die-Casting)	81391	((8614))	Business Associations
			92214	((9223))	Correctional Institutions
332811	((3398))	Metal Heat Treating			
332812	((3479))	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers			
332813	((3471))	Electroplating, Plating, Polishing, Anodizing, and Coloring			
333414	((3433))	Heating Equipment (except Warm Air Furnaces) Manufacturing			
333999	((3599))	All Other Miscellaneous General Purpose Machinery Manufacturing			
334412	((3672))	Bare Printed Circuit Board Manufacturing			
334413	((3674))	Semiconductor and Related Device Manufacturing			
334418	((3679))	Printed Circuit Assembly (Electronic Assembly) Manufacturing			
335129	((3648))	Other Lighting Equipment Manufacturing			
335312	((7694))	Motor and Generator Manufacturing			
335911	((3691))	Storage Battery Manufacturing			
336411	((3721))	Aircraft Manufacturing			
336413	((3728))	Other Aircraft Parts and Auxiliary Equipment Manufacturing			
336611	((3731))	Ship Building and Repairing			
42251	((5153))	Grain and Field Bean Wholesalers			
42271	((5171))	Petroleum Bulk Stations and Terminals			
422720	((5172))	Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)			

(7) ~~((A4))~~ Except as provided in Section 5.07 (c)(8), all other sources requiring registration under Section 5.03 and not listed in Sections 5.07 (c)(1) through 5.07 (c)(6) ~~((or Section 5.07 (e)(8)))~~ shall be charged an annual registration fee of ~~((800))~~ \$824.

(8) All sources required to be registered by Sections 5.07 (c)(6) and 5.07 (c)(7), except sources with equipment subject to Section 6.11 of Regulation I or Section 2.02 of Regulation III, that certify (using the procedures in WAC 296-27-00103: Partial Exemption for Employers With 10 or Fewer Employees) they did not employ more than 10 persons at any time during the previous calendar year, shall be charged an annual registration fee of ~~((400))~~ \$412.

WSR 03-08-097
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed April 2, 2003, 10:53 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Regulation I, Section 7.07.

Purpose: To adjust the operating permit fees to cover program costs.

Other Identifying Information: Section 7.07 pertains to operating permit fees.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will adjust the fees the agency charges for the operating permit program, which will help to cover the cost of the program.

Reasons Supporting Proposal: The fees charged for the operating permit program need to cover the cost of the program.

Name of Agency Personnel Responsible for Drafting and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; and Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on May 22, 2003, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by May 15, 2003, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by May 12, 2003.

Date of Intended Adoption: May 22, 2003.

April 1, 2003
James L. Nolan
Director - Compliance

AMENDATORY SECTION

REGULATION I SECTION 7.07 OPERATING PERMIT FEES

(a) The Agency shall ~~((levy))~~ assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within ~~((30))~~ 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$5,000.

(1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997) (~~or Standard Industrial Classification (SIC) codes~~), or sources subsequently determined by the control officer to be assigned to ~~((either))~~ Section 7.07 (b)(1)(i), (ii), (iii), or (iv) (~~or 7.07 (b)(1)(ii))~~) shall be subject to the following facility fees:

(i) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description	Fee
<u>336411</u>	<u>Aircraft Manufacturing</u>	
<u>336413</u>	<u>Other Aircraft Parts and Auxiliary Equipment Manufacturing</u>	
		<u>\$50,000</u>

(ii) Operating permit sources with the following NAICS((SIC)) codes:

NAICS	((SIC))	NAICS Description	Fee
32411	((2914))	Petroleum Refineries	
32731	((3244))	Cement Manufacturing	
331111	((3312))	Iron and Steel Mills	
<u>221112</u>		<u>Fossil Fuel Electric Power Generation</u>	
((336411))	3721	Aircraft Manufacturing	
<u>336413</u>	3728	<u>Other Aircraft Parts and Auxiliary Equipment Manufacturing</u>	
92811	((9714))	National Security	
			<u>\$30,000</u>

(iii) Operating permit sources with the following NAICS((SIC)) codes:

NAICS	((SIC))	NAICS Description	Fee
((23521))	1724	Painting and Wall Covering Contractors	
<u>311119</u>		<u>Other Animal Food Manufacturing</u>	
311812	((2054))	Commercial Bakeries	
((321114))	2494	Wood Preservation	
<u>321113</u>		<u>Sawmills</u>	
32191	((2434))	Millwork	
<u>321911</u>		<u>Wood Window and Door Manufacturing</u>	
<u>321918</u>		<u>Other Millwork (including Flooring)</u>	
321999	((2499))	All Other Miscellaneous Wood Product Manufacturing	
322222	((2672))	Coated and Laminated Paper Manufacturing	
32614	((3086))	Polystyrene Foam Product Manufacturing	
((32615))	3086	Urethane and Other Foam Product (except Polystyrene) Manufacturing	
327121	((3254))	Brick and Structural Clay Tile Manufacturing	
((332343))	3443	Plate Work Manufacturing	
332996	((3498))	Fabricated Pipe and Pipe Fitting Manufacturing	
((333415))	3585	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing	
<u>33711</u>	2434	<u>Wood Kitchen Cabinet and Countertop Manufacturing</u>	

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81142	7641	Reupholstery and Furniture Repair))	\$7,500
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((~~(iii)~~)) (iv) Operating permit sources with NAICS((~~ASIC~~)) codes other than listed above \$15,000

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b)(1):

((~~\$22~~)) ~~\$23~~ for each ton of CO reported in the previous calendar year, and

((~~\$44~~)) ~~\$46~~ for each ton of NOx reported in the previous calendar year, and

((~~\$44~~)) ~~\$46~~ for each ton of PM₁₀ reported in the previous calendar year, and

((~~\$44~~)) ~~\$46~~ for each ton of SOx reported in the previous calendar year, and

((~~\$44~~)) ~~\$46~~ for each ton of VOC reported in the previous calendar year, and

((~~\$44~~)) ~~\$46~~ for each ton of HAP reported in the previous calendar year.

(c) In addition to the fees under Sections 7.07 (b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, ((~~levy~~)) assess the following fees:

(1) \$250 for administrative permit amendments [WAC 173-401-720], and

(2) for minor permit modifications [WAC 173-401-725 (2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$5,000, and

(3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$10,000, and

(4) to cover the costs of public involvement under WAC 173-401-800, and

(5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and Chapter 246-247 WAC, and

(6) for a significant modification [WAC 173-401-725(4)] initiated in response to a regulatory action by Ecology under the Prevention of Significant Deterioration regulations (40 CFR 52.21 and Ecology-EPA Delegation Agreement) for which the Agency has no corresponding review and approval authority, a fee of \$5,000 in addition to the significant modification fee identified in Section 7.07 (c)(3).

(d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under Chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

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.

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-053.

Title of Rule: Commercial fishing rules.

Purpose: Convert coastal pilchard fishery from trial to experimental permit fishery.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

Summary: The fishery is overcapitalized, and the resource is unable to sustain unlimited participation.

Reasons Supporting Proposal: Finite resource availability.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Phil Anderson, 1111 Washington Street, Olympia, 902-2720; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, 902-2373.

Name of Proponent: Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The coastal pilchard fishery has rebounded from historic low levels to a viable fishery. The fishery seems dependent on oceanic temperatures, with an increase in harvest correlating to an increase in temperatures. A recent trend in a temperature decline may affect harvest levels. The fishery is currently overcapitalized. Mandatory observer coverage to protect salmon and the possibility of overharvest necessitates a more limited participation. This fishery has been operating on a trial permit basis for two years. Conversion to an experimental fishery for the remainder of the emerging commercial fishery cycle, trip limits, and by-catch restrictions will reduce the potential to delay further recovery of the stocks.

Proposal Changes the Following Existing Rules: Changes coastal pilchard fishery.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: The Department of Fish and Wildlife is proposing several amendments to WAC 220-88C-010, 220-88C-020, 220-88C-030, 220-88C-040, and 220-88C-050, coastal pilchard fishery.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: There is a logbook requirement in the proposed rule; however, a small business should not need any professional services to comply with the requirements of the proposed rule.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: In addition to the logbook requirement, participating

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fishermen are required to obtain at-sea observer coverage for a portion of their fishing trips. Fishermen may elect to use a department-provided observer or can contract with a National Marine Fisheries Service-certified observer company. If the fisherman elects to use the department-provided observer, then he is required to reimburse the department for this service at a rate of \$100 per landing. There are not any additional costs of compliance for businesses.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? It is very difficult to assess the economic impact of limiting the number of participants in the coastal pilchard experimental fishery, as the fishermen who have made significant landings of pilchard (> 200 mt in the past three years, cumulative total) will be allowed to continue to participate in the coastal pilchard fishery, and by limiting the number of permits issued, the fishery could become economically viable for the eligible participants. However, the number of permits in the proposed rule is sufficient enough to harvest the amount of pilchards available to the Pacific Northwest fishery, and should be adequate to meet the market demands.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

Participating fishermen are required to obtain at-sea observer coverage for a portion of their fishing trips. Fishermen may elect to use a department-provided observer or can contract with a National Marine Fisheries Service-certified observer company. If the fisherman elects to use the department-provided observer, then he is required to reimburse the department for this service at a rate of \$100 per landing. As the average landing is approximately 40 mt, and the exvessel value of pilchards is approximately \$120/mt, the average landing results in approximately \$4,800 in exvessel revenue. Therefore, the cost per \$100 of sales is \$0.02.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency believes that the cost of the rule on small businesses is minimal. The information obtained through at-sea sampling (includes collection of bycatch data, as well as biological samples which are used in the annual stock assessment and season-setting process) far outweighs the minimal costs of the rule on small businesses.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department held meetings with participants in the trial coastal pilchard fisheries, which were open to the public, on November 13, 2001, January 3, 2002, January 16, 2002, February 22, 2002, February 28, 2002, January 7, 2003, February 13, 2003, and March 25, 2003. At these meetings, department staff and the Sardine Advisory Board discussed the conversion of a trial fishery to an experimental fishery; specifically, the department solicited input on the appropriate number of permits and the qualifying criteria for those limited permits, and the advisory board developed recommendations for an experimental fishery for 2003.

8. A List of Industries That Will Be Required to Comply with the Rule: The purpose of the proposed rule is to convert the trial coastal pilchard commercial fishery to an experimental fishery, under which the number of participants may be limited. The category of small businesses that the rule affects is coastal pilchard purse seine fishers who are licensed by the state of Washington.

A copy of the statement may be obtained by writing to Evan Jacoby, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155.

RCW 34.05.328 does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Natural Resources Building, 1111 Washington Street, Olympia, WA 98504, on May 6, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Deb Kuttel by April 25, 2003, TDD (360) 902-2720 or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2155, by May 2, 2003.

Date of Intended Adoption: May 6, 2003.

April 2, 2003

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 01-36, filed 3/13/01, effective 4/13/01)

WAC 220-88C-020 Designation of the coastal pilchard fishery as an emerging commercial fishery. (1) The director designates the coastal pilchard fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful for any person to fish for, possess, or deliver pilchard taken from Washington waters west of the Bonilla-Tatoosh line or from the waters of the Exclusive Economic Zone unless the fisher has a valid emerging commercial fishery license and a valid coastal pilchard ~~((trial))~~ experimental fishery permit, or except as otherwise provided.

(2) ~~((After the effective date of this section,))~~ The following fishery licenses may not be used to take pilchard from Washington waters west of the Bonilla-Tatoosh line or from the waters of the Exclusive Economic Zone: Baitfish lampara; baitfish purse seine; Columbia River smelt; food fish trawl—non-Puget Sound; herring dip bag net; herring gill net; herring lampara; herring purse seine; smelt dip bag net; smelt gill net, except as provided for in chapter 220-44 WAC.

(3) ~~((After the effective date of this section,))~~ Pilchard taken from Washington waters west of the Bonilla-Tatoosh line or from the waters of the Exclusive Economic Zone may not be delivered into a Washington port under a nonlimited entry delivery license, and may not be delivered under the licenses provided for in RCW 77.65.210.

AMENDATORY SECTION (Amending Order 01-36, filed 3/13/01, effective 4/13/01)

WAC 220-88C-030 Eligibility to participate in the coastal pilchard fishery. ~~((1) All persons who are eligible~~

to purchase a commercial fishery license may obtain a coastal pilchard trial fishery permit and purchase an emerging commercial fishery license.

(2) Persons who violate the terms of the coastal pilchard trial fishery permit will have the permit revoked, pursuant to appeal rights under chapter 34.05 RCW, and will be ineligible to obtain a coastal pilchard trial fishery permit for the remainder of the calendar year for which the emerging commercial fishery license is valid.) (1) For 2003, a coastal pilchard experimental fishery permit will be issued only to a natural person who:

(a) Can demonstrate by valid Washington fish receiving tickets that at least two hundred metric tons cumulative weight of pilchard taken from Pacific Ocean waters were landed under the person's coastal pilchard trial fishery permit during the previous three calendar years (2000, 2001, and 2002);

(b) Has purchased an emerging commercial fisheries license by July 1, 2003; and

(c) 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) Can demonstrate by valid Washington fish receiving tickets that at least five hundred metric tons (round weight) of pilchard taken from Pacific Ocean waters were landed the previous year under the person's coastal pilchard experimental fishery permit;

(c) Has purchased an emerging commercial fisheries license by April 1st for the year of issuance of the permit;

(d) Has no outstanding observer fees owed to the department; and

(e) Has returned to the department the completed pilchard experimental fishery log book for the prior year by November 15th of the prior year.

(3) Coastal pilchard experimental fishery permits may be revoked by the director for failure to comply with conditions specified in the permits, 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.

(4) The director may issue a coastal pilchard experimental fishery permit to natural persons other than those initially qualifying under this section if one of the original permits is not renewed for any reason, provided that:

(a) The total number of permits issued by the director, including replacement permits, shall not exceed twenty.

(b) Replacement permits shall be issued to persons who had landed a minimum of five metric tons (cumulative round weight) of pilchard taken from Pacific Ocean waters in 2000, 2001, and 2002, in order from highest to lowest cumulative landing total for that period.

(c) If less than twenty permits are issued to persons who meet the minimum landing requirements, the director may offer a replacement permit by random drawing.

(5) Coastal pilchard experimental fishery permits are only valid for the year issued and expire on December 31st of

the year issued with the expiration of the emerging commercial fishery license.

(6) Permit holders cannot change their vessel designation between April 1 and October 31 during each calendar year, except in an emergency and then only if allowed by the director.

AMENDATORY SECTION (Amending Order 01-36, filed 3/13/01, effective 4/13/01)

WAC 220-88C-040 Coastal pilchard fishery—Seasons and lawful catch. (1) The coastal pilchard fishery season is open to purse seine fishing (~~(only)~~) May 15 through October 31 (~~(, or until 15,000 metric tons of pilchard have been taken, whichever is earlier)~~) only. Fishing under (~~(a trial)~~) 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's deck)~~) vessel.

(3) July 1 through August 31 of each year there is a daily trip limit of sixty metric tons of pilchard.

(4) The transfer of catch from one vessel to another is prohibited.

~~((4))~~ (5) Legal purse seine gear must be aboard the vessel making the landing.

(6) Pilchard landings must be delivered to a shoreside processing facility.

AMENDATORY SECTION (Amending Order 01-36, filed 3/13/01, effective 4/13/01)

WAC 220-88C-050 Coastal pilchard fishery—Observer and sampler coverage, logbook requirements.

(1) As a condition of the (~~(trial)~~) experimental commercial fishery permit, participants in the coastal pilchard fishery are required to have on-board observers for any pilchard fishing effort, and are required to have observer coverage for one-half of the vessel trips. Fishers may elect to use either department-provided observers, or (~~(NMFS)~~) National Marine Fisheries-certified observers, but must notify the department of their irrevocable decision on which type of observer to use at least 48 hours before their first pilchard fishing trip of the season. NMFS-certified observers must have completed a department training session. Department-provided observer coverage will be made available to fishers who agree to reimburse the department at a rate of \$100 per landing, whether or not the vessel trip was observed. Payment for department-provided observer coverage is due by the tenth day of the following month for the previous month's landings, and failure to make timely payment will result in revocation of the (~~(trial)~~) experimental commercial fishery permit.

(2) In order to allow sufficient time for observer coverage and sampling efforts, fishers must notify the department's (~~(marine fish division)~~) sardine hotline during normal business hours at least 48 hours before the first vessel trip and at

least 24 hours before each subsequent trip. Fishers must provide name and contact phone number, time and location of departure, and estimated time and location of landing. Up to 500 sardine per vessel trip may be retained by WDFW samplers for biological information.

(3) All persons who obtain ~~((a trial))~~ an experimental commercial fishery permit for the coastal pilchard fishery must complete a department-issued logbook, and the logbook is required to be returned to the department by November 15th of the year of issuance. ~~((Failure to submit the logbook will cause the person to be ineligible for a permit in the following season-))~~

WSR 03-08-101
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed April 2, 2003, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-038 on January 28, 2003.

Title of Rule: Chapter 352-40 WAC, Public records.

Purpose: The State Parks and Recreation Commission has determined the need to review the entire chapter for accuracy and to ensure compliance with chapter 42.17 RCW. These administrative rules explain the agency records index, the agency process and fees charged for records requested under public disclosure laws. The commission intends to update the chapter to reflect current indexing, provide for greater flexibility in charging for copies of records, present the rules in clear language, and improve the agency response [response] to the citizens.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.070, 79A.05.075, and chapter 42.17 RCW.

Statute Being Implemented: RCW 42.17.250 through 42.17.340.

Summary: These administrative rules explain the agency process, records indexing and the fees charged for records requested under public disclosure laws.

Reasons Supporting Proposal: Park visitors will gain improved public service.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Dunn, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, (360) 902-8636.

Name of Proponent: Washington state parks.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Except for certain exemptions specified in chapter 42.17 RCW, all public records need to be made available to the public for inspection and copying. Each agency must identify how a citizen can access the records, where and when they can be accessed and how they are indexed. Each agency must further publish a cost breakdown of charges associated with copying public records.

The proposed amendments to chapter 352-40 WAC present these administrative rules in "clear language" in order to make the procedures more understandable to the public. These proposed rules identify how citizens can access agency public records, where and when they can be accessed and how they are indexed. These amendments also explain how the public can obtain a fee schedule of copying costs.

Proposal Changes the Following Existing Rules: This proposed rule-making action would amend and update existing rules in chapter 352-40 WAC. The amendments update the current indexing structure of agency records, provide for greater accuracy in charging for the copying of documents, present the rules in clear language, and improve the agency response to citizens.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This chapter of administrative rule does not regulate or have economic impact through regulations on small business. There are no compliance costs to small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant legislative rule-making requirements are not imposed on the State Parks and Recreation Commission, nor has the commission voluntarily applied those requirements.

Hearing Location: The public hearing will occur during the regularly scheduled Washington State Parks and Recreation Commission meeting to be held at Whitman College, Young Ballroom, Room B, 280 Boyer Avenue (intersection of Park Street and Boyer), Walla Walla, WA 99362-2083, on May 15, 2003, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Pauli Larson by May 1, 2003, TDD (360) 664-3133 or (360) 902-8505.

Submit Written Comments to: Washington State Parks, Attention: Lisa Dunn, 7219 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, e-mail lisa.dunn@parks.wa.gov, fax (360) 586-5875, by April 24, 2003.

Date of Intended Adoption: May 15, 2003.

April 2, 2003

Jim French

Chief of Policy Research
and Program Development

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-010 ~~((Purpose-))~~ What is the purpose of this chapter? The purpose of this chapter ~~((shall be))~~ is to ensure compliance by the Washington state parks and recreation commission with the provisions of RCW 42.17.250 through 42.17.320 dealing with public records.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-020 ~~((Definitions-))~~ How do we define terms? (1) In accordance with RCW 42.17.020(36) "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 characteristic.

(2) "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) "Washington state parks and recreation commission" (~~(shall mean the)~~) is a commission appointed by the governor ((pursuant to chapter 43.51 RCW. The Washington state parks and recreation commission shall hereinafter be referred to as the "commission." Where appropriate, the term "commission" also) consisting of seven citizens of the state as outlined in RCW 79A.05.015.

(4) "Agency" refers to the staff and employees of the Washington state parks and recreation commission.

AMENDATORY SECTION (Amending Order 72, filed 11/22/83)

WAC 352-40-030 ((Description of central and field organization of the Washington state parks and recreation commission.)) **Where can citizens access agency public records?** ((The commission is an appointed commission. The administrative office of the commission and its staff are located at Tumwater Airdustrial Center, Olympia, Washington. Five regional offices with limited records availability, as specified in WAC 352-40-070, are located at Millersylvania State Park, Olympia, Washington; 220 Walnut Street, Burlington, Washington; 2201 North Duncan Drive, Wenatchee, Washington; Sacajawea State Park, Pasco, Washington; and 3107 "R" Street S.E., Auburn, Washington.)) **Most public records of the commission and the agency are located at the Olympia headquarters office. Copies of certain records may be accessible at regional offices.**

(1) The director and administrative offices are located at the headquarters office at 7150 Cleanwater Lane, Olympia, WA 98504-2650. Mailing address for the headquarters office is:

Washington State Parks and Recreation Commission
P.O. Box 2650
Olympia, WA 98504-2650
360-902-8500
FAX 360-753-1594
TDD 360-664-3133

(a) The public affairs office is available to assist with media inquiries and general public information requests.

Phone: 360-902-8561

E-mail: pao@parks.wa.gov

(b) The information center is available to assist with questions regarding specific parks, overnight accommodations, recreation programs and seasonal park closures. The center can send you a Request for Public Records form by e-mail or will refer your Request for Public Records form to the public records officer.

Phone: 360-902-8844

E-mail: infocent@parks.wa.gov

(c) The public records officer is available to assist in coordination with viewing of or copying agency records. The reception area at the headquarters office in Olympia can refer you to the records officer.

Phone: 360-902-8500

(2) Location of regional offices:

Southwest Region

Headquarters Office
11838 Tilley Road S.E.
Olympia, WA 98512
360-753-7143

Northwest Region

Headquarters Office
220 N. Walnut
Burlington, WA 98233
360-755-9231

Eastern Region

Headquarters Office
2201 N. Duncan Drive
Wenatchee, WA 98801-1007
509-662-0420

Puget Sound Region

2840 Riverwalk Drive S.E.
Auburn, WA 98002
206-931-3907.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-040 ((Operations and procedures.)) **How is the agency organized and how is it operated?** All decisions involving basic policy are made by the commission ((at its regular and special monthly meetings as outlined in chapters 352-04, 352-16, 352-24, 352-28, and 352-32 WAC)).

Staff at HQ implements those policy decisions.

Staff at each region develop, maintain and steward the state parks according to the policy decisions.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-060 **What are the duties of the public records officer(s)?** ((The commission's public records shall be in charge of the public records officer designated by the director. The person so designated shall be located in the administrative office of the commission. The public records officer shall be responsible for the following: The implementation of the commission's rules and regulations regarding release of public records, coordinating the staff of the commission in this regard, and generally insuring compliance by the staff of the commission in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.)) **The agency public records officer is located in the headquarters administrative office and is responsible for:**

(1) The implementation of the commission's rules and regulations regarding release of public records.

(2) Coordinating the agency in implementation of state records management techniques and agency indexing standards to ensure protection of, and prompt access to, public records.

(3) Implementing and ensuring compliance by the staff with the public records disclosure requirements of RCW 42.17.250 through 42.17.340.

(4) Assists requestors in coordination and viewing or copying of agency records.

AMENDATORY SECTION (Amending Order 72, filed 11/22/83)

WAC 352-40-070 ((Office hours)) When can I inspect public records? Public records ((shall be)) are available for inspection and copying ((during the customary office hours of the commission. 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. ((All public records of the commission are located at the Olympia headquarters office of the commission. In addition, certain specific records such as commission minutes, commission statements of policy, administrative staff manuals, and instructions to staff emanating from the commission, director, deputy director, and assistant directors can be obtained at the five regional offices identified in WAC 352-40-030. All other requests will be referred to the headquarters office located in Olympia through use of the "request for public information" form, WAC 352-40-900.))

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-080 ((Requests for)) How do I request inspection or copying of public records((:))? In accordance with requirements of ((chapter 1, Laws of 1973)) RCW 42.17.255, that agencies prevent unreasonable invasions of privacy((:)) and RCW 42.17.290 that agencies 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 procedure:

(1) A request shall be made in writing ((upon a form prescribed by the commission which shall be available at its administrative office or the regional offices indicated in WAC 352-40-030. The form shall be presented to the public records officer, or to any member of the commission's staff if the public records officer is not available, during customary office hours)) using agency Form A-374, Public Records Request. The form may be requested and obtained through the mail, by e-mail, or by FAX as referenced in WAC 352-40-030. The form shall be presented to the public records officer or to any member of the agency if the public records officer is not available, during customary office hours. The agency may in its discretion fill requests made by telephone, e-mail or facsimile copy (FAX). The request shall include the following information:

(a) The name, address and phone number 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 commission's current index, an appropriate description of the record requested.) If inspection of the record is requested, the time of day and calendar date on which the requestor wishes to inspect the public records;

(d) An appropriate description of the record requested;

(e) A statement that the information will not be used for commercial purposes.

(2) The public records officer, or ((staff member)) agency employee assisting the member of the public making the request, will ascertain that the information requested is not exempt from public inspection and copying as outlined in WAC 352-40-100 ((and further defined in section 31, Laws of 1973. Included therein, but not limited to, are such exemptions as personal information that may violate the right of privacy of the individual, national defense information, certain aspects of real estate appraisals as outlined in (g) of said section, and other vital governmental data.

(3) In all cases, it shall be the obligation of the public records officer, or staff member to whom the request is made, to:

(a) Locate the specific document(s) requested by the member of the public in the most timely manner possible;

(b) Assist the member of the public in appropriately identifying the public record requested;

(c) Protect and otherwise prevent damage to the public record being inspected and copied;

(d) Prevent disorganization of file folders or document containers;

(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible;

(f) Prevent excessive interference with the other essential functions of the agency.

(4) In all cases, the member of the public making the request will not be permitted access to the file storage area).

(3) Requests for identifiable public records will be processed promptly. The agency will respond within five working days of receiving the request by either:

(a) Providing the record;

(b) Acknowledging receipt of request and providing a reasonable estimate of the time required to respond; or

(c) Denying the request.

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 whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging a receipt of a public record request that is unclear, the agency may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it.

(4) The agency does not distinguish among persons requesting records and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.17.260(5) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.

AMENDATORY SECTION (Amending WSR 92-10-019, filed 4/29/92, effective 5/30/92)

WAC 352-40-090 ((Copying.)) Is there a cost to view or copy public records? ~~((No fee shall be charged for the inspection of public records. The commission shall charge a fee of ten cents per page per copy for public records and for use of the commission copy equipment. This charge is the amount necessary to reimburse the commission for its costs for copying.))~~ The agency does not charge a fee for the inspection of public records.

The agency will charge an amount necessary to reimburse its costs for providing copies of records. This amount shall be reviewed from time to time by the agency and shall represent the costs of providing copies of public records and for use of the agency's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount necessary to reimburse the agency for its actual costs for copying and is payable at the time copies are furnished. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.

Contact the public records officer for fee schedule of copying costs.

The public records officer or designee may waive the fee if the cost of preparing a billing for recoverable reproduction costs exceeds the amount to be recovered.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-100 ((Exemptions.)) Can my request be denied? (1) ~~((The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 352-40-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.))~~ Yes, a request can be denied if it is exempt from disclosure under the provisions of RCW 42.17.255 and 42.17.310.

(2) ~~((In addition, pursuant to section 26, chapter 1, Laws of 1973, the commission reserves the right to))~~ Under the provisions of RCW 42.17.260, the agency will delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by ((chapter 1, Laws of 1973)) RCW 42.17.260. The public records officer will fully justify such deletion in writing.

(3) Under the provisions of RCW 42.17.269, public records requests will also be denied if the purpose of the request is to sell or use the information for commercial purposes.

(4) 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 15, filed 7/25/73)

WAC 352-40-110 ((Review of denials of public records requests.)) What is the review process for a denial of a public records request? ~~((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 or other staff member 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 or other staff member denying the request shall refer it to the director of the commission. The director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.~~

(3) ~~Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.))~~ The public records officer or designee denying the request shall immediately send a copy of the written response to the director of the commission. The director or designee shall immediately consider the matter and, within two business days, either affirm or reverse such denial. If the director or designee has not responded to the requestor by the end of the two business days following denial of inspection, then the request is deemed denied.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-120 ((Protection of)) How does the agency protect public records? ~~((A))~~ Public records of the ((commission)) agency are located in the Olympia headquarters ((administrative services division, central files section)) and each of the regional locations as outlined in WAC 352-40-030. Records are available for inspection and copying at ((this)) these locations during office hours identified in WAC 352-40-070 ((and then only in the presence of an authorized employee of the commission and with the aid and assistance of such an employee)).

In order to protect these records, you must comply with the following guidelines:

(1) You may not remove any public record from the agency premises.

(2) You must have a designated agency employee present while inspecting public records.

(3) You may not mark or deface a public record in any manner during inspection.

(4) You may not dismantle public records which are maintained in a file or jacket or in chronological or other filing order.

Access to file cabinets, shelves, vaults, or other storage areas is restricted to agency personnel unless other arrangements are made with the public records officer or designee.

AMENDATORY SECTION (Amending WSR 90-20-032, filed 9/25/90, effective 10/26/90)

WAC 352-40-130 ((System of indexing records,))
How are agency records indexed? ((Agency records are indexed and retained as follows:

~~The index for commission policies, administrative policies, agency procedures, memorandums of understanding, and operations directives is located in the central files office. Office files and memoranda, and official public records as defined by RCW 42.17.260, are retained in the agency and their locations are identified by the existing central files index coding system.~~

~~Such records are the responsibility of the individual agency divisions to inventory, maintain, and dispose. Record descriptions, retention, and authorization disposition are listed on the records inventory schedule of each office of record and are located in the central files office.))~~ The records retention schedule established by the division of state archives of the office of the secretary of state serves as an index for the identification and location of agency records and includes all records issued before July 1, 1990, for which the agency has maintained an index.

The records retention schedule indexes records according to the originating program or section, and then the record series title. Each title is further identified by a statement of function or purpose, and the retention period. With the assistance of the public records officer or designee, the records retention schedule is available to the public for inspection and copying.

A separate index of policy statements as defined in RCW 34.05.010(15) entered after June 30, 1990, shall be maintained by the agency.

In addition, the agency has a functional index coding system for physical files, commission policy, administrative policy and agency procedures.

Commission meetings minutes are indexed by year, month, and agenda item number. They are also summarized by topic.

AMENDATORY SECTION (Amending Order 15, filed 7/25/73)

WAC 352-40-150 Adoption of form. The commission hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the Form ((attached hereto as WAC 352-40-900, entitled “)) A-374, Request for Public Record.((“))

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 352-40-050 Public records available.
- WAC 352-40-125 Purpose of records index.
- WAC 352-40-127 Definitions in records index.
- WAC 352-40-140 Location of record indexes and communications.
- WAC 352-40-900 Request for public record—Form.

PROPOSED



WSR 03-08-070

EXPEDITED RULES

MARINE EMPLOYEES' COMMISSION

[Filed April 1, 2003, 8:40 a.m.]

Title of Rule: WAC 316-45-001 Scope—Contents—Other rules, 316-45-003 Unfair labor practices—Defined, 316-45-010 Complaint charging unfair labor practices—Who may file, 316-45-020 Unfair labor practice complaint—Time limitations, 316-45-030 Complaint—Number of copies—Filing—Service, 316-45-050 Contents of complaint charging unfair labor practices, 316-45-110 Initial processing of complaint, 316-45-130 Examiner—Who may act, 316-45-150 Authority of examiner, 316-45-170 Notice of hearing, 316-45-190 Answer—Filing and service, 316-45-210 Answer—Contents and effect of failure to answer, 316-45-230 Amendment of answer, 316-45-250 Motion to make complaint more definite and certain, 316-45-270 Hearings—Nature and scope, 316-45-290 Briefs and proposed findings, 316-45-310 Unfair labor practice—Decision, 316-45-330 Withdrawal or modification of examiner decision, 316-45-350 Petition for review of examiner decision, 316-45-370 Filing and service of cross-petition for review, 316-45-390 Commission action, 316-45-410 Unfair labor practice remedies, 316-45-430 Motion for temporary relief, 316-45-550 Collective bargaining—Mandatory subjects, 316-55-001 Scope—Contents—Other rules, 316-55-005 Impasse procedures—Duty to adopt, 316-55-010 Resolution of impasses—Request for mediation, 316-55-020 Mediation request—Information required, 316-55-030 Impasse resolution—Appointment of mediator, 316-55-070 Impasse resolution—Function of mediator, 316-55-090 Impasse resolution—Confidential nature of function, 316-55-110 Impasse resolution—Dispute resolution panel, 316-55-120 Impasse resolution—Expenses, 316-55-130 Impasse resolution—Disclosure, 316-55-150 Impasse resolution—Vacancies, 316-55-160 Fact finding, 316-55-170 Waiver of mediation and fact finding, 316-55-500 Binding arbitration, 316-55-505 Final offer, 316-55-510 Single arbitrator, 316-55-515 Arbitration panel, 316-55-517 Arbitration panel chairman—Qualifications—Replacement, 316-55-525 Conduct of interest arbitration, 316-55-600 Central filing of agreements, 316-55-700 Result of collective bargaining agreements—If budget or fares exceeded, 316-55-710 Collective bargaining agreements stayed, and 316-55-730 Commission action.

Purpose: To make housekeeping changes and simplify/reduce language.

Statutory Authority for Adoption: RCW 34.05.230.

Summary: Makes housekeeping changes and emphasizes "plain English" in chapters 316-45 and 316-55 WAC.

Reasons Supporting Proposal: In compliance with Executive Order 97-02, these rules were reviewed and clarification changes made to these rules.

Name of Agency Personnel Responsible for Drafting: Kathy Marshall, Evergreen Plaza Building, 711 Capitol Way South, Olympia, (360) 586-6354; Implementation and Enforcement: John D. Nelson, Chairman, Evergreen Plaza Building, 711 Capitol Way South, Olympia, (360) 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Makes housekeeping changes and emphasizes "plain" English. The purpose and anticipated effect is to update the rules information and make the rules clearer and easier to understand.

Proposal Changes the Following Existing Rules: WAC 316-45-001, 316-45-003, 316-45-010, 316-45-030, 316-45-050, 316-45-110, 316-45-130, 316-45-150, 316-45-170, 316-45-190, 316-45-210, 316-45-230, 316-45-250, 316-45-270, 316-45-290, 316-45-310, 316-45-330, 316-45-350, 316-45-370, 316-45-390, 316-45-430, 316-45-550, 316-55-001, 316-55-005, 316-55-010, 316-55-020, 316-55-130, 316-55-150, 316-55-160, 316-55-170, 316-55-500, 316-55-505, 316-55-510, 316-55-515, 316-55-525, 316-55-600, 316-55-700, 316-55-710, and 316-55-730, plain English changes; WAC 316-45-020, revises and makes more clear unfair labor practices; WAC 316-45-410, revises and makes more clear unfair labor practice remedies; WAC 316-55-110, revises and makes more clear dispute resolution panel; WAC 316-55-120, plain English changes, revises and makes more clear impasse resolution expenses; and WAC 316-55-517, changes case list requirement from five years to two years; adds requirement of three arbitration awards; plain English changes.

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 Kathy Marshall, Marine Employees' Commission, P.O. Box 40902, Olympia, WA 98504-0902, AND RECEIVED BY June 2, 2003.

March 31, 2003

Kathy J. Marshall

Administrator

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-001 Scope—Contents—Other rules.

This chapter (~~governs~~) directs proceedings before the marine employees' commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules (~~promulgated~~) adopted by the chief administrative law judge (~~governing~~) outlining the conduct of adjudicative proceedings under chapter 316-45 WAC, except:

(a) WAC 10-08-035, which is (~~supplanted~~) replaced by detailed requirements in WAC 316-45-050;

(b) WAC 10-08-211, which is (~~supplanted~~) replaced by WAC 316-45-350 and 316-45-370; and

(c) WAC 10-08-230, which is ~~((supplanted))~~ replaced by WAC 316-45-070, 316-45-090, and 316-45-260.

(2) Chapter 316-02 WAC, which ~~((contains))~~ lists rules of practice and procedure ~~((applicable))~~ which apply to all types of proceedings before the marine employees' commission.

(3) Chapter 316-25 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(4) Chapter 316-35 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about petitions for clarification of existing ferry system employees' bargaining units.

(5) Chapter 316-55 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about resolution of impasses occurring in ferry system collective bargaining.

(6) Chapter 316-65 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(7) Chapter 316-75 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(8) Chapter 316-85 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about surveys of compensation, benefits and conditions of employment required by chapter 47.64 RCW.

AMENDATORY SECTION (Amending WSR 92-22-044, filed 10/27/92, effective 11/27/92)

WAC 316-45-003 Unfair labor practices—Defined.

(1) It is an unfair labor practice for ferry system management or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by chapter 47.64 RCW;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: Provided, That subject to rules made by the commission pursuant to RCW 47.64.130 and 47.64.280 an employer ~~((shall))~~ is not ~~((be))~~ prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160: Provided, That nothing prohibits ferry system management from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization;

(d) To discharge or otherwise discriminate against an employee because ~~((he))~~ the employee has filed charges or given testimony concerning subjects covered by chapter 47.64 RCW;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter: Provided, That this paragraph does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of ~~((his))~~ its representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, when it is the representative of employees subject to RCW 47.64.170.

(3) The rights guaranteed by chapter 47.64 RCW include:

(a) The right of self-organization, including the right to form, join, or assist a labor organization;

(b) The right to bargain collectively through a representative freely chosen by the employees themselves;

(c) The right to engage in other concerted activities for collective bargaining or for mutual aid or protection; ~~((or))~~ and

(d) The right to refrain from concerted activity. The right to refrain from concerted activities is limited to the extent that lawful union security agreements may be enforced.

(4) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, ~~((shall))~~ will not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-010 Complaint charging unfair labor practices—Who may file. A complaint charging that any person has ~~((engaged))~~ taken part in or is ~~((engaging))~~ taking part in an unfair labor practice, ~~((hereinafter referred to as))~~ from now on called a "complaint," may be filed by any employee, group of employees, employee organization, the department of transportation, or their agents.

AMENDATORY SECTION (Amending WSR 92-22-044, filed 10/27/92, effective 11/27/92)

WAC 316-45-020 Unfair labor practice complaint—Time limitations. (1) ~~((Unless otherwise specified in statute or rule, a complaint charging an unfair labor practice may not be filed later than one hundred eighty calendar days after the party filing such complaint knew or should have known of the event, activity, or practice alleged to be violations of protected rights under RCW 47.64.130 and WAC 316-45-003. For the purpose of computing timeliness of complaints, each event, activity, or practice in a series of identical or similar practices may be construed as a separate instance. Provided,~~

That the commission shall only consider those events, activities, or practices which have occurred no earlier than one hundred eighty days prior to the filing of the complaint unless the statute of limitations are deemed to be tolled pursuant to subsection (3) of this section.

(2) Where the event, activity, or practice is alleged to be a violation of a collective bargaining agreement in addition to violating rights protected by chapter 47.64 RCW, and the complainant chooses also to file a request for grievance arbitration pursuant to RCW 47.64.150, the statute of limitations herein run only after the remedies available in the contractual grievance procedures have been exhausted. The commission may accept the final resolution of the grievance arbitration process and defer to that decision. If the commission determines that the grievance procedure did not satisfactorily resolve the entire charge of unfair labor practice, the commission may resume processing the remaining unfair labor practice issue(s). A complaint charging an unfair labor practice may not be filed later than one hundred eighty calendar days after the party filing the complaint knew or should have known of the event, activity, or practice alleged to be a violation of RCW 47.64.130, or the regulations implementing that statute. For the purpose of computing timeliness, each event, activity, or practice in an alleged series of events, activities or practices will be construed as separate, provided that only those events, activities or practices occurring within the one hundred eighty days before the filing of the complaint may be remedied by the commission.

(2) Where an alleged violation of RCW 47.64.130, or the regulations implementing that statute, is also alleged to be a violation of a collective bargaining agreement and the matter is being actively pursued through the grievance and arbitration procedure of the collective bargaining agreement, the commission may hold the unfair labor practice in abeyance pending the outcome of the grievance and arbitration procedure. If the commission then determines that the grievance and arbitration procedure has satisfactorily resolved the entire matter or any portion of it, the commission may defer to that decision and dismiss the entire unfair labor practice complaint or that portion of it that has been resolved to the satisfaction of the commission. Otherwise, the commission will resume processing the unfair labor practice complaint or any portion of it that has not been resolved to the satisfaction of the commission.

(3) The limitation period specified in subsection ((2)) (1) of this section may be tolled where the charging party did not have actual or constructive knowledge of the alleged unfair labor practice. In the ((instance that)) case where the respondent has engaged in fraudulent concealment and/or deception as to its unlawful conduct, the commission may determine the limitation tolled, both as to the filing of the complaint and as to the remedy.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-030 Complaint—Number of copies—Filing—Service. Charges ((shall)) must be in writing, ((in the form of)) on a complaint of unfair labor practices form. The original copy of the complaint ((shall)) must be filed

with the commission at its Olympia office. The party filing the complaint ((shall)) must also serve a copy on each party named as a respondent.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-050 Contents of complaint charging unfair labor practices. Each complaint ((shall)) must contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, ((hereinafter referred to as)) from now on called the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, ((hereinafter referred to as)) from now on called the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts ((constituting)) about the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of the subsections of RCW 47.64.130 and/or WAC 316-45-003 alleged to have been violated, along with a statement of which alleged facts provide evidence of that alleged violation of the identified subsections.

(5) A statement of the remedy ((sought)) wanted by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-110 Initial processing of complaint. The commission or an assigned commissioner ((shall)) will determine whether the facts as alleged may constitute an unfair labor practice within the meaning of RCW 47.64.130 and WAC 316-45-003. If it is determined that the alleged facts ((as alleged)) do not, as a matter of law, constitute a violation, the commission or commissioner ((shall)) will issue and ((cause to be served)) will serve on all parties an order of dismissal ((containing)) explaining the reasons ((therefor)) for the dismissal; otherwise, the commission or commissioner ((shall cause)) will have the contents of the charge ((to be)) issued and served as a complaint of unfair labor practices. An order of dismissal issued ((pursuant to)) in accordance with this section by an examiner other than the commission ((shall)) will be subject to a petition for review as provided in WAC 316-45-350.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-130 Examiner—Who may act. The examiner may be the commission or a member of the commission designated by the commission. ((Upon notice to)) After notifying all parties, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-150 Authority of examiner. The examiner ~~((shall have))~~ has the authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule upon objections to evidence and offers of proof, receive relevant evidence and to exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) To question witnesses;
- (5) To regulate the time, place, and course of the hearing;
- (6) To dispose of procedural requests or other similar matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues;
- (8) To make and issue findings of fact, conclusions of law and orders;
- (9) To take any other action authorized by these rules.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-170 Notice of hearing. ~~((Notwithstanding))~~ WAC 316-02-170 aside, at least twenty days ~~((prior to))~~ before a hearing, the examiner ~~((shall))~~ will issue and ~~((cause to be served))~~ serve on the parties a notice of hearing at a specific time and place ~~((specified therein))~~. ~~((Attached to the notice of hearing shall be a copy of the complaint as approved under WAC 316-45-110.))~~ A copy of the complaint as approved under WAC 316-45-100 will be attached to the notice of hearing. The notice of hearing ~~((shall))~~ will specify the date for the filing of an answer, which ~~((shall))~~ must be not less than ten days ~~((prior to))~~ before the date set for hearing. ~~((Any such))~~ Notices of hearing may be amended or withdrawn before the close of the hearing.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-190 Answer—Filing and service. Before or on the date specified in the hearing notice, each respondent ~~((shall, on or before the date specified therefor in the notice of hearing,))~~ will file ~~((with the examiner))~~ the original copy of its answer to the complaint with the commission, and ~~((shall))~~ serve a copy on the complainant.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-210 Answer—Contents and effect of failure to answer. An answer filed by a respondent ~~((shall))~~ must specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent ~~((shall so))~~ will state so, ~~((such))~~ with that statement operating as a denial. ~~((The failure of))~~ If a respondent fails to file an answer, ~~((the failure))~~ fails to specifically deny or explain in the answer a fact alleged in the complaint ~~((shall,))~~ (except for good cause shown), the respondent will be deemed to ~~((be an~~

~~admission that))~~ have admitted the facts ~~((is))~~ true as alleged in the complaint ~~((, and as a waiver of the respondent of)),~~ The respondent will be deemed to have waived a hearing as to the admitted facts ~~((so admitted)).~~

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-230 Amendment of answer. The respondent may amend its answer at any time prior to the hearing. During or after the hearing ~~((or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission)),~~ the answer may be amended under such terms as are set by the examiner.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-250 Motion to make complaint more definite and certain. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. ~~((Such))~~ The motion ~~((shall))~~ will be filed with the examiner and served by the ~~((moving party))~~ respondent on the complainant and on any other parties. The filing of ~~((such))~~ this motion ~~((will))~~ extends the time during which the respondent must file and serve an answer until ~~((such))~~ the date ~~((as))~~ the commission or examiner ~~((may))~~ sets. The commission or examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-270 Hearings—Nature and scope. Hearings ~~((shall))~~ will be public and ~~((shall be))~~ are adversary in nature~~((;))~~. Hearings are limited to matters concerning the unfair labor practices alleged in the complaint. The complainant ~~((shall))~~ will prosecute its own complaint and ~~((shall have))~~ has the burden of proof. It ~~((shall be the duty of))~~ is the examiner's duty to ~~((inquire fully into))~~ ask about the full facts ~~((as to))~~ of whether the respondent has ~~((engaged in or is engaging))~~ taken part or is taking part in an unfair labor practice ~~((so as)),~~ to obtain a clear and complete factual record on which the examiner and commission may ~~((discharge))~~ fulfill their duties under these rules~~((;—Provided, however, That such duty of)).~~ The examiner's ((shall)) duty will not be ((construed)) seen as authorizing or requiring the examiner to ((undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its)) prosecute

the complainant's complaint or present the respondent's defense.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-290 Briefs and proposed findings. Any party ~~((shall be))~~ is entitled ~~((, upon request made before the close of the hearing,))~~ to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner, if requested before the close of the hearing. The commission or ~~((assigned commissioner))~~ examiner may ~~((direct))~~ require the filing of briefs when he or she ~~((deems such filing warranted by))~~ considers filing necessary due to the nature of the proceeding or of its particular issues ~~((therein)).~~ The original copy of a brief or proposed findings ~~((shall be)),~~ conclusion and order is filed with the commission ~~((or commissioner))~~ and a copy ~~((shall))~~ must be served ~~((upon))~~ on all other parties.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-310 Unfair labor practice—Decision. After the ~~((close of the hearing and the filing of all briefs))~~ hearing is over and all briefs are filed, the examiner ~~((shall))~~ makes a decision containing findings of fact, conclusions of law and order. If the examiner is a single member of the commission, he/she ~~((shall))~~ files the original decision with the commission and ~~((shall cause))~~ serves a copy ~~((thereof to be served))~~ on ~~((each of))~~ the parties. Any party may file a petition for review ~~((thereof))~~ with the commission. If the full commission is the examiner, the decision and order ~~((shall be))~~ are entered and ~~((shall be))~~ served on all parties and the commission decision ~~((shall be))~~ is final and binding upon the parties in accordance with RCW 47.64.280.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-330 Withdrawal or modification of examiner decision. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days ~~((following the issuance thereof))~~ after issuing the decision, if any mistake is discovered ~~((therein))~~ or ~~((upon))~~ on grounds of newly discovered evidence which could not with reasonable ~~((diligence))~~ care have been discovered and produced at the hearing ~~((— Provided, however, That)).~~ This section ~~((shall be inoperative))~~ does not apply after the filing of a petition for review with the commission.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-350 Petition for review of examiner decision. The examiner's findings of fact, conclusions of law and order ~~((shall be subject))~~ are open to review by the commission on its own motion, or at the request of any party

made within twenty days ~~((following the date of the order issued))~~ after the order's date of issue by the examiner. The original petition for review ~~((shall))~~ is to be filed with the commission at its Olympia office, and the party filing the petition ~~((shall))~~ must serve a copy on each of the other parties to the proceeding. ~~((Such))~~ A petition for review ~~((shall))~~ must contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review ~~((shall))~~ must have attached to it any appeal brief or written argument which the party filing the petition for review ~~((desires to have considered by the commission))~~ wants the commission to consider. Other parties to the proceeding ~~((shall))~~ will have fourteen days ~~((following))~~ after the date on which they are served with a copy of ~~((such))~~ the petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission or its ~~((designee))~~ appointee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. ~~((In the event))~~ If no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner ~~((shall))~~ will automatically become the findings of fact, conclusions of law and order of the commission and ~~((shall))~~ will have the same force and effect as if issued by the commission.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-370 Filing and service of cross-petition for review. Where a petition for review has been timely filed under WAC 316-45-350, ~~((any))~~ a party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. ~~((Such))~~ The cross-petition ~~((shall))~~ will be filed and served in the same ~~((manner))~~ way as a petition for review. ~~((Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.))~~ Deadlines for the submission of briefs or written arguments are extended by seven days when a cross-petition for review has been filed.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-390 Commission action. On its own motion, or on the filing of a petition for review, the entire record in the proceeding ~~((shall be))~~ is transferred to the commission, and ~~((thereafter))~~ from then on all motions and arguments ~~((shall be))~~ are directed to the commission. The commission may request the parties ~~((to))~~ appear before it to make oral arguments ~~((as to))~~ about certain ~~((of the))~~ issues or all of the issues in the matter. The commission ~~((shall))~~ will, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

EXPEDITED

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-410 Unfair labor practice remedies. If upon the preponderance of evidence the commission or ~~((commissioner shall))~~ examiner will conclude that any person named in the complaint has engaged in or is engaging in any unfair labor practice, then the ~~((commission))~~ examiner or commissioner ~~((shall))~~ will state its findings of fact and cause to be served on such person an order requiring him or her to cease and desist from such unfair labor practice and to take such affirmative and corrective action as necessary to effectuate the policies of RCW 47.64.005 and 47.64.006, including but not limited to reinstatement of employees with or without back pay. In calculating back pay orders, the following ~~((shall))~~ will apply:

(1) Employee(s) reinstated to employment with back pay ~~((shall))~~ will have deducted from any amount due an amount equal to any earnings such employee(s) may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Employee(s) reinstated to employment with back pay ~~((shall))~~ will have deducted from any amount due an amount equal to any unemployment compensation benefits such employee(s) may have received during the period of the violation, and the employer ~~((shall))~~ will provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as credit to the benefit record of the employee(s).

(3) The commission has the discretion to make money amounts ~~((due shall be))~~ subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-430 Motion for temporary relief. In addition to the remedies available under WAC 316-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions ~~((shall))~~ will be processed as provided in this section.

(1) The complainant ~~((shall))~~ will, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the commission of its intent to make a motion for temporary relief and ~~((shall))~~ will, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) ~~((Upon the filing of))~~ When a notice of intent to make a motion for temporary relief is filed, the commission ~~((shall))~~ will expedite the processing of the matter under WAC 316-45-110.

(3) After the ~~((determination of the))~~ commission determines that the complaint states a cause of action, any complainant ~~((desiring))~~ wanting temporary relief may file with the commission a motion for temporary relief together with affidavits ~~((as to))~~ about the risk of irreparable harm and the

adequacy of legal remedies, and ~~((shall))~~ serve a copy of ~~((such))~~ the motion and affidavits on all other parties to the proceedings. The other parties ~~((shall))~~ will have seven calendar days ~~((thereafter))~~ afterward to file and serve counter-affidavits.

(4) The commission ~~((shall))~~ determines whether an injunction pendente lite should be sought. ~~((It))~~ When making ~~((such))~~ that determination, the commission ~~((shall))~~ adheres to the following policy:

"The name and authority of the marine employees' commission ~~((shall))~~ will not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 316-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the commission with the assistance of the attorney general, ~~((shall))~~ will petition the superior court of Thurston county or the county wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been ~~((procured))~~ obtained, the complaint which ~~((has been))~~ was the basis for such temporary relief ~~((shall))~~ will be heard expeditiously and the case ~~((shall be))~~ given priority over all other cases except cases of like character.

(c) If the commission ~~((concludes))~~ decides that temporary relief should not be sought ~~((prior to))~~ before the conclusion of administrative proceedings in the matter, ~~((such))~~ that determination ~~((shall))~~ does not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

AMENDATORY SECTION (Amending WSR 90-01-118, filed 12/20/89, effective 1/20/90)

WAC 316-45-550 Collective bargaining—Mandatory subjects. The ~~((commission deems the))~~ determination ~~((as to))~~ of whether a particular subject is mandatory or non-mandatory ~~((to be))~~ is a question of law and fact to be determined by the commission ~~((, and which))~~. The issue is not subject to waiver by the parties by their action or inaction. It is the commission's policy ~~((of the commission))~~ that a party ~~((which engages))~~ taking part in collective bargaining with respect to any particular issue does not and cannot ~~((thereby))~~ confer the status of a mandatory subject on a nonmandatory subject.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-001 Scope—Contents—Other rules. This chapter ~~((governs))~~ directs activities of and proceedings

before the marine employees' commission relating to the resolution of impasses occurring in collective bargaining. This chapter does not ~~((contemplate))~~ reflect, and does not provide procedures for, direct involvement of the commission in the investigation and/or settlement of contested cases between parties. The assistance rendered by the commission to the parties at impasse during collective bargaining, and the commission's review of compliance with fiscal limitations are not adjudicatory in nature and are not governed by RCW 34.05.425 or 34.12.020 or chapter 10-08 WAC. Such assistance and/or review of compliance are ~~((deemed))~~ considered to be ministerial acts prescribed by RCW 47.64.170 through 47.64.240. However, ~~((insofar as))~~ because the collective bargaining process is related to bargaining unit recognition and clarification, to fair representation of ferry employees, to alleviation of ferry employee grievances, and to fact-finding survey procedures and requests, the ~~((provisions))~~ terms of this chapter should be read ~~((in conjunction))~~ together with the ~~((provisions))~~ terms of:

(1) Chapter 316-02 WAC, which ~~((contains))~~ lists rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-65 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(7) Chapter 316-85 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about fact-finding surveys of compensation, benefits, and conditions of employment.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-005 Impasse procedures—Duty to adopt. As the first step in the performance of their duty to bargain, the ferry system management and the ferry employee organization ~~((shall))~~ will endeavor to agree upon impasse procedures. ~~((Said))~~ Such agreement shall provide for implementation of those impasse procedures not later than July 1~~((st))~~ in each odd-numbered year following enactment of the biennial budget. If the parties fail to agree upon impasse procedures by July 1~~((st))~~, the impasse procedures provided in WAC 316-55-010 through 316-55-600 ~~((shall))~~ will apply.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-010 Resolution of impasses—Request for mediation. ~~((In the absence of an))~~ When there is no impasse agreement between the parties, or ~~((the failure of))~~ either party fails to utilize the procedures of ~~((such))~~ the impasse agreement by August 1~~((st))~~ in each odd-numbered year, either party may make a request in writing to the marine employees' commission for mediation. A copy of ~~((such))~~ the request ~~((shall))~~ is to be served ~~((upon))~~ on the other party.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-020 Mediation request—Information required. The party or parties requesting mediation ~~((shall))~~ must provide the following information to the commission:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations;

(3) A clear and concise statement of the disputed issues and the parties' positions ~~((in relation thereto))~~;

(4) A description of the size and composition of the bargaining unit involved;

(5) The expiration date of any collective bargaining agreement then in effect or recently expired;

(6) Any other relevant information; and

(7) The name, signature, and capacity of each officer, agent, attorney, or other individual acting for the filing party or parties.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-030 Impasse resolution—Appointment of mediator. ~~((Upon the filing of))~~ When a request for mediation is filed, the commission ~~((shall))~~ will appoint a qualified, impartial, and disinterested person to ~~((act))~~ serve as mediator. If the parties have ~~((stipulated))~~ listed the names of one or more persons who are acceptable to both parties as mediator, then the commission shall consider their desires.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-070 Impasse resolution—Function of mediator. ~~((It is the function of))~~ The mediator's function is to bring the parties together to ~~((effectuate))~~ reach a settlement of the dispute. The mediator ~~((shall))~~ will meet with the parties or their representatives, or both, either jointly or separately, and ~~((shall))~~ will take ~~((such))~~ appropriate steps ~~((as the mediator deems appropriate in order))~~ to aid the parties in voluntarily resolving their differences and ~~((effecting))~~ reaching an agreement. The mediator ~~((shall))~~ will not compel the parties to agree.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-090 Impasse resolution—Confidential nature of function. Information disclosed by the parties to the mediator in confidence during the course of mediation ~~((shall not be divulged))~~ will not be revealed by the mediator. Mediation meetings ~~((shall))~~ will be of an executive, private or nonpublic nature.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-110 Impasse resolution—Dispute resolution panel. (1) The commission ~~((shall establish))~~ will put together and maintain a panel of qualified mediators/arbitrators and ~~((shall))~~ will make a list of members of that arbitration panel available to parties for their use in selecting a mediator, a neutral chairman for an arbitration panel, a grievance arbitrator, a fact-finder or an ad hoc interest arbitrator.

(2) Any person may apply for membership on the panel ~~((; but the commission, in compiling and maintaining a panel of arbitrators, shall require))~~. Each applicant ~~((te))~~ must submit a resume ~~((;))~~ which includes but is not limited to:

(a) A ~~((complete))~~ list of the applicant's cases in the most recent ~~((five-year))~~ two-year period, with dates, names and addresses of parties, issues involved, whether the applicant acted as advocate, mediator, or arbitrator and other pertinent information;

(b) Three of the applicant's grievance arbitration or interest arbitration awards, which can be provided to the parties selecting an arbitrator.

(c) Whether or not and in what capacity, within the past five years the applicant has been employed by the department of transportation or by an organization representing employees in the department;

~~((te))~~ (d) Whether or not and in what capacity within the past five years a close relative of the applicant has been employed by the department or by an organization representing employees in the department.

(3) ~~((The commission shall require))~~ Members of the panel are required to update their resumes ~~((biennially))~~ every two years.

(4) When referring mediators/arbitrators from its dispute resolution panel to the parties, the commission ~~((shall))~~ will provide the parties with the background data submitted by the respective mediators/arbitrators in accordance with subsection (2) of this section. However, the commission ~~((shall))~~ is not ~~((be))~~ responsible for the validity or accuracy of the data ~~((se))~~ provided.

(5) The commission ~~((shall))~~ will maintain a log of those persons referred to the parties as a possible mediator or arbitrator or chairman of an arbitration panel under WAC 316-55-515(5), including dates, parties involved in the dispute, issues, whether or not the person was acceptable to the parties, was used as mediator or arbitrator, or was rejected. The log ~~((shall))~~ is to be available for public inspection.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-120 Impasse resolution—Expenses. Each party ~~((shall))~~ will pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The fees and expenses of a single arbitrator or of the chairman of ~~((a))~~ an arbitration panel ~~((of arbitrators shall))~~ will be shared equally by the parties. Fees and expenses of witnesses ~~((shall))~~ will be paid by the party for whom they testify. Fees and expenses of persons called or subpoenaed by a single arbitrator or a chairman of a panel ~~((shall))~~ will be shared equally by the parties. Costs of meeting in a neutral site, of recording and transcription of proceedings, and of other necessary joint activities ~~((shall))~~ will be shared equally by the parties.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-130 Impasse resolution—Disclosure. ~~((Prior to))~~ Before accepting the appointment, or as soon ~~((thereafter))~~ as information ~~((giving rise to))~~ raising a problem of appearance of fairness becomes known, a person serving in an impartial capacity in a dispute resolution proceeding under the jurisdiction of the commission ~~((shall disclose))~~ must inform to the parties of any circumstances ~~((likely to))~~ which may create an appearance of bias or which might disqualify him or her from serving in the impartial capacity. Employment of the person or any member of his or her immediate family by any party ~~((shall))~~ will be disqualifying. Each party to the proceeding ~~((shall))~~ will immediately notify the commission and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment ~~((shall))~~ will be vacated.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-150 Impasse resolution—Vacancies. If any person serving in an impartial capacity in dispute resolution proceedings under the jurisdiction of the commission ~~((should))~~ resigns, dies, withdraws, refuses or ~~((be))~~ is unable to serve, or ~~((should be))~~ is or becomes disqualified to perform the duties of the office, the commission or its ~~((designee shall))~~ appointee will declare the office vacant. The vacancy ~~((shall))~~ will be filled as provided in these rules.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-160 Fact finding. ~~((Prior to))~~ Before collective bargaining, the commission ~~((shall))~~ will conduct a salary survey as required by RCW 47.64.220 in the manner and procedure described in chapter 316-85 WAC. The ~~((commission shall make such other findings of fact as the parties may request))~~ parties may request the commission make other findings of fact during bargaining or impasse. The obtained salary survey data ~~((shall be))~~ is a public document.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-170 Waiver of mediation and fact finding. By mutual agreement, the parties may waive mediation and fact finding and proceed with binding arbitration. ~~((Such))~~ This waiver ~~((shall))~~ must be in writing and signed by the representatives of the parties. If the parties waive mediation or fact finding, impasse resolution ~~((shall be continued as provided))~~ is to continue as described in WAC 316-55-500 et seq.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-500 Binding arbitration. If impasse ~~((persists))~~ continues fourteen days after the mediator's ~~((has been appointed))~~ appointment, or beyond any other date mutually agreed to by the parties, all impasse items ~~((shall))~~ will be submitted to arbitration. That arbitration ~~((shall))~~ will be binding upon the parties in accordance with RCW 47.64.240. The parties ~~((shall))~~ will notify the commission in writing. ~~((Such))~~ This notice ~~((shall))~~ must contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;

(2) The name and address of the employee organization party to the impasse and the name, address and telephone number of that party's principal representative in the negotiations;

(3) A clear and concise statement of the disputed issues and the parties' positions ~~((in relation thereto))~~;

(4) A description of the size and composition of the bargaining unit involved;

(5) The expiration date of any collective bargaining agreement ~~((then))~~ in effect at the time or recently expired;

(6) Any other relevant information; and

(7) The name, signature and capacity of each officer, agent, attorney or other representative acting for the filing party or parties.

The original notice ~~((shall))~~ must be filed with the commission at its Olympia office. The party filing the notice ~~((shall))~~ must serve a copy on each of the other parties to the impasse. Amendments to notices ~~((shall))~~ must be filed and served in the same manner as the original notice in the proceeding.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-505 Final offer. In addition to the information required in WAC 316-55-500, each party ~~((shall))~~ will submit to the other party and to the arbitrator, if ~~((said))~~ the arbitrator has been selected ~~((or impanelled, and to the commission))~~, within four days of arbitration request, a final offer on the impasse items with proof of service of a copy to the other party. Each party ~~((shall also))~~ will submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached ~~((and))~~. Each party will also state the name of its selected arbitrator. The

parties may continue to negotiate all offers until an agreement is reached or a decision rendered by an arbitrator or panel of arbitrators. Unless clearly indicated otherwise ~~((by context))~~, the word arbitrator ~~((shall))~~ will mean a single arbitrator or a panel of arbitrators impanelled in accordance with RCW 47.64.240 (4) and (5) and WAC 316-55-515.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-510 Single arbitrator. The two parties may agree to submit their dispute to a single arbitrator. The full costs of arbitration under this procedure ~~((shall))~~ will be shared equally by the parties to the dispute.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-515 Arbitration panel. If the parties cannot agree on an arbitrator within four days, ~~((a))~~ an arbitration panel consisting of three members ~~((shall))~~ will be appointed in the following manner:

(1) One member ~~((shall))~~ will be appointed by the secretary of transportation;

(2) One member ~~((shall))~~ will be appointed by the ferry employee organization;

(3) One member ~~((shall))~~ will be appointed mutually by the members appointed by the secretary of transportation and the employee organization. The last member appointed ~~((shall))~~ will be the chairman of the arbitration panel ~~((of arbitrators))~~;

(4) If the third member has not been selected within four days of notification as provided in subsection (3) of this section, the parties ~~((shall))~~ will notify the commission in accordance with WAC 316-55-500. A list of seven arbitrators ~~((shall))~~ will be submitted to the parties by the marine employees' commission immediately. The two arbitrators selected by ferry system management and the ferry employee organization ~~((shall))~~ will determine by lot which arbitrator ~~((shall))~~ will remove the first name from the list submitted by the commission. The second arbitrator and the first arbitrator ~~((shall))~~ will alternately remove one additional name until only one name remains. The person whose name remains ~~((shall))~~ will become the chairman of the arbitration panel ~~((of arbitrators))~~ and ~~((shall))~~ will call a meeting within thirty days, or at such time mutually agreed to by the parties, at a location designated by him or her. All contacts and/or arrangements between the parties and an arbitrator selected under this rule will be the responsibility of the parties. In lieu of a list of seven nominees for the third member being submitted by the marine employees' commission, the parties may mutually agree to have either the Federal Mediation and Conciliation Service or the American Arbitration Association submit a list of seven nominees.

(5) No person ~~((shall))~~ will serve as an arbitrator in any proceeding in which he/she has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualification.

(6) No final award may be made by the panel until three arbitrators have been chosen.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-517 Arbitration panel chairman—Qualifications—Replacement. When submitting names of persons to the parties from which the chairman of ~~((a panel of arbitrators))~~ the arbitration panel will be selected under RCW 47.64.240 and WAC 316-55-515, the commission ~~((shall))~~ will furnish biographical information, background, qualifications and experience, including ~~((references))~~ three arbitration awards required by WAC 316-55-110 (2)(b) and a list of cases ~~((wherein))~~ where the person acted as advocate, or as mediator or arbitrator within the most recent ~~((five-year))~~ two-year period, for each of the seven names supplied to the parties. If one or more of those named is unavailable to accept appointment as chairman of the arbitration panel, or must be disqualified, a substitute name(s) will be provided upon the joint request of the parties. ~~((If all of those persons named by the commission are rejected by the parties, a second list will be provided upon the joint request of the parties.))~~ If the parties reject all seven names and jointly request additional names, the commission will provide a second list.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-525 Conduct of interest arbitration. (1) ~~((The))~~ Submission of the impasse items to the ~~((arbitrators shall be))~~ arbitration panel is limited to those issues upon which the parties have not reached agreement. With respect to each such item, the arbitration panel award ~~((shall be))~~ is restricted to the final offers on each impasse item submitted by the parties to the arbitration board on each impasse item.

(2) ~~((The (panel of arbitrators shall))~~ arbitration panel will at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in chapter 47.64 RCW.

(3) From the time of appointment until ~~((such time as the panel of arbitrators))~~ the arbitration panel makes its final determination, there ~~((shall))~~ is to be no discussion concerning recommendations for settlement of the dispute by the members of the arbitration panel ~~((of arbitrators))~~ with parties other than those who are direct parties to the dispute. The arbitration panel ~~((of arbitrators))~~ may conduct formal or informal hearings to discuss offers submitted by both parties.

(4) ~~((The (panel of arbitrators shall))~~ arbitration panel will consider, in addition to any other relevant factors, the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable work but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(c) The interests and welfare of the public, the ability of the ferry system to finance economic adjustments, and the effect of the adjustments on the normal standard of services;

(d) The right of the legislature to appropriate and to limit funds for the conduct of the ferry system; and

(e) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.

(5) The chairman of the arbitration panel ~~((of arbitrators))~~ may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the arbitration panel ~~((of arbitrators))~~. The chairman of the arbitration panel ~~((of arbitrators))~~ may petition the superior court in Thurston county, or any county in which any hearing is held, to enforce the order of the chairman compelling the attendance of witnesses and the production of records.

(6) A majority of the arbitration panel ~~((of arbitrators shall))~~ will within thirty days after its first meeting select the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.

(7) The selections by the arbitration panel ~~((of arbitrators))~~ and items agreed upon by the ferry system management and the employee organization ~~((shall))~~ will be deemed to be the collective bargaining agreement between the parties.

(8) The determination of the arbitration panel ~~((of arbitrators shall))~~ will be by majority vote and ~~((shall))~~ will be final and binding, subject to RCW 47.64.180 and 47.64.190. The arbitration panel ~~((of arbitrators shall give written))~~ will write an explanation for its selection and inform the parties of its decision.

(9) Two copies of the final award, including the written explanation required by subsection (8) of this section ~~((shall))~~ will be filed with the commission.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-600 Central filing of agreements. The parties to collective bargaining agreements entered into as a result of collective bargaining ~~((pursuant to))~~ in accordance with chapter 47.64 RCW ~~((shall))~~ will file ~~((with the commission))~~ two complete copies of their agreement with the commission.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-700 Result of collective bargaining agreements—If budget or fares exceeded. If the secretary of transportation finds that the cumulative fiscal requirements of all bargaining agreements and arbitration orders will exceed the budgetary and fare restrictions imposed by RCW 47.64.180, and so notifies the commission in accordance with RCW 47.64.190(3), the commission ~~((shall))~~ will review all negotiated agreements and arbitration orders, and may take written or oral testimony from the parties, regarding compliance with RCW 47.64.180. The commission ~~((shall))~~ will determine, within fifteen days of receiving the secretary's request for review, by majority vote, whether or not the cumulative effect of all such agreements and orders exceeds the limitations of RCW 47.64.180.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-710 Collective bargaining agreements stayed. Whenever the secretary of transportation requests commission review under RCW 47.64.190, the effect of all agreements and arbitration orders (~~shall~~) will be stayed, pending the commission's final determination.

AMENDATORY SECTION (Amending WSR 90-06-047, filed 3/2/90, effective 4/2/90)

WAC 316-55-730 Commission action. If the commission determines that the budget and fare limitations imposed by RCW 47.64.180 would be exceeded if all agreements and arbitration orders were given full force and effect, the commission (~~shall~~) will order the minimum percentage reduction in straight time wage provisions applied equally across the board to all agreements or arbitration orders which will result in compliance with RCW 47.64.180.

WSR 03-08-087
EXPEDITED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)
[Filed April 1, 2003, 4:50 p.m.]

Title of Rule: New WAC 388-25-0018 What is the agency's goal as to the maximum number of children who remain in foster care in excess of twenty-four months?

Purpose: To comply with federal law and regulation (Title IV, Section 471 (a)(14) of the Social Security Act, and 45 C.F.R. 1356.21(n)) which mandate states to make a projection as to the number or percentage of children they will have in foster care in excess of twenty-four months and to codify this requirement in state law. Washington state did have a rule (WAC 388-70-010) addressing this federal requirement, but it was repealed in error in rules adopted as WSR 01-08-047. The state is also mandated by its own statute, RCW 74.13.055, to have this rule.

Statutory Authority for Adoption: RCW 34.05.353 and 74.13.055.

Statute Being Implemented: RCW 74.13.055.

Summary: The proposed new rule will reinstate the following language which was lost when WAC 388-70-010 was repealed in error in rules adopted as WSR 01-08-047: "The placement goal for the foster care program is to limit the number of all children who remain in care in excess of twenty-four months to no more than 35% of the foster care population."

Reasons Supporting Proposal: To be in compliance with state and federal law. The proposed rule is a required policy statement that relates only to internal governmental operations that are not subject to violation by any person, and therefore qualifies this proposed rule for expedited adoption under RCW 34.05.353 (1)(a).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice Greenfield, 115 Washington Street, Olympia, WA 98504-45710, (360) 902-8002.

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

Rule is necessary because of federal law, Title IV, Section 471 (a)(14) Social Security Act; 45 C.F.R. 1356.21(n).

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to replace a WAC that was repealed in error, WAC 388-70-010, filed as WSR 01-08-047. This is a rule that the state is mandated to have by federal and state law.

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 Rules Coordinator, Rules and Policies Assistance Unit, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, AND RECEIVED BY 5:00 p.m., June 2, 2003.

March 25, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-25-0018 What is the agency's goal as to the maximum number of children who remain in foster care in excess of twenty-four months? The placement goal for the foster care program is to limit the number of all children who remain in care in excess of twenty-four months to no more than thirty-five percent of the foster care population.

WSR 03-08-088
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 2, 2003, 8:07 a.m.]

Title of Rule: WAC 16-603-010 Aquaculture identification requirements.

Purpose: The purpose of this proposed housekeeping amendment is to correct a WAC reference in WAC 16-603-010(2), as the referenced rule has been recodified since the date that this Department of Agriculture rule was adopted.

Statutory Authority for Adoption: Chapters 15.85 and 34.05 RCW.

Statute Being Implemented: Chapter 15.85 RCW.

Summary: The purpose of the proposed amendment is to correct a WAC reference in WAC 16-603-010(2). The pro-

posed amendment replaces the reference to a Department of Health rule, WAC 248-58-070, with the recodified number, WAC 246-282-080.

Reasons Supporting Proposal: The proposed amendment is necessary to change an incorrect reference in WAC 16-603-010(2).

Name of Agency Personnel Responsible for Drafting: George Huffman, 1111 Washington Street, Olympia, WA, (360) 902-1802; Implementation and Enforcement: Bill Brookreson, 1111 Washington Street, Olympia, WA, (360) 902-1810.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment corrects outdated information as explained in Purpose, Summary, and Reasons Supporting Proposal above. The effect of the amendment is to give correct information to aquatic farmers to help them determine whether they are already covered by Department of Health finfish and shellfish identification requirements for shipping and labeling aquatic products, or if they must comply with this shipping and labeling rule.

Proposal Changes the Following Existing Rules: The proposed housekeeping amendment is necessary to change an incorrect reference in WAC 16-603-010(2).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Huffman, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail ghuffman@agr.wa.gov, fax (360) 902-2092, AND RECEIVED BY June 2, 2003.

April 2, 2003

William E. Brookreson
Deputy Director

AMENDATORY SECTION (Amending Order 2086, filed 6/10/91, effective 1/1/92)

WAC 16-603-010 Aquaculture identification requirements. (1) Any sale or movement of private sector cultured aquatic products made by an aquatic farmer, other than retail sale for personal use by the purchaser or rendering or unmarketable solid waste disposal, shall:

- (a) Be accompanied by a shipping document showing:
 - (i) The aquatic farmer's name;
 - (ii) The aquatic farm mailing address;
 - (iii) The aquatic farm registration number required by RCW 75.58.040;

- (iv) The date of transfer by the aquatic farmer;
- (v) The quantity of each species; and
- (b) Be labeled, showing the name of the aquatic farmer and the farmer's aquatic farm registration number on each container of cultured aquatic products.

(c) The shipping documents and labeling required under this section shall be retained and maintained by the purchaser while the private sector cultured aquatic products are under the purchaser's possession or control.

(2) The provisions of this section do not apply to shellfish if the shellfish comply with rules enacted under the labeling requirements for the Sanitary Control of Shellfish Act (WAC ((248-58-070)) 246-282-080), or to live finfish or their reproductive tissues, if the finfish comply with rules enacted under the Washington department of fisheries transfer procedure set forth in chapter 220-77 WAC.

WSR 03-06-024

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 24, 2003, 3:27 p.m., effective July 1, 2003]

Effective Date of Rule: July 1, 2003.

February 22, 2003

Bonita H. Jacques

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit**ADULT DAY SERVICES**

Date of Adoption: February 20, 2003.

Purpose: Adopting new WAC 388-71-0702 through 388-71-0776, Adult day services, and repealing WAC 388-15-650 through 388-15-662, effective July 1, 2003. These rules were revised to ensure that adult day services are provided within available funding as required by law. Rules are needed to clarify the purpose of adult day care/day health programs; to clarify or amend adult day care/day health services and eligibility requirements; to transfer adult day health eligibility determinations to department/area agency on aging (AAA) case managers; to clarify the status of adult day health centers as contracted providers; to clarify the hearing rights of clients and providers; to adopt program cost controls; to amend administrative requirements for contracting with the department/AAA; and to adopt or clarify such other rules as are necessary or appropriate to accomplish these purposes.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-15-650, 388-15-651, 388-15-652, 388-15-653, 388-15-654, 388-15-655, 388-15-656, 388-15-657, 388-15-658, 388-15-659, 388-15-660, 388-15-661, and 388-15-662.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.04.200, 74.08.090, 74.09.520, and 74.39A.030.

Adopted under notice filed as WSR 03-01-010 on December 5, 2003 [2002].

Changes Other than Editing from Proposed to Adopted Version: Changes were made as a result of comments received, including: Text was added to WAC 388-71-0710 (1)(b) to allow additional methods for providers and department staff to verify Medicaid eligibility; and WAC 388-71-0776 amended to clarify that "WAC 388-71-0702 through 388-71-0776" are effective July 1, 2003.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 38, Amended 0, Repealed 13.

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 38, Amended 0, Repealed 13.

NEW SECTION

WAC 388-71-0702 Purposes and definitions. (1) WAC 388-71-0702 through 388-71-0776 contain the eligibility requirements for Medicaid-funded adult day care and adult day health services. These rules also contain the requirements that apply to adult day care or day health centers that contract with the department, an area agency on aging, or other department designee to provide Medicaid services to department clients. Nothing in these rules may be construed as requiring the department, area agency on aging, or other designee to contract with an adult day care or day health center.

(2) An adult day services program is a community-based program designed to meet the needs of adults with impairments through individual plans of care. This type of structured, comprehensive, nonresidential program provides a variety of health, social, and related support services in a protective setting. By supporting families and caregivers, an adult day services program enables the person to live in the community. An adult day services program assesses the needs of the persons served and offers services to meet those needs. The persons served attend on a planned basis. Nothing in this generic description of adult day services may be construed to modify the specific services or eligibility requirements referenced in the definition of adult day care and adult day health.

(3) The following definitions apply under WAC 388-71-0702 through 388-71-0774:

(a) "**Adult day care**" means the services under WAC 388-71-0704 that are provided to clients who meet the eligibility requirement under WAC 388-71-0708.

(b) "**Adult day center**" means an adult day care or adult day health center. A day care or day health center for purposes of these rules is a center operating in a specific location, whether or not the center's owner also operates adult day centers in other locations.

(c) "**Adult day health**" means the services under WAC 388-71-0706 that are provided to clients who meet the eligibility requirements under WAC 388-71-0710.

(d) "**Adult day services**" is a generic term referring to adult day care and adult day health services.

(e) "**Client**" means an applicant for or recipient of Medicaid-reimbursed adult day services.

(f) "**Participant**" means clients and other persons receiving adult day services at an adult day center.

NEW SECTION

WAC 388-71-0704 Adult day care—Services. (1) Adult day care is a supervised daytime program providing

core services as defined under subsection (2) of this section. Core services are appropriate for adults with medical or disabling conditions that do not require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician.

(2) The adult day care center must offer and provide on site the following core services:

(a) The following personal care services as defined in WAC 388-71-0202, "personal care services," or its successor:

- (i) Ambulation;
- (ii) Body care;
- (iii) Eating;
- (iv) Positioning;
- (v) Self-medication;
- (vi) Transfer;
- (vii) Toileting;
- (viii) Personal hygiene at a level that ensures client safety and comfort while in attendance at the program; and
- (ix) Bathing at a level that ensures client safety and comfort while in attendance at the program.

(b) Social services on a consultation basis, which may include:

- (i) Referrals to other providers for services not within the scope of Medicaid reimbursed adult day care services;
- (ii) Caregiver support and education; or
- (iii) Assistance with coping skills.

(c) Routine health monitoring with consultation from a registered nurse that a consulting nurse acting within the scope of practice can provide with or without a physician's order. Examples include:

- (i) Obtaining baseline and routine monitoring information on a client's health status, such as vital signs, weight, and dietary needs;
- (ii) General health education such as providing information about nutrition, illnesses, and preventive care;
- (iii) Communicating changes in the client's health status to the client's caregiver;

(iv) Annual and as needed updating of the client's medical record;

(v) Assistance as needed with coordination of health services provided outside of the adult day care program.

(d) General therapeutic activities that an unlicensed person can provide or that a licensed person can provide with or without a physician's order. These services are planned and provided as an integral part of the client's plan of care and are based on the client's abilities, interests and goals. Examples include:

- (i) Recreational activities;
 - (ii) Diversionary activities;
 - (iii) Relaxation therapy;
 - (iv) Cognitive stimulation;
 - (v) Group range of motion or conditioning exercises.
- (e) General health education that an unlicensed person can provide or that a licensed person can provide with or without a physician's order, including but not limited to topics such as:
- (i) Nutrition;
 - (ii) Stress management;

(iii) Disease management skills;

(iv) Preventive care.

(f) A nutritional meal and snacks provided each four-hour period at regular times comparable to normal meal times, including modified diet if needed and within the scope of the program, as provided under WAC 388-71-0768;

(g) Supervision and/or protection for clients who require supervision or protection for their safety;

(h) Assistance with arranging transportation to and from the program; and

(i) First aid and provisions for obtaining or providing care in an emergency.

NEW SECTION

WAC 388-71-0706 Adult day health—Services. (1)

Adult day health is a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services outlined in WAC 388-71-0704. Adult day health services are only appropriate for adults with medical or disabling conditions that require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician.

(2) The adult day health center must offer and provide on site the following services:

(a) All core services under WAC 388-71-0704;

(b) Skilled nursing services other than routine health monitoring with nurse consultation;

(c) At least one of the following skilled therapy services: physical therapy, occupational therapy, or speech-language pathology or audiology, as those services are defined under chapter 18.74, 18.59, and 18.35 RCW, respectively; and

(d) Psychological or counseling services, including assessing for psycho-social therapy need, dementia, abuse or neglect, and alcohol or drug abuse; making appropriate referrals; and providing brief, intermittent supportive counseling.

NEW SECTION

WAC 388-71-0708 Adult day care—Eligibility. (1)

COPES clients may be eligible for adult day care as a COPES service if they are assessed as having an unmet need for one or more of the following core services identified in WAC 388-71-0704:

(a) Personal care services;

(b) Routine health monitoring with consultation from a registered nurse;

(c) General therapeutic activities; or

(d) Supervision and/or protection for clients who require supervision or protection for their safety.

(2) COPES clients are not eligible for adult day care if they:

(a) Can independently perform or obtain the services provided at an adult day care center;

(b) Have unmet needs that can be met through the COPES program more cost effectively without authorizing day care services;

(c) Have referred care needs that:

(i) Exceed the scope of authorized services that the adult day care center is able to provide;

- (ii) Can be met in a less structured care setting; or
- (iii) Are being met by paid or unpaid caregivers.
- (d) Live in a nursing home, boarding home, adult family home, or other licensed institutional or residential facility; or
- (e) Are not capable of participating safely in a group care setting.

NEW SECTION

WAC 388-71-0710 Adult day health—Eligibility. (1) Clients are eligible for adult day health services if they meet all of the following criteria:

- (a) Age eighteen years or older; and
- (b) Identified on their medical assistance identification (MAID) card, or through other methods of eligibility verification, as enrolled in one of the following medical assistance programs:
 - (i) Categorically needy (CNP);
 - (ii) Categorically needy qualified Medicare beneficiaries (CNP-QMB);
 - (iii) General assistance—Expedited Medicaid Disability (GA-X); or
 - (iv) Alcohol and Drug Abuse Treatment and Support Act (ADATSA).
- (c) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714, and:
 - (i) There is a reasonable expectation that these services will improve, restore or maintain the client's health status, or in the case of a progressive disabling condition, will either restore or slow the decline of the client's health and functional status or ease related pain or suffering; and
 - (ii) The client is at risk for deteriorating health, deteriorating functional ability, or institutionalization; and
 - (iii) The client has a chronic or acute health condition that he or she is not able to safely manage due to a cognitive, physical, or other functional impairment.
 - (d) Assessed as having needs for personal care or other core services under WAC 388-71-0708, whether or not those needs are otherwise met.

(2) Clients are not eligible for adult day health if they:

- (a) Can independently perform or obtain the services provided at an adult day health center;
- (b) Have referred care needs that:
 - (i) Exceed the scope of authorized services that the adult day health center is able to provide;
 - (ii) Do not need to be provided or supervised by a licensed nurse or therapist;
 - (iii) Can be met in a less structured care setting; or
 - (iv) In the case of skilled care needs, are being met by paid or unpaid caregivers.
- (c) Live in a nursing home or other institutional facility; or
- (d) Are not capable of participating safely in a group care setting.

NEW SECTION

WAC 388-71-0712 Adult day health—Skilled nursing. (1) Skilled nursing services are medically necessary ser-

vices provided directly or indirectly by a registered nurse under physician supervision, or by a licensed practical nurse under physician or registered nurse supervision, that a licensed nurse acting within the scope of practice can provide or supervise. Physician orders must be obtained when required by applicable state practice laws for licensed nurses.

(2) Skilled nursing services must exceed the level of routine health monitoring, general health education, and general therapeutic activities as defined in WAC 388-71-0704, and must be provided with the reasonable expectation that the services will improve, restore, or maintain function as defined in WAC 388-71-0710 (1)(c). Skilled nursing services are:

- (a) Specific to a client diagnosis;
- (b) Individualized to the client with planned measurable outcomes; and
- (c) Evaluated every ninety days for effect on improvement of health status or prevention of decline.

(3) Skilled nursing services, including the initial client nursing assessment and development of the nursing plan of care, must be provided or supervised by a registered nurse in accordance with nursing practice standards under chapter 246-840 WAC.

(4) A skilled nursing service is not a qualifying adult day health service merely because the service is ordered by a physician or is provided by a nurse. If, by way of example, the service can be performed by the client or at the client's direction by a person other than a licensed nurse, or the client does not meet eligibility criteria, it is not a qualifying adult day health service.

(5) Skilled nursing services must be medically necessary as defined under WAC 388-500-0005. Medically necessary skilled nursing services may, but do not necessarily, include:

- (a) Care and assessment of an unstable or unpredictable medical condition, with time limited measurable treatment goals, requiring frequent intervention by a registered nurse or by a licensed practical nurse under the supervision of a registered nurse according to WAC 246-840-705;
- (b) Evaluation and management of the care plan when unstable medical conditions or complications require complex nonskilled care and skilled nurse oversight to ensure that the nonskilled care is achieving its purpose;
- (c) Time-limited training by licensed nursing staff to teach the client and/or the client's caregiver self-care for newly diagnosed, acute, or episodic medical conditions that require the skills of a licensed nurse to teach, and that will optimize client function, as illustrated by the following examples:

- (i) Self administration of an injection;
 - (ii) Prefilling insulin syringes;
 - (iii) Irrigating a catheter;
 - (iv) Caring for a colostomy or urostomy;
 - (v) Wound dressing changes or aseptic technique; or
 - (vi) Disease self-management.
- (d) Skilled interventions provided directly by a licensed nurse such as:

- (i) Inserting or irrigating a catheter;
- (ii) Administering medications or oxygen;
- (iii) Administering and managing infusion therapy; or

(iv) Treating decubitus ulcers, or other types of wound care.

(6) Medically necessary skilled nursing services, by way of example, do **not** include:

(a) Reminding or coaching the client;

(b) Monitoring of a medical condition that does not require frequent skilled nursing intervention or a change in physician treatment orders, or where there is no reasonable expectation that skilled services will maintain, improve, or slow the effect of a progressive disabling condition on the pain, health or functioning of a client;

(c) Medication assistance when the client is capable of self-administration or is having this need met through paid or unpaid caregivers;

(d) Evaluation and management of the care plan when the complexity of care to be provided by nonskilled persons does not require skilled nurse oversight beyond routine health monitoring;

(e) Continued training by nursing staff to teach self-care for newly diagnosed, acute, or episodic medical conditions when it is apparent that the training should have achieved its purpose or that the client is unwilling or unable to be trained;

(f) Core services that can be provided by an adult day care center, such as routine health monitoring, general health education, or general therapeutic activities; or

(g) Group therapy or training where three or more clients are being simultaneously treated or trained by the nurse.

(7) Skilled nursing services must be documented as provided under WAC 388-71-0746 and chapter 388-502 WAC.

NEW SECTION

WAC 388-71-0714 Adult day health—Rehabilitative therapy. (1) Skilled rehabilitative therapy services are medically necessary services provided by or under the supervision of a licensed physical, occupational, or speech-language pathology or audiology therapist that the therapist acting within the scope of practice can provide or supervise directly or indirectly. Physician orders must be obtained when required by applicable state practice laws for licensed therapists.

(a) Persons that can provide rehabilitative care under the direction and supervision of a licensed therapist include occupational therapy aides, occupational therapy assistants, physical therapy aides, physical therapy assistants, and nurses within their respective scopes of practice. Adult day health program aides, specifically trained in rehabilitative techniques, may also provide care under the direction and supervision of a licensed therapist.

(b) Services, group or individual, must be related to an active written plan of care with time limited measurable treatment goals approved by the physician;

(c) Services, group or individual, must require the assessment, knowledge and skills of a licensed therapist; and

(d) Services, group or individual, must be provided with the reasonable expectation that the services will improve, restore, or maintain function, or slow decline. Rehabilitative services are:

(i) Specific to a client diagnosis;

(ii) Individualized to the client with planned, measurable outcomes; and

(iii) Evaluated every ninety days for effect on improvement of health status or prevention of decline.

(2) Skilled rehabilitative therapy is not a qualifying adult day health service merely because the therapy is ordered by a physician or is provided by a therapist or under the supervision of a therapist. If, by way of example, the therapy can be performed independently by the client or at the client's direction by a person other than a licensed therapist, or the client does not meet eligibility criteria, it is not a qualifying adult day health service.

Skilled rehabilitative therapy services must be medically necessary as defined under WAC 388-500-0005.

(3) Medically necessary physical therapy services may, but do not necessarily include:

(a) Assessing baseline mobility level, strength, range of motion, endurance, balance, and ability to transfer;

(b) One to one and group treatment to relieve pain or develop, restore, or maintain functioning, with individualized and measurable client treatment goals;

(c) Establishing a maintenance or restorative program with measurable treatment goals, and providing written and oral instruction to the client, caregivers, or program staff as needed to assist the client in implementing the program;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-skilled care and skilled therapist oversight to ensure that the non-skilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a physical therapist acting within the therapist's scope of practice.

(4) Medically necessary occupational therapy services may, but do not necessarily include:

(a) Administering a basic evaluation to determine baseline level of functioning, ability to transfer, range of motion, balance, strength, coordination, activities of daily living and cognitive-perceptual functioning;

(b) Teaching and training the client, caregivers, or program staff in the use of therapeutic, creative, and self care activities to improve or maintain the client's capacity for self-care and independence, and to increase the range of motion, strength and coordination;

(c) One to one and group treatment to develop, restore, or maintain functioning with individualized and measurable client treatment goals;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-skilled care and skilled therapist oversight to ensure that the non-skilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of an occupational therapist acting within the therapist's scope of practice.

(5) Medically necessary speech-language pathology or audiology services may, but do not necessarily include;

(a) Assessing baseline level of speech, swallowing, auditory, or communication disorders;

(b) Establishing a treatment program to improve speech, swallowing, auditory, or communication disorders;

(c) Providing speech therapy procedures that include auditory comprehension tasks, visual and/or reading comprehensive tasks, language intelligibility tasks, training involving the use of alternative communication devices, or swallowing treatment;

(d) Training the client or the client's caregivers in methods to assist the client in improving speech, communication, or swallowing disorders;

(e) Evaluation and management of the care plan when medical conditions or complications require complex non-skilled care and skilled therapist oversight to ensure that non-skilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a speech-language pathology or audiology therapist acting with the therapist's scope of practice.

(6) Medically necessary skilled rehabilitative therapy services, by way of example, do **not** include:

(a) Reminding or coaching the client in tasks that are not essential to the skilled therapy or intervention in the client's service plan;

(b) Monitoring of a medical condition that does not require frequent skilled therapist intervention or a change in physician treatment orders, or where there is no reasonable expectation that skilled services will maintain, improve, or slow the effect of a progressive disabling condition on the pain, health or functioning of a client;

(c) Massage therapy;

(d) Evaluation and management of the care plan when the complexity of the care to be provided by nonskilled persons does not require the skills of a licensed therapist for oversight;

(e) Continued training by therapy staff to teach self-care for newly diagnosed, acute, or episodic medical conditions when it is apparent that the training should have achieved its purpose or that the client is unwilling or unable to be trained;

(f) Core services that can be provided by an adult day care center, such as routine health monitoring, general health education, or general therapeutic activities; or

(g) Group therapy or training where the ratio of licensed therapists and assisting program staff to clients is inadequate to ensure that:

(i) The group activity contributes to the individual client's planned therapy goals; and

(ii) The complexity of the individual client's need can be met.

(7) Skilled therapy services must be documented as provided under WAC 388-71-0746 and chapter 388-502 WAC.

NEW SECTION

WAC 388-71-0716 Adult day care—Assessment and service plan. (1) The department or an authorized case man-

ager must assess a client's need for adult day care in accordance with WAC 388-71-0203 and 388-71-0716. Based on the assessment, the case manager determines whether the client should be referred for day care services or whether the client's needs can be met in other ways.

(2) If the case manager determines an unmet need for a core service that may be provided at a day care center, the case manager works with the client and/or the client's representative to develop a service plan that documents the needed services and the number of days per week that the services are to be provided. The case manager refers the client to a COPES-contracted day care center that the client and the case manager agree can potentially meet the client's needs.

(3) Clients receiving adult day care services must be reassessed at least annually in accordance with WAC 388-71-0203 and 388-71-0716.

NEW SECTION

WAC 388-71-0718 Adult day care—Negotiated care plan. (1) Upon referral of a COPES eligible client by the case manager, the day care center must conduct an intake evaluation based on an interview with the client and/or the client's representative to assess the center's ability to meet the client's needs as identified in the department service plan. The case manager will provide the client's service plan to the adult day care provider within five working days after the client or client's representative has signed it.

(2) Within two working days of the referral, the day care center must respond to the referral and notify the case manager of its ability to process and evaluate the referral.

(3) Within ten working days of the initial date of client attendance at the day care center, the center must determine whether it can meet the client's needs, how those needs will be met, and whether to accept the client to the program. The center must not accept a client whose needs the center cannot meet.

(4) Within thirty days of acceptance into the program, the day care center must develop a negotiated care plan signed by the client or the client's representative and the day care center. The care plan must:

(a) Be consistent with the department-authorized service plan and include all day care services authorized in the service plan;

(b) Document the client's needs as identified in the service plan, the adult day care services that will be provided to meet those needs, and when, how, and by whom the services will be provided;

(c) Document the client's choices and preferences concerning the provision of care and services, and how those preferences will be accommodated;

(d) Document potential behavioral issues identified in the assessment, service plan, or through the intake evaluation, and how those issues will be managed;

(e) Document contingency plans for responding to a client's emergent care needs or other crises; and

(f) Be approved by the client's case manager.

(5) The adult day care center must keep the negotiated care plan in the client's file, must offer a copy of the plan to the client or client representative, and must provide a copy to

the client's case manager. The case manager must review the negotiated care plan for inclusion of services that are appropriate and authorized for the client's care needs.

(6) The negotiated care plan must limit the frequency of services to the number of days authorized in the department-authorized service plan.

(7) The day care center must review each service in the negotiated care plan if the client's condition changes, and determine if the care plan continues to meet the client's needs. Changes in the client's condition or unanticipated absences of more than three consecutive days of scheduled service must be reported to the client's case manager within one week. Unanticipated absences by way of example may include absences due to client illness or injury, or a change in transportation access. The case manager may follow-up with the client and determine if any updates to the assessment, service plan, and service authorization are needed.

NEW SECTION

WAC 388-71-0720 Adult day health—Assessment and service plan. (1) The department or an authorized case manager must assess a client's potential need for adult day health in accordance with WAC 388-71-0203 and 388-71-0720.

(2) If the client has a department or area agency on aging case manager, the adult day health center or other referral source must notify the case manager of the client's potential adult day health service need. The case manager must assess the client's need for skilled nursing or skilled rehabilitative therapy within the department's normal time frames for client reassessments.

(3) If the client does not have a department or area agency on aging case manager, the adult day health center or other referral source must notify the department of the referral and the client's potential adult day health service need, or refer the client to the department for intake. The department's assigned case manager must assess the client's need for adult day health services within the department's normal time frames for initial client eligibility assessments.

(4) Based on the assessment, the department or area agency on aging case manager determines whether the client should be referred for a day health service evaluation or whether the client's needs can be met in other ways. The case manager may consult with the client's practitioner, department or area agency on aging nursing services staff, or other pertinent collateral contacts, concerning the client's need for skilled nursing or rehabilitative therapy.

(5) If the department or area agency on aging case manager determines and documents a potential unmet need for day health services, the case manager works with the client and/or the client's representative to develop a service plan that documents the potential unmet needs and the anticipated number of days per week that the services are needed. The case manager refers the client to a department contracted day health center for evaluation and the development of a preliminary negotiated plan of care.

(6) The department or area agency on aging case manager must reassess adult day health clients at least annually in

accordance with WAC 388-71-0203 and 388-71-0720 or its successor. Clients must also be reassessed if they have a break in service of more than thirty days. The adult day center must inform the case manager of the break in service so payment authorization can be discontinued.

(7) Effective upon the adoption of these rules, recipients of adult day health services must be assessed by the department or an authorized case manager for continued or initial eligibility in accordance with this section. The assessment from the department will occur in conjunction with the:

(a) Annual reassessment for department clients;

(b) Adult day health quarterly review for current nondepartmental clients as resources allow; and

(c) New referrals for adult day health services are to be forwarded to local department offices for intake and assessment for eligibility.

(8) The department or area agency on aging case manager must review a client's continued eligibility for adult day health services every ninety days, coinciding with the quarterly review completed by the adult day health program. At the case manager's discretion, additional information will be gathered through face to face, collateral or other contact methods to determine continued eligibility. Services will be continued, adjusted, or terminated based upon the case manager's determination during the eligibility review.

NEW SECTION

WAC 388-71-0722 Adult day health—Negotiated care plan. (1) Upon referral of a client by the department or an authorized case manager, the day health center must conduct an intake evaluation and multidisciplinary assessment based on an interview with the client or the client's representative to determine the center's ability to meet the client's core service needs and potential adult day health needs as identified in the preliminary department service plan. The case manager will provide the client's service plan to the day health center within five working days after the client or client's representative has signed it. The day health center must evaluate the client's skilled and core service needs, and may provide up to ten days of paid service to complete the evaluation and develop a preliminary or negotiated plan of care to be provided to the client and the case manager.

(2) Within two working days of the referral, the day health center must respond to the referral and notify the case manager of its ability to process and evaluate the referral.

(3) Within ten paid days of service, the day health center must determine whether it can meet the client's needs, how those needs will be met, and whether to accept the client to the program. The center must not accept a client whose needs the center cannot meet. The center will be reimbursed under WAC 388-71-0724 for any service days provided from the start of the evaluation if the case manager has authorized services. The evaluation includes acceptance of the client to the center, the development of the initial assessment, and the preliminary negotiated plan of care.

(4) Upon approval by the case manager of the adult day health preliminary or negotiated care plan, the day health center multidisciplinary team must obtain and provide to the case manager any required practitioner's orders for skilled

nursing and rehabilitative therapy along with a copy of the negotiated plan of care, according to department documentation requirements. Orders must indicate how often the client is to be seen by the authorized practitioner. The case manager or nursing services staff may follow up with the practitioner or other pertinent collateral contacts concerning the client's need for skilled services. Services may not be authorized for payment without current practitioner orders and the client's consent to follow up with the practitioner.

(5) Within thirty days of the client's acceptance into the program, the day health multidisciplinary team must work with the client to develop a negotiated care plan signed by the client or the client's representative and the day health center. The care plan must:

(a) Be consistent with the department-authorized service plan and include all day health services authorized in the service plan;

(b) Include an authorized practitioner's order(s) for skilled nursing and/or skilled rehabilitative therapy according to applicable state practice laws for licensed nurses or therapists;

(c) Document that the client or the client's representative has consented to follow up with the primary authorizing practitioner;

(d) Document the client's needs as identified in the service plan, the authorized services that will be provided to meet those needs, and when, how, and by whom the services will be provided;

(e) Establish time-limited, client specific, measurable goals, not to exceed ninety days from the date of signature of the negotiated care plan, for accomplishing the objectives of adult day health skilled services and/or discharging or transitioning the client to other appropriate settings or services;

(f) Document the client's choices and preferences concerning the provision of care and services, and how those preferences will be accommodated;

(g) Document potential behavioral issues identified in the assessment, service plan, or through the intake evaluation, and how those issues will be managed;

(h) Document contingency plans for responding to a client's emergent care needs or other crises; and

(i) Be approved by the case manager.

(6) The adult day health center must keep the negotiated care plan in the client's file, the plan to the client or client representative, and must provide a copy to the client's case manager, including any required authorizing practitioner orders. The department case manager must review the negotiated care plan for inclusion of services that are appropriate and authorized for the client's care needs.

(7) The negotiated care plan must limit the frequency of department-funded services to the number of days in the department-authorized service plan.

(8) The day health center must review each service in the negotiated care plan every ninety days or more often if the client's condition changes, or if the client is reassessed for eligibility after a break in service of more than thirty days. Changes in the client's condition or unanticipated absences of more than three consecutive days of scheduled service must be reported to the client's case manager within one week. Unanticipated absences by way of example may include

absences due to client illness or injury. The case manager may follow-up with the client and determine if any updates to the assessment, service plan, and service authorization are needed.

NEW SECTION

WAC 388-71-0724 Adult day services—Contracting and rates. (1) The department, or an area agency on aging (or other department designee) as authorized by the department, must determine that the adult day care or day health center meets the applicable adult day care or day health requirements and any additional requirements for contracting with the area agency on aging through a COPES contract or with the department through a Medicaid provider contract. If a center is contracting for both day care and day health, requirements of both adult day services must be met.

(a) A prospective provider desiring to provide adult day services shall be provided an application form from the department or the area agency on aging.

(b) The prospective provider will provide the area agency on aging with evidence of compliance with, or administrative procedures to comply with, the adult day service rules under this chapter.

(c) The area agency on aging will conduct a site inspection of the adult day center and review of the requirements for contracting.

(d) Within thirty days of completing the site visit, the area agency on aging will advise the prospective provider in writing of any deficiencies in meeting contracting requirements.

(e) The area agency on aging will verify correction of any deficiencies within thirty days of receiving notice from the prospective provider that deficiencies have been corrected, before contracting can take place.

(f) The area agency on aging will provide the department with a written recommendation as to whether or not the center meets contracting requirements.

(2) Minimum application information required to apply for contract with the department, or an area agency on aging includes:

(a) Mission statement, articles of incorporation, and bylaws, as applicable;

(b) Names and addresses of the center's owners, officers, and directors as applicable;

(c) Organizational chart;

(d) Total program operating budget including all anticipated revenue sources and any fees generated;

(e) Program policies and operating procedure manual;

(f) Personnel policies and job descriptions of each paid staff position and volunteer position functioning as staff;

(g) Policies and procedures meeting the requirements of mandatory reporting procedures as described in chapter 74.34 RCW to adult protective services for vulnerable adults and local law enforcement for other participants;

(h) Audited financial statement;

(i) Floor plan of the facility;

(j) Local building inspection, fire department, and health department reports;

(k) Updated TB test for each staff member according to local public health requirements;

(l) Sample client case file including all forms that will be used; and

(m) Activities calendar for the month prior to application, or a sample calendar if the day service provider is new.

(3) The area agency on aging or other department designee monitors the adult day center at least annually to determine continued compliance with adult day care and/or adult day health requirements and the requirements for contracting with the department or the area agency on aging.

(a) The area agency on aging will send a written notice to the provider indicating either compliance with contacting requirements or any deficiencies based on the annual monitoring visit and request a corrective action plan. The area agency on aging will determine the date by which the corrective action must be completed

(b) The area agency on aging will notify the department of the adult day center's compliance with contracting requirements or corrected deficiencies and approval of the corrective action plan for continued contracting.

(4) Adult day care services are reimbursed on an hourly basis up to four hours per day. Service provided four or more hours per day will be reimbursed at the daily rate.

(5) Payment rates are established on an hourly and daily basis for adult day care centers as may be adopted in rule. Rate adjustments are determined by the state legislature. Providers seeking current reimbursement rates can refer to SSPS billing instructions.

(6) Rates as of July 1, 2002, are as follows:

Counties	COPEs Adult Day Care	
	Daily Rate	Hourly Rate
King	\$36.48	\$9.10
Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, & Yakima	\$32.45	\$8.11
All other counties	\$30.75	\$7.69

(7) Payment rates are established on a daily basis for adult day health centers as may be adopted in rule. Rate adjustments are determined by the state legislature. Providers seeking current reimbursement rates can refer to MAA billing instructions or <http://maa.dshs.wa.gov>.

(8) Rates as of July 1, 2002, are as follows:

Counties	Day Health Daily
King	\$47.48
Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, & Yakima	\$43.06
All other counties	\$40.68

A one-time only initial intake evaluation provided by an adult day health center, including development of a negotiated care plan, is reimbursed at an established rate as may be

adopted in rule. The rate as of July 1, 2002 is eighty-nine dollars and thirty-eight cents. Rate adjustments are determined by the state legislature. Separate reimbursement is not available for subsequent evaluations.

(9) Transportation to and from the program site is not reimbursed under the adult day care rate. Transportation arrangements are made with locally available transportation providers or informal resources.

(10) Transportation to and from the program site is not reimbursed under the adult day health rate. Transportation arrangements for eligible Medicaid clients are made with local Medicaid transportation brokers, informal providers, or other available resources per chapter 388-546 WAC.

NEW SECTION

WAC 388-71-0726 Adult day health transportation.

The following rules apply if Medicaid transportation services are requested:

(1) The day health center must refer the client to a local Medicaid transportation broker. The broker may consult with the client, the client's physician, family, case manager, or day health center as needed in making any transportation arrangements.

(2) In referring the client to a day health center, the case manager may consider: the frailty and endurance of the client, the client's skilled nursing or rehabilitative therapy needs, and a reasonable round-trip travel time that may not exceed two hours, unless there is no closer center that can meet the client's skilled care needs. Documentation of language barriers may be considered on an exception to rule basis by the case manager.

(3) All brokered transportation under this subsection is subject to the requirements of chapter 388-546 WAC or its successors. In the case of any conflicts, the provisions of chapter 388-546 WAC take precedence.

NEW SECTION

WAC 388-71-0728 Coordination of services.

(1) A COPEs-eligible client may receive adult day care services on some days and adult day health services on different days if the service plan documents which level of service is to be provided on which days. However, core services must be provided on all days that adult day health skilled services are provided, and reimbursement is limited to the day health rate on days that day health services are provided.

(2) Clients receiving services from the department in an adult family home, boarding home, or other licensed community residential facility may not receive COPEs-funded adult day care, but may receive Medicaid adult day health services when the skilled nursing or rehabilitative services are approved by the client's case manager as part of the client's service plan.

(3) A licensed boarding home providing department-approved day care under chapter 388-78A WAC is subject to any applicable provisions of that chapter and is also subject to the rules under this chapter if the facility contracts with an area agency on aging or the department to provide COPEs or other Medicaid-funded adult day services.

PERMANENT

NEW SECTION

WAC 388-71-0730 Senior Citizens Services Act/Respite care. (1) Except as provided under this section, the adult day services rules under this chapter do not apply to adult day care or day health services funded under chapters 74.38 and 74.41 RCW.

(2) An area agency on aging that elects to provide adult day services using Senior Citizens Services Act funding under chapter 74.38 RCW or respite care funding under chapter 74.41 RCW must contract with an adult day center that meets all administrative and facility requirements under WAC 388-71-0736 through 388-71-0774.

(3) The adult day care or day health services funded under chapters 74.38 or 74.41 RCW must be the same as the day care services required under WAC 388-71-0704 or the day health services required under WAC 388-71-0706. The area agency on aging may require additional services by contract.

(4) The area agency on aging may, by contract, establish eligibility and assessment requirements for day care or day health services in accordance with locally identified needs. However, funding provided under chapters 74.38 or 74.41 RCW may only be used to meet the needs of individuals who are not eligible for adult day care under WAC 388-71-0708 or for adult day health under WAC 388-71-0710, or who are eligible for those services and are not receiving them because of funding limitations.

(5) Nothing in this section or chapter may be construed as requiring an area agency on aging to contract with an adult day center, whether or not the center has a COPEs or other Medicaid contract. Nor may anything in this section or chapter be construed as creating an entitlement to state-funded adult day services authorized under chapters 74.38 and 74.41 RCW.

NEW SECTION

WAC 388-71-0732 Hearing rights. (1) If the department or area agency on aging denies, terminates, or reduces an individual client's adult day care or day health services, the client has the right to a fair hearing as provided under chapter 388-02 WAC.

(2) An adult day care or day health center has those hearing or dispute resolution rights that are afforded under RCW 43.20B.675 and the center's contract with the area agency on aging or the department. An adult day health center has any other applicable hearing or dispute resolution rights under chapter 388-502 WAC.

(3) Adult day health centers are subject to all applicable provisions of chapter 388-502 WAC, and the department's aging and adult services administration may exercise the department's authority under that chapter to the same extent as the medical assistance administration.

NEW SECTION

WAC 388-71-0734 Limiting expenditures. (1) In order to provide adult day services within the limits of available funding, the department may limit services when pro-

gram expenditures exceed the budget appropriation or when limiting services is required to prevent expenditures from exceeding the appropriation.

(2) When adult day health program expenditures exceed available funding, the department may limit adult day health services based on the four care level system as determined through the established department assessment and described in chapter 388-105 WAC.

(a) Using the care level determined by the department assessment tool, the department will limit adult day services on a statewide basis to clients whose total scores exceed the assessed need level identified by the department as necessary to provide adult day health services to the extent of available funding.

(b) At least thirty days before implementing the limitation on services under this subsection, the department will notify the area agencies on aging, adult day health centers, and the affected adult day health clients that services are being limited and for what period of time the limitation is estimated to remain in effect.

(c) For purposes of RCW 74.08.080, the reduction in services shall be deemed an assistance adjustment for an entire class of recipients that is required by state laws prohibiting the department from expending funds in excess of appropriations.

(3) The department may adopt additional or alternative rules to control costs, such as, but not limited to, imposing a moratorium on contracting with new adult day centers, limiting services to clients based on level of care need, or reducing the numbers of days per week that clients may receive services.

(4) Effective upon the adoption of these rules, and until this subsection is repealed, a moratorium is imposed on contracting with new adult day health centers, including but not limited to additional sites operated by currently contracted providers, except in an area where no existing program is available, funding is available, and prior departmental approval has been obtained.

NEW SECTION

WAC 388-71-0736 Adult day centers—Administrative policies and procedures. (1) Adult day centers must have written policies, procedures, and documentation of the organizational structure and administration of the program.

(2) Administrative policies and procedures must include:

(a) Mission statement;

(b) Articles of incorporation and bylaws, as applicable;

(c) Current business license;

(d) Names and addresses of the center's owners, officers, and directors, as applicable;

(e) Certificates of insurance, including but not limited to property and general liability insurance; business auto if the center uses vehicles to transport clients; professional liability; workers' compensation; employers' liability if applicable; coverage for acts and omissions of employees and volunteers; and certificates of insurance for any subcontractors;

(f) Minutes of last three meetings of the board of directors, if applicable, and the advisory committee;

(g) Role and functions of an advisory committee, which must meet at least twice a year and which must be representative of the community and include family members of current or past clients and nonvoting staff representatives (When an adult day center is a subdivision of a multifunction organization, a committee or subcommittee of the governing body of the multifunction organization may serve as the advisory committee. A single purpose agency may utilize its governing board as an advisory committee.);

(h) An organizational chart illustrating the lines of authority and communication channels of the center, which must be available to all staff and clients;

(i) A calendar of programming (or sample calendar if the center is new);

(j) A monthly menu (or sample menu if the center is new);

(k) Current building, health, food service and fire safety inspection reports, and food handler permits, as applicable; and

(l) Quality improvement plans and results.

NEW SECTION

WAC 388-71-0738 Adult day centers—Operating policies and procedures. (1) All policies and procedures must be reviewed on a regular basis, at least annually by the advisory committee, and conform to the requirements outlined in WAC 388-71-0702 through 388-71-0774, as applicable.

(2) Policies and procedures must include:

(a) Core values and mission of the organization;

(b) Ethical standards of the center and professional standards of conduct;

(c) Short- and long-range program goals;

(d) Definition of the target population, including number, age, and needs of participants;

(e) Geographical definition of the service area;

(f) Hours and days of operation (Centers or a combination of centers under single ownership must operate at least three days a week for four consecutive hours, with each center providing at least four hours of programming a day.);

(g) Description of basic services and any optional services;

(h) Description of service delivery;

(i) Procedures for assessments, reassessments, and the development of a negotiated care plan with clients and/or representatives, including provisions for the utilization of a multidisciplinary team for this process;

(j) If applicable, research procedures that comply with chapter 388-04 WAC;

(k) Staffing pattern;

(l) A plan for utilizing community resources;

(m) Gift policy;

(n) Marketing plan;

(o) Contracting for services; and

(p) Grievance and complaint processes for staff and participants.

NEW SECTION

WAC 388-71-0740 Adult day centers—Fiscal operations. (1) Adult day centers must demonstrate fiscal responsibility by using generally accepted accounting principles. Fiscal policies, procedures, and records must be developed to enable the administrator to meet the fiscal reporting needs of the governing body.

(2) Adult day centers must develop a plan to address the future financial needs of the center. The plan must include projected program growth, capital purchases, projected revenue, projected expenses, and plans for fund raising, if applicable.

(3) Adult day centers must create a total center operating budget, including all revenue sources and participant fees generated annually.

(4) A financial statement or the latest audit report of the organization by a certified public accountant must be available.

(5) A statement of charges for services, including private pay rates and/or ancillary charges for additional services outside the scope of these rules, must be available.

NEW SECTION

WAC 388-71-0742 Adult day centers—Client policies and procedures. (1) Center policies must define admission criteria, discharge criteria, Health Insurance Portability and Accountability Act (HIPAA) policies, medication policy, participant rights and responsibilities, fee schedule, confidentiality, and grievance procedures.

(2) The center must comply with all applicable nondiscrimination laws, including but not limited to age, race, color, gender, religion, national origin, creed, marital status, Vietnam era or disabled veteran's status, or sensory, physical, or mental handicap.

(3) A participant bill of rights describing the client's rights and responsibilities must be developed, posted, distributed to, and explained to participants, families, staff, and volunteers. Participants will be provided the bill of rights in the language understood by the individual upon request.

(4) The center must have an advance directive policy as required by the Patient Self Determination Act of 1990 (see 42 C.F.R. § 489.102 and chapter 70.122 RCW).

(5) Discharge policies must include specific criteria that establish when the participant is no longer eligible for services and under what circumstances the participant may be discharged for other factors, unless the discharge is initiated by the client's department or authorized case manager, the center must notify the client, client representative if applicable, and case manager in writing of the specific reasons for the discharge. The center must also provide the client with adequate information about appeal and hearing rights. Discharge may occur due to client choice, other criteria as defined in the center's policy such as standards of conduct or inappropriate behavior, or changes in circumstances making the client ineligible for services under WAC 388-71-0708 or 388-71-0710.

(6) Incident report policies must include investigation and reporting of any neglect, abuse, exploitation, accident, or

incident jeopardizing or affecting a participant's health or safety. The policy must include how the center will determine the circumstances of the event, restrictions on staff or clients during the investigation, how similar future situations will be prevented or decreased, and the location of incident reports. The center must keep a log of all reported incidents, participant grievances, complaints, and outcomes.

NEW SECTION

WAC 388-71-0744 Adult day center—Client records. (1) The adult day center must have policies and procedures to ensure that the client's record/chart is appropriately organized and that confidentiality of information is maintained.

(2) Client information forms must be standardized, with each page showing the client's name or identification number.

(3) Individual client files must include:

(a) Personal/biographical data, including addresses, phone numbers, emergency contacts, and client representatives, reviewed and updated as needed;

(b) Application, enrollment, and consent to services forms;

(c) Department-authorized service plan and service authorization;

(d) All client information, including but not limited to the intake evaluation, negotiated care plan, attendance and service records, progress notes, and correspondence;

(e) Signed authorizations concerning the release of client information, photographs, and receipt of emergency medical care, as appropriate;

(f) Client photograph, with client or client representative permission, updated as needed;

(g) Transportation plans;

(h) Fee determination forms;

(i) Appropriate medical information, with client consent, including but not limited to significant illnesses, accidents, treatments, medical conditions, immunizations, allergies, medications, tobacco use, and alcohol or substance use;

(j) Advance directives (if any) and a statement signed by the client that he or she has received the center's policies concerning advance directives; and, as applicable,

(k) Physician orders for skilled nursing and/or rehabilitative therapy containing department-required information and in accordance with applicable licensing and practice act regulations.

NEW SECTION

WAC 388-71-0746 Adult day center—Documentation. (1) Entries in the client's record must be typewritten or legibly written in ink, dated, and signed by the recording person with his/her title. Identification of the author may be a signature, initials, or other unique identifier within the requirements of applicable licensing standards and center policy.

(2) Progress notes must be chronological, timely, and recorded at least weekly by adult day health centers and at

least monthly by adult day care center. Client dates of attendance are to be kept daily.

(3) Consultation and/or care plan reviews must be dated and initialed by the physician or other authorizing practitioner who reviewed them. If the reports are presented electronically, there must be representation of review by the ordering practitioner.

(4) Documentation of medication use must include the name of the medication, dosage, route of administration, site of injection if applicable, and signature or initials of the person administering the medication, title, and date.

(5) The record must be legible to someone other than the writer.

(6) Department-contracted adult day health centers must comply with all other applicable documentation requirements under WAC 388-502-0020.

NEW SECTION

WAC 388-71-0748 Adult day centers—Record retention. (1) The adult day center must maintain a secure client record system to ensure confidentiality for all records, whether paper or electronic, in accordance with state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA).

(2) The adult day center must maintain a permanent registry of all clients with dates of admission and discharge.

(3) The adult day center must have written policies concerning:

(a) Confidentiality and the protection of records that define procedures governing the use and removal, and conditions for release of information contained in the records;

(b) The release of client information and circumstances under which a signed authorization from the client or client representative is required; and

(c) The retention and storage of records for at least six years from the last date of service to the client, including contingency plans in the event the center discontinues operation.

(4) Client records maintained on the center's premises must be in a secure storage area that includes locking cabinets or storage. Computerized records must be backed up weekly and stored off-site.

NEW SECTION

WAC 388-71-0750 Adult day centers—Personnel policies and procedures. (1) Personnel policies and procedures must be in place to ensure that staff are trained and knowledgeable to provide quality services in a safe environment. Policies must include at least the following:

(a) The center must have policies concerning the recruitment, orientation, training, evaluation, and professional development of staff and volunteers.

(b) The center must have job descriptions for each paid staff and volunteer position that are in accordance with ADA requirements and that specify qualifications for the job, delineation of tasks, and lines of supervision and authority.

(c) Each employee must receive, review, and sign a copy of the job description at the time of employment and when-

ever job descriptions are modified. Volunteers who function as staff must receive written descriptions of responsibilities.

(d) Probationary evaluations and annual performance evaluations, in accordance with job descriptions, must be conducted and must conform to the policy of the funding or parent organization. Both the employee and supervisor will sign the written evaluation. Copies will be kept in locked personnel files.

(e) Each staff person is to have a tuberculin test within thirty days of employment. If a test has been performed within twelve months of employment, the results of that test may be accepted. Tuberculin tests will be repeated according to local public health requirements.

(f) The center must have policies to restrict a staff person or participant's contact with clients when the staff person or participant has a known communicable disease in the infectious stage that is likely to spread in the center.

(g) Policies must also be established concerning hand washing, universal precautions, infection control, infectious waste disposal, blood borne pathogens, and laundry and handling of soiled and clean items.

(2) The center must have policies and procedures concerning suspected abuse, neglect, or exploitation reporting that include provisions preventing access to any participant until the center investigates and takes action to assure the participant's safety.

(3) The center must not interfere with the lawful investigation of a complaint, coerce a participant, or conceal evidence of alleged improprieties occurring within the center.

(4) The center must have policies that meet the requirements of mandatory reporting procedures as described in chapter 74.34 RCW to adult protective services for vulnerable adults and to local law enforcement for other participants.

(5) Each employee must receive or have access to a copy of the program's personnel policies at the time of employment.

(6) Whenever volunteers function in the capacity of staff, all applicable personnel policies must pertain.

(7) The center must conform to federal and state labor laws and be in compliance with equal opportunity guidelines.

NEW SECTION

WAC 388-71-0752 Adult day center—Staffing requirements. (1) Staff selection is dependent on participant needs, program design, and contracting requirements. The center must have the proper balance of professionals and paraprofessionals or nonprofessionals to adequately meet the needs of participants. Services must be delivered by those with adequate professional training. A staff person can have multiple functions, such as an administrator who is also responsible for providing nursing services or social services.

(2) To ensure continuity of direction and supervision, there must be a clear division of responsibility between the governing body and the adult day center administrator.

(3) The administrator must be given full authority and responsibility to plan, staff, direct, and implement the program. The administrator must also have the responsibility for establishing collaborative relations with other community

organizations to ensure necessary support services to participants and their families/caregivers.

(4) The administrator must be on site to manage the center's day-to-day operations during hours of operation. If the administrator is responsible for more than one site, or has duties not related to adult day center administration or provision of services, a program director must be designated for each additional site and must report to the administrator.

(5) The administrator must be responsible for the development of a written plan of operation with approval of the governing body and the development, coordination, supervision, fiscal control, and evaluation of services provided through the adult day center.

(6) A nurse or personnel trained in first aid and CPR must be on hand whenever participants are present.

(7) Background checks pursuant to RCW 43.43.830 and 43.43.832 must be performed for all applicants hired, existing employees, and volunteers. Unsupervised access to participants is prohibited until a background check has been completed and the employee's suitability for employment has been determined.

(8) Required credentials must be verified to ensure that they are current and in good standing for licensed and certified staff.

(9) Adult day centers may utilize a range of staff under contract or consulting from a larger parent organization or from a private entity to provide services.

(10) Staff commonly utilized by both adult day care and adult day health centers must meet the following requirements:

(a) An activity coordinator must have a bachelor's degree in recreational therapy or a related field and one year of experience (full-time equivalent) in social or health services; or an associate degree in recreational therapy or a related field plus two years of appropriate experience; or three years of paid experience in an activity program and expertise with the population served at the center.

(b) The nurse must be a registered nurse (RN) with valid state credentials and have at least one-year applicable experience (full-time equivalent). In addition to a registered nurse, an adult day center can utilize a licensed practical nurse (LPN), but the LPN must be supervised in compliance with all applicable nurse practice acts and standards. The LPN must have valid state credentials and at least one-year applicable experience (full-time equivalent).

(c) The social services professional must have a master's degree in social work, gerontology, or other human services field, or counseling and at least one year of professional work experience (full-time equivalent), or a bachelor's degree in social work, counseling, or a related field and two years of experience in a human services field.

(d) Program assistant/aides or personal care aides must have one or more years of experience (full-time equivalent) in working with adults in a health care or social service setting.

(e) Consultants from a larger parent organization without formal contracts may be utilized whenever the center is part of a larger organization that has the ability to provide professional services within the larger framework.

(f) Consultants, with appropriate, valid state credentials may be utilized as needed to meet the requirements outlined in this chapter.

(g) Secretary/bookkeepers must have at least a high school diploma or equivalent and skills and training to carry out the duties of the position.

(h) If the adult day center provides transportation drivers must have a valid and appropriate state driver's license, a safe driving record, and training in first aid and CPR. The driver must meet all state requirements for licensure or certification.

(i) Volunteers may be individuals or groups who desire to work with adult day center clients and must take part in program orientation and training. Volunteers and staff must mutually determine the duties of volunteers. Duties to be performed under the supervision of a staff member must either supplement staff in established activities or provide additional services for which the volunteer has special talents. Volunteers will be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualification standards of the organization, and have designated responsibilities.

(j) Dietitians must be certified with valid state credentials and have a minimum of one year applicable experience (full-time equivalent).

NEW SECTION

WAC 388-71-0754 Staffing ratios. (1) Staffing levels in adult day centers will vary based upon the number of participants and the care provided.

(2) The staffing level must be sufficient to serve the number and functioning levels of adult day center participants, meet program objectives, and provide access to other community resources.

(3) There must be sufficient maintenance and house-keeping personnel to assure that the facility is clean, sanitary, and safe at all times.

(4) To ensure adequate care and safety of participants, there must be provision for qualified substitute staff.

(5) As the number of participants with functional impairments, skilled nursing or skilled rehabilitative therapy needs increases, the required staff-participant ratio must be adjusted accordingly.

(6) All centers must have written policies regarding staff-participant ratios. The ratio must be a minimum of one staff to six participants. The provider must ensure that appropriate professionals provide needed services to the participants based upon the participants' service and care plans. The center is also required to employ sufficient staff to meet the needs of the participants.

(7) Staff counted in the staff-participant ratio are those who provide direct service to participants. When there is more than one participant present, there must be at least two staff members on the premises, one of whom is directly supervising the participants.

NEW SECTION

WAC 388-71-0756 Adult day care—Staffing requirements. (1) Minimum staffing requirements for adult day care

centers include an administrator/program director, activity coordinator, a consulting registered nurse, and a consulting social worker.

(2) The administrator/program director must have a master's degree and one year of supervisory experience in health or social services (full-time equivalent); or a bachelor's degree in health, social services or a related field, with two years of supervisory experience (full-time equivalent) in a social or health service setting; or a high school diploma or equivalent and four years of experience in a health or social services field, of which two years must be in a supervisory position, and have expertise with the populations served at the center.

NEW SECTION

WAC 388-71-0758 Adult day health—Staffing requirements. (1) Minimum staffing requirements for adult day health centers include an administrator, program director, registered nurse, activity coordinator, a PT/OT or speech therapist, and a social worker. The administrator and program director may be the same person.

(2) The program administrator must have a master's degree and one year of supervisory experience in health or social services (full-time equivalent), or a bachelor's degree and two years of supervisory experience in a social or health service setting. The degree may be in nursing.

(3) The program director must have a bachelor's degree in health, social services or a related field with one year of supervisory experience (full-time equivalent) in a social or health service setting. Upon approval by the department, a day health center may request an exception for an individual with an associate's or vocational degree in health, social services, or a related field with four years of experience in a health or social service setting, of which two years must be in a supervisory position.

(4) Therapists, regardless of specific expertise, such as physical therapists, occupational therapists, speech therapists, recreation therapists, mental health therapists, or any other therapists used, must have valid state credentials and one year of experience in a social or health setting.

(5) Rehabilitative therapeutic assistants must be certified with valid state credentials, have at least one year of applicable experience (full-time equivalent), and meet the requirements of chapter 246-915, 246-847, or 246-828 WAC.

(6) A certified or registered nursing assistant must meet the requirements of RCW 18.88A.020.

NEW SECTION

WAC 388-71-0760 Adult day centers—Employee records. (1) Each employee must have an individual file containing the employee's application, verification of references, TB status, signed job description, and all performance evaluations. Copies of current license or certificate and verification of current good standing, and certification of CPR and first aid training, if applicable, must also be in the file.

(2) Centers must maintain employee records for the duration of staff employment and at least seven years after termination of employment.

(3) Employee records must contain all records of training, such as staff orientation and training pertinent to duties or regulatory compliance, including CPR, first aid, and universal precautions training.

(4) Employee records must contain criminal history disclosure and background checks.

NEW SECTION

WAC 388-71-0762 Adult day centers—Education and training. (1) Provision must be made for orientation of new employees, contractors, and volunteers.

(2) All staff, contractors, and volunteers must receive, at a minimum, quarterly in-service training and staff development that meets their individual training needs to support program services. This must be documented and readily accessible in the personnel file and in a general file.

(3) Staff, contractors, and volunteers must receive training about documentation, reporting requirements, and universal precautions.

(4) At a minimum, one staff person per shift must be trained and certified in CPR.

(5) Staff and volunteers must receive training on all applicable policies and procedures.

NEW SECTION

WAC 388-71-0764 Adult day centers—Medication. (1) The center must develop written medication policies that are explained and accessible to all staff, contractors, volunteers, and participants that have responsibility in this area. At a minimum, policies must meet the following requirements:

(a) Medications must be kept in locked storage. If medications need to be refrigerated, they should be in a locked box, if not in a separate refrigerator dedicated to medication refrigeration.

(b) Medication policies must describe:

(i) Under what conditions licensed program staff will administer medications;

(ii) How medications brought to the program by a client must be labeled;

(iii) How nonprescription medications such as aspirin or laxatives are to be used;

(iv) How the administration of medications will be entered in participant case records as described in WAC 388-71-0744(4); and

(v) Medication policies must be consistent with laws governing medication administration under RCW 69.41.010 and chapter 246-888 WAC.

(2) Participants who need to take medications while at the center, and who are able to self medicate, must be encouraged and expected to bring and take their own medications as prescribed. Some participants may need assistance with their medications, and a few may need to have their medications administered by qualified program staff.

(3) In order for center staff to administer any prescribed medication, there must be a written authorization from the participant's authorizing practitioner stating that the medication is to be administered at the program site.

(4) Staff must be trained to observe medication usage and effects, and to document and report any concerns or difficulties with medications.

NEW SECTION

WAC 388-71-0766 Adult day centers—Facility. (1) Selection of a location for a center must be based on information about potential participants in the service area and be made in consultation with other agencies, organizations, and institutions serving older individuals and those with functional impairments, as well as considering the availability of a suitable location.

(2) Centers must have available a current floor plan of the facility indicating usage of space with interior measurements, building inspection report, fire department inspection report, and the local health department inspection report if operating a kitchen.

(3) The facility must comply with applicable state, county, and local building regulations, zoning, fire, and health codes or ordinances.

(4) When possible, the facility should be located at street level. If the facility is not located at street level, it is essential to have a ramp and/or elevators. An evacuation plan for relocation of participants must also be in place in the event of an emergency.

(5) Each adult day center co-located in a facility housing other services must have its own separate identifiable space for main activity areas during operational hours. Certain space can be shared, such as the kitchen and therapy rooms.

(6) Each center must provide appropriate hardware on doors of storage rooms, closets, bathrooms, and other rooms to prevent participants from being accidentally locked in.

(7) When possible, the location should be within a transit authority's core service area.

NEW SECTION

WAC 388-71-0768 Adult day centers—Physical environment requirements. (1) The facility must have sufficient space to accommodate the full range of program activities and services. The facility must be adaptable to accommodate variations of activities (group and/or individual) and services. The program must provide and maintain essential space necessary to provide services and to protect the privacy of the participants receiving services. There must be sufficient private space to permit staff to work effectively and without interruption. There must be sufficient space available for private discussions.

(2) The facility must provide at least sixty square feet of program space for multi-purpose use for each day center participant. In determining adequate square footage, only those activity areas commonly used by participants are to be included. Dining and kitchen areas are to be included only if these areas are used by clients for activities other than meals. Reception areas, storage areas, offices, restrooms, passageways, treatment rooms, service areas, or specialized spaces used only for therapies are not to be included when calculating square footage.

(3) Storage space.

(a) There must be adequate storage space for program and operating supplies.

(b) Toxic substances, whether for activities or cleaning, must be stored in an area not accessible to participants. Substances must be clearly marked, the contents identified, and stored in original containers.

(4) Restrooms.

(a) The facility's restrooms must be located as near the activity area as possible, preferably no more than forty feet away. The facility must include at least one toilet for every ten participants.

(b) Programs that have a large number of participants who require more scheduled toileting or assistance with toileting must have at least one toilet for every eight participants.

(c) The toilets shall be equipped for use by mobility-limited persons and easily accessible from all program areas. One toilet area should be designed to allow assistance from one or two staff. More accessible units may be required based upon the needs of the participants.

(d) Each restroom must contain an adequate supply of soap, toilet tissues, and paper towels.

(e) Showers are to be accessible to those who require bathing as a core service.

(5) Rest area.

(a) In addition to space for program activities, the facility must have a rest area and designated areas to permit privacy and to isolate participants who become ill or disruptive, or who may require rest.

(b) The rest area must be located away from activity areas and near a restroom and the nurse's office. There must be at least one bed, couch, or recliner for every ten participants that can be used for resting or the isolation of a participant who is ill or suspected of coming down with a communicable disease.

(c) If beds are used, the mattresses must be protected and linens changed after each use by different participants.

(6) Loading zones/parking/entrances/exits.

(a) A loading zone with sufficient space for getting in and out of a vehicle must be available for the safe arrival and departure of participants and the use of emergency personnel.

(b) There must be sufficient parking available to accommodate family caregivers, visitors, and staff.

(c) When necessary, arrangements must be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for people entering and exiting the facility.

(d) Adequate lighting must be provided in all loading and parking zones, entrances, and exits.

(e) An adult day center must be visible and recognizable as a part of the community. The entrance to the facility must be clearly identified. The center must also be appealing and protective to participants and others.

(f) At least two well-identified exits must be accessible from the building.

(7) Atmosphere and design.

(a) The center's design must facilitate the participants movement throughout the facility and encourage involvement in activities and services.

(b) The environment must reinforce orientation and awareness of the surroundings by providing cues and information about specific rooms, locations, and functions that help the participant to get his/her orientation to time and space.

(c) A facility must be architecturally designed in conformance with the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act to accommodate individuals with a disability and meet any state and local barrier-free requirements.

(d) Illumination levels in all areas must be adequate, and careful attention must be given to avoiding glare. Attention must be paid to lighting in transitional areas, such as outside to inside and between different areas of the facility.

(e) Sound transmission must be controlled. Excessive noise, such as fan noise, must be avoided.

(f) Comfortable conditions must be maintained within a comfortable temperature range. Excessive drafts must be avoided uniformly throughout the facility.

(g) Sufficient furniture must be available for the entire population present. Furnishings must accommodate the needs of participants and be attractive, comfortable, sturdy, and safe. Straight-backed chairs with arms must be used during activities and meals.

(h) A telephone must be available for participant use. Local calls are to be available at no cost to the participant.

(8) Safety and sanitation.

(a) The facility and grounds must be safe, clean, and accessible to all participants, and must be designed, constructed, and maintained in compliance with all applicable local, state, and federal health and safety regulations.

(b) Nonslip surfaces or bacteria-resistant carpets must be provided on stairs, ramps, and interior floors.

(c) Alarm/warning systems are necessary to ensure the safety of the participants in the facility in order to alert staff to potentially dangerous situations. It is recommended that call bells be installed or placed in the rest areas, restroom stalls, and showers.

(d) An evacuation plan/disaster plan must be strategically posted in each facility.

(e) The facility must be free of hazards, such as high steps, steep grades, and exposed electrical cords. Steps and curbs must be painted and the edges of stairs marked appropriately to highlight them. All stairs, ramps, and bathrooms accessible to those with disabilities must be equipped with securely anchored handrails.

(f) Emergency first-aid kits must be visible and accessible to staff. Contents of the kits must be replenished after use and reviewed as needed.

(g) Maintenance and housekeeping must be carried out on a regular schedule and in conformity with generally accepted sanitation standards, without interfering with the program.

(h) If smoking is permitted, an adequately ventilated area away from the main program area must be provided and supervised.

NEW SECTION

WAC 388-71-0770 Adult day center—Food and nutrition services. Centers must provide meal service to all participants as outlined in WAC 388-71-0704 and 388-71-0706

(1) All meals provided are to meet one-third of the minimum required daily allowance or dietary reference intake as determined by the Food and Nutrition Board of the Institute of Medicine.

(2) The center must ensure that food served meets nutritional needs, takes into consideration individual and ethnic preferences to the extent reasonably possible, caloric need, special dietary requirements, and any physical condition making food intake difficult.

(3) The center must provide a variety of foods and not repeat menus for a minimum of three weeks.

(4) Participant input must be gathered when planning meals.

(5) Menus must be posted at least one week in advance; indicate the date, day of the week, month and year; and include all food and snacks served that contribute to nutritional requirements.

(6) Nutrient concentrates, supplements, and dysphagia-modified diets related to a choking or aspiration risk, are to be served only with the written approval of the participant's physician.

(7) Safe and sanitary handling, storage, preparation, and serving of food must be assured. If meals are prepared on the premises, kitchen appliances, food preparation area, and equipment must meet state and local requirements.

(8) All staff and volunteers handling or serving meals must have the appropriate food handler's permits, if applicable.

(9) In the event meals are prepared at a separate kitchen facility, the adult day center must ensure that persons preparing food have a food handler's permit and that the food is transported in airtight containers to prevent contamination.

(10) The center must ensure that the food is transported and served at the appropriate and safe temperature.

NEW SECTION

WAC 388-71-0772 Adult day centers—Emergency procedures. (1) A written emergency/disaster/earthquake plan must be posted at each program site and in all program owned vehicles. Staff must be trained to ensure smooth implementation of the emergency plan.

(2) All staff and volunteers must be trained in evacuation/fire safety procedures.

(3) A written illness/injury/medical emergency/death procedure must be followed in the event a participant becomes ill, is injured, or dies. The procedures must be posted in at least one visible location at all program sites and must be explained to staff, volunteers, and participants. The procedures must describe arrangements for hospital inpatient and emergency room service and include directions on how to secure ambulance transportation and complete incident reports.

(4) Procedures for fire safety as approved by the local fire authority must be adopted and posted, including provisions for fire drills, inspection and maintenance of fire extinguishers, and periodic inspection and training by fire department personnel. The center must conduct and document quarterly fire drills and document the center's ability to meet procedures. Improvements must be based on the fire drill evaluation. Smoke detectors must also be used.

(5) Each center must provide adequate emergency lighting or flashlights in all areas.

(6) Each center must provide and maintain first aid kits in adequate numbers to meet the needs of the participant and staff.

(7) Each center must ensure, in accordance with local emergency procedures, that supplies, food, water and equipment are available in the event power, heat and/or electricity are not available during an emergency.

NEW SECTION

WAC 388-71-0774 Adult day centers—Quality assurance and improvement. (1) Every adult day center must develop a quality improvement plan, with specific measurable objectives, designed to meet requirements of any licensing, funding sources, professional standards, or regulatory compliance.

(2) Policies and procedures for monitoring program quality and determining further action must be developed by the administrator with the advice of the multidisciplinary staff team and the advisory committee, and with the approval of the governing body and center clients and/or representatives.

(3) Quality assurance and improvement plans may include but are not limited to annual evaluations, utilization reviews, participant satisfaction surveys, and participant improvement and/or care plan audits.

NEW SECTION

WAC 388-71-0776 Effective date. WAC 388-71-0702 through 388-71-0776 are effective July 1, 2003.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-15-650	Purpose.
WAC 388-15-651	Definitions.
WAC 388-15-652	Adult day care (COPES level I).
WAC 388-15-653	Adult day health (level II).
WAC 388-15-654	Plan of care.
WAC 388-15-655	Title XIX adult day health certification and monitoring.
WAC 388-15-656	Administration and organization.

PERMANENT

- WAC 388-15-657 Staffing.
- WAC 388-15-658 Personnel requirements.
- WAC 388-15-659 Facility.
- WAC 388-15-660 Coordination of services.
- WAC 388-15-661 Clients in residential care or nursing facility care settings.
- WAC 388-15-662 Expenditures not to exceed.

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-200 Seed program testing fees. Seed testing fees are as follows:

(1) FIELD CROPS:

	((MINIMUM-SAMPLE SIZE	PURIFY	GERMINATION	TZ
alfalfa	4-oz	14.39	12.33	22.61
alkaligrass	4-oz	18.50	11.30	22.61
barley	1.25-lb	14.39	12.33	22.61
beets, sugar	1.25-lb	19.53	21.58	22.61
bentgrass	2-oz	32.89	17.47	22.61
bermudagrass	4-oz	18.50	11.30	22.61
black-medie	4-oz	14.39	12.33	22.61
bluegrass	4-oz	22.61	15.41	22.61
brassica-sp.	6-oz	34.94	17.47	22.61
brome-mountain	6-oz	23.64	12.33	22.61
brome-smooth, meadow	6-oz	23.64	12.33	22.61
buckwheat	1.25-lb	14.39	12.33	22.61
canarygrass	8-oz	18.50	11.30	22.61
clover	4-oz	14.39	12.33	22.61
fescue	4-oz	22.61	12.33	22.61
flax-lewis	4-oz	14.39	12.33	22.61
foxtail	4-oz	14.39	11.30	22.61
garbanzo-bean	1.25-lb	13.36	12.33	N/A
indian-rieegrass	6-oz	18.50	11.30	22.61
junegrass	6-oz	18.50	11.30	22.61
lentil	1.25-lb	14.39	12.33	N/A
little-bluestem	4-oz	21.58/hr	11.30	22.61
lupine	1.25-lb	14.39	12.33	N/A
milkvetch	1.25-lb	14.39	12.33	22.61
millet	1.25-lb	14.39	12.33	N/A
needle-&-thread	6-oz	18.50	11.30	22.61
needlegrass, green	6-oz	18.50	11.30	22.61
oatgrass	6-oz	18.50	11.30	N/A
oats	1.25-lb	14.39	12.33	22.61
orchardgrass	4-oz	25.69	13.36	22.61
peas	1.25-lb	13.36	12.33	N/A
prairie-sandreed	6-oz	18.50	11.30	22.61
primrose	4-oz	14.39	12.33	N/A
redtop	2-oz	32.89	17.47	22.61
rice	1.25-lb	14.39	12.33	N/A
rye	1.25-lb	14.39	12.33	22.61
ryegrass, perennial	4-oz	22.61	11.30	22.61
ryegrass, annual	4-oz	22.61	11.30	22.61
safflower	1.25-lb	14.39	12.33	N/A
sainfoin	1.25-lb	14.39	12.33	N/A
sand-dropseed	4-oz	18.50	11.30	22.61
sand-lovegrass	4-oz	18.50	11.30	22.61
sidecoats-grama	4-oz	21.58/hr	11.30	22.61
small-burnett	8-oz	14.39	12.33	N/A
sorghum	1.25-lb	14.39	12.33	N/A
sudangrass	8-oz	14.39	12.33	22.61
sunflower	1.25-lb	14.39	12.33	N/A
swiss-chard	1.25-lb	34.94	18.50	N/A

WSR 03-08-005
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed March 20, 2003, 4:24 p.m.]

Date of Adoption: March 20, 2003.

Purpose: This rule-making order increases seed program laboratory analysis fees and miscellaneous fees for alfalfa, grass, vegetable and other minor seed crops by the fiscal growth rate factor for fiscal year 2003 (3.29%). These increases are necessary so the seed program, which is a fee for service program, can continue to provide the level of service that the seed industry expects. Industry supports this fee increase.

Citation of Existing Rules Affected by this Order: Amending WAC 16-303-200, 16-303-210, 16-303-230, 16-303-250, 16-303-300, 16-303-310, 16-303-317, 16-303-320, and 16-303-330.

Statutory Authority for Adoption: RCW 15.49.370(3) and 15.49.310.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 03-03-130 on January 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 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 9, 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 9, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Fee increase is within fiscal growth rate factor for 2003.

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

March 17, 2003

William E. Brookreson
 for Valoria Loveland
 Director

PERMANENT

PERMANENT

	<u>((MINIMUM- SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>
switchgrass	4-oz	18.50	11.30	22-61
timothy	4-oz	18.50	11.30	22-61
trefoil	4-oz	14.39	12.33	N/A
triticale	1.25-lb	14.39	12.33	22-61
vetch	1.25-lb	18.50	12.33	22-61
wheat	1.25-lb	14.39	12.33	22-61
wheatgrass, beardless slender				
thickspike	6-oz	39.06	15.41	22-61
wheatgrass, bluebunch	6-oz	39.06	15.41	22-61
wheatgrass, crested	4-oz	26.72	15.41	22-61
wheatgrass, tall				
intermediate				
pubescent	6-oz	39.06	15.41	22-61
wheatgrass, western	6-oz	39.06	15.41	22-61
wildrye	6-oz	18.50	11.30	22-61
zoysia	4-oz	18.50	11.30	22-61))

	<u>MINIMUM SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>
alfalfa	4 oz	14.86	12.73	23.35
alkaligrass	4 oz	19.10	11.67	23.35
barley	1.25 lb	14.86	12.73	23.35
beets, sugar	1.25 lb	20.17	22.29	23.35
bentgrass	2 oz	33.97	18.04	23.35
bermudagrass	4 oz	19.10	11.67	23.35
black medic	4 oz	14.86	12.73	23.35
bluegrass	4 oz	23.35	15.91	23.35
brassica sp.	6 oz	36.08	18.04	23.35
brome-mountain	6 oz	24.41	12.73	23.35
brome-smooth, meadow	6 oz	24.41	12.73	23.35
buckwheat	1.25 lb	14.86	12.73	23.35
canarygrass	8 oz	19.10	11.67	23.35
clover	4 oz	14.86	12.73	23.35
fescue	4 oz	23.35	12.73	23.35
flax-lewis	4 oz	14.86	12.73	23.35
foxtail	4 oz	14.86	11.67	23.35
garbanzo bean	1.25 lb	13.79	12.73	N/A
indian ricegrass	6 oz	19.10	11.67	23.35
junegrass	6 oz	19.10	11.67	23.35
lentil	1.25 lb	14.86	12.73	N/A
little bluestem	4 oz	22.29/hr	11.67	23.35
lupine	1.25 lb	14.86	12.73	N/A
milkvetch	1.25 lb	14.86	12.73	23.35
millet	1.25 lb	14.86	12.73	N/A
needle & thread	6 oz	19.10	11.67	23.35
needlegrass, green	6 oz	19.10	11.67	23.35
oatgrass	6 oz	19.10	11.67	N/A
oats	1.25 lb	14.86	12.73	23.35

	<u>MINIMUM SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>
orchardgrass	4 oz	26.53	13.79	23.35
peas	1.25 lb	13.79	12.73	N/A
prairie sandreed	6 oz	19.10	11.67	23.35
primrose	4 oz	14.86	12.73	N/A
redtop	2 oz	33.97	18.04	23.35
rice	1.25 lb	14.86	12.73	N/A
rye	1.25 lb	14.86	12.73	23.35
ryegrass, perennial	4 oz	23.35	11.67	23.35
ryegrass, annual	4 oz	23.35	11.67	23.35
safflower	1.25 lb	14.86	12.73	N/A
sainfoin	1.25 lb	14.86	12.73	N/A
sand dropseed	4 oz	19.10	11.67	23.35
sand lovegrass	4 oz	19.10	11.67	23.35
sideoats grama	4 oz	22.29/hr	11.67	23.35
small burnett	8 oz	14.86	12.73	N/A
sorghum	1.25 lb	14.86	12.73	N/A
sudangrass	8 oz	14.86	12.73	23.35
sunflower	1.25 lb	14.86	12.73	N/A
swiss chard	1.25 lb	36.08	19.10	N/A
switchgrass	4 oz	19.10	11.67	23.35
timothy	4 oz	19.10	11.67	23.35
trefoil	4 oz	14.86	12.73	N/A
triticale	1.25 lb	14.86	12.73	23.35
vetch	1.25 lb	19.10	12.73	23.35
wheat	1.25 lb	14.86	12.73	23.35
wheatgrass, beardless slender				
thickspike	6 oz	40.34	15.91	23.35
wheatgrass, bluebunch	6 oz	40.34	15.91	23.35
wheatgrass, crested	4 oz	27.59	15.91	23.35
wheatgrass, tall				
intermediate				
pubescent	6 oz	40.34	15.91	23.35
wheatgrass, western	6 oz	40.34	15.91	23.35
wildrye	6 oz	19.10	11.67	23.35
zoysia	4 oz	19.10	11.67	23.35

(2) VEGETABLES:

	<u>((MINIMUM- SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>
asparagus	1.25-lb	14.39	12.33	N/A
beans	1.25-lb	13.36	12.33	N/A
beets	1.25-lb	19.53	18.50	N/A
cantaloupe	1.25-lb	14.39	12.33	N/A
carrot	4-oz	14.39	12.33	39.06
celery	4-oz	14.39	12.33	N/A
chard	4-oz	14.39	21.58	21.58
corn	1.25-lb	14.39	12.33	N/A
cucumber	1.25-lb	14.39	12.33	N/A
dill	4-oz	14.39	12.33	N/A

<u>((MINIMUM-</u>					<u>MINIMUM</u>				
<u>SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>	<u>SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>		
eggplant	4-oz	14.39	12.33	N/A	corn	1.25 lb	14.86	12.73	N/A
endive	4-oz	14.39	12.33	N/A	cucumber	1.25 lb	14.86	12.73	N/A
leek	8-oz	14.39	12.33	N/A	dill	4 oz	14.86	12.73	N/A
lettuce	4-oz	14.39	12.33	N/A	eggplant	4 oz	14.86	12.73	N/A
okra	4-oz	14.39	12.33	N/A	endive	4 oz	14.86	12.73	N/A
onion	8-oz	14.39	12.33	N/A	leek	8 oz	14.86	12.73	N/A
parsley	4-oz	14.39	12.33	N/A	lettuce	4 oz	14.86	12.73	N/A
parsnip	4-oz	14.39	12.33	N/A	okra	4 oz	14.86	12.73	N/A
pepper	8-oz	14.39	12.33	N/A	onion	8 oz	14.86	12.73	N/A
pumpkin	1.25 lb	14.39	12.33	N/A	parsley	4 oz	14.86	12.73	N/A
radish	1.00 lb	14.39	12.33	N/A	parsnip	4 oz	14.86	12.73	N/A
spinach;					pepper	8 oz	14.86	12.73	N/A
New Zealand	8-oz	14.39	21.58	N/A	pumpkin	1.25 lb	14.86	12.73	N/A
spinach	8-oz	14.39	21.58	N/A	radish	1.00 lb	14.86	12.73	N/A
squash	1.25 lb	14.39	12.33	N/A	spinach,				
tomato	4-oz	14.39	12.33	N/A	New Zealand	8 oz	14.86	22.29	N/A
turnip	6-oz	14.39	12.33	22.64	spinach	8 oz	14.86	22.29	N/A
watermelon	1.25 lb	14.39	12.33	N/A))	squash	1.25 lb	14.86	12.73	N/A
					tomato	4 oz	14.86	12.73	N/A
					turnip	6 oz	14.86	12.73	23.35
					watermelon	1.25 lb	14.86	12.73	N/A

<u>MINIMUM</u>	<u>SAMPLE SIZE</u>	<u>PURITY</u>	<u>GERMINATION</u>	<u>TZ</u>
asparagus	1.25 lb	14.86	12.73	N/A
beans	1.25 lb	13.79	12.73	N/A
beets	1.25 lb	20.17	19.10	N/A
cantaloupe	1.25 lb	14.86	12.73	N/A
carrot	4 oz	14.86	12.73	40.34
celery	4 oz	14.86	12.73	N/A
chard	4 oz	14.86	22.29	22.29

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-210 Fees for special seed tests. Fees for special seed tests are as follows: (Standard noxious exam size unless otherwise specified.)

Test	Fee	Other Considerations
(1) All states noxious weed examination	\$(10.27) <u>10.60</u>	
(2) Analysis of partially cleaned, uncleaned or field run seed with excessive inert, or crop or weed seeds	\$(21.58) <u>22.29</u> hourly rate	
(3) Brassica seed chemical identification	\$(10.27) <u>10.60</u>	
(4) Cold (vigor) test for wheat	\$(51.39) <u>53.08</u>	
(5) Crop and weed exam (Required for all foundation and registered class grass seeds)	Purity fee minus \$(5.13) <u>5.30</u>	Hourly rate will be assessed when applicable; hourly rate applies when a larger amount is requested
(6) Fescue seed fluorescence test	\$(15.41) <u>15.91</u>	Test required on certified samples
(7) Fluorescence test (400 seed test)	\$(13.36) <u>13.79</u>	
(8) Miscellaneous services	\$(21.58) <u>22.29</u> hourly rate	
(9) Pest and disease	\$(17.47) <u>18.04</u>	
(10) Poa annua check		
Bentgrass (5 grams)	\$(17.47) <u>18.04</u>	
Bluegrass (5 grams)	\$(17.47) <u>18.04</u>	
Other grasses (10 grams)	\$(17.47) <u>18.04</u>	
(11) Rules test—Canadian		
Alfalfa, clover	\$(21.58) <u>22.59</u>	\$(12.33) <u>12.73</u>
Kentucky bluegrass	\$(32.89) <u>33.97</u>	\$(15.41) <u>15.91</u>

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Test	Fee	Other Considerations												
Peas, lentils	\$((21-58)) <u>22.59</u>	\$((12-33)) <u>12.73</u>												
Bentgrass	\$((48-34)) <u>49.89</u>	\$((17-47)) <u>18.04</u>												
(12) Rules test—I.S.T.A.	PURITY	GERMINATION												
Alfalfa, clover	\$((21-58)) <u>22.59</u>	\$((15-41)) <u>15.91</u>												
Kentucky bluegrass	\$((32-89)) <u>33.97</u>	\$((15-41)) <u>15.91</u>												
Peas, lentils	\$((21-58)) <u>22.59</u>	\$((15-41)) <u>15.91</u>												
(13) Samples requiring special preparation for germination, for example pelleted seeds	\$((21-58)) <u>22.59</u>	Additional Charge												
(14) Seed Count	\$((17-47)) <u>18.04</u>													
(15) Sod analysis check (25 gram exam to evaluate if a lot appears to be sod quality)	\$((19-53)) <u>20.17</u>	Phone report only												
(16) Sod seed analysis (A special test of turf grasses for those who need a detailed examination of seed before purchase and/or use)	<table border="0" style="margin-left: 20px;"> <tr> <td>Bluegrass</td> <td style="text-align: center;">\$((61-67))</td> </tr> <tr> <td>Fescue</td> <td style="text-align: center;"><u>63.69</u></td> </tr> <tr> <td>Ryegrass</td> <td style="text-align: center;">\$((43-17))</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>44.59</u></td> </tr> <tr> <td></td> <td style="text-align: center;">\$((34-94))</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>36.08</u></td> </tr> </table>	Bluegrass	\$((61-67))	Fescue	<u>63.69</u>	Ryegrass	\$((43-17))		<u>44.59</u>		\$((34-94))		<u>36.08</u>	Bluegrass test includes purity, 25 gram crop and weed exam, and 10 gram Poa annua check. Ryegrass and Fescue test include purity and 50 gram crop and weed exam.
Bluegrass	\$((61-67))													
Fescue	<u>63.69</u>													
Ryegrass	\$((43-17))													
	<u>44.59</u>													
	\$((34-94))													
	<u>36.08</u>													
(17) Sodium Hydroxide test for presence of red and/or white wheat	\$((10-27)) <u>10.60</u>													
(18) Soil exam or similar (A visual examination of a representative sample)	\$((17-47)) <u>18.04</u>	Reported on seed analysis certificate												
(19) Undesirable grass species examination (UGS test)	\$((12-33)) <u>12.73</u>													
(20) Variety separation of Kentucky bluegrass If separated at time of purity analysis	\$((19-53)) <u>20.17</u> \$((9-25)) <u>9.55</u>													

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-230 Official seed sampling or similar service. (1) The fee for official seed sampling or similar service is as follows:

Crop	Fee	Minimum charge
Peas, beans, small grains or seeds of similar size	\$ 0.05 Per cwt.	\$((21-58)) <u>22.29</u>
For all other kinds	\$ 0.15 Per cwt.	\$((21-58)) <u>22.29</u>

(2) If a special trip is required to provide a service, the person requesting the service may be charged at the rate of \$((17-47)) 18.04 per hour travel time plus a mileage fee set by the Washington State Office of Financial Management in addition to the specific fee for service. All standby time is charged at the rate of \$((21-58)) 22.29 per man-hour.

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-250 Miscellaneous charges for seed services. (1) Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	\$((12-33)) <u>12.73</u>
Phone reports on test result, per call	\$((3-59)) <u>3.70</u> per call
Preliminary report on germination	\$((8-22)) <u>8.49</u>
Phone report only	\$((1-54)) <u>1.59</u>
Additional mailing of report	\$((2-56)) <u>2.64</u> each destination
Additional copies of reports	\$((2-56)) <u>2.64</u> (minimum fee)
Revised reports	\$((5-13)) <u>5.29</u> (minimum fee - or hourly fee - when applicable)

Service	Fee	Other Considerations
Fee for special handling service, for example Federal Express, Air Parcel or air freight	\$(3.59) <u>3.70</u>	
Fee for facsimile transmission of documents	\$(3.59) <u>3.70</u> per document	
Travel time - additional or special requested trips	\$(17.47) <u>18.04</u>	
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management	

(2) Test plot examinations or consultant work in seed plots, seed fields, seed conditioning plants, etc., shall be at the rate of ~~\$(21.58)~~ 22.29 per hour plus mileage and travel time at the rate of ~~\$(17.47)~~ 18.04 per hour traveled.

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-300 Phyto-sanitary certification of seed—Fees. (1) Fees for phyto-sanitary certification of seed are as follows:

Service	Fee	Other Considerations
Phyto-sanitary certificate	\$(21.58) <u>22.29</u> each	
Field inspection—All seed except wheat seed (for each required inspection)	\$(5.13) <u>5.29</u> per acre	\$(20.55) <u>21.22</u> minimum fee payable with application
Field inspection—Wheat seed only (for each required inspection)	\$(2.05) <u>2.11</u> per acre or fraction thereof	Payable with application
Area inspection	\$0.05 per cwt.	\$(20.55) <u>21.22</u> minimum fee per certificate \$(154.18) <u>159.25</u> maximum fee per certificate Billed at time certificate is issued
Late fee—		
Application	\$(30.83) <u>31.84</u> each	
Sampling (When Required)—		
Beans, peas, lentils, and cereal grains	\$0.05 per cwt.	
Other crops	\$0.15 per cwt.	
Serology test	Fee as established by the testing laboratory.	

Service	Fee	Other Considerations
Laboratory analysis of plant material to verify disease	An additional fee of actual cost shall be charged when necessary to examine plant material and/or seed	

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	Other Considerations
O.E.C.D. certificate	\$(10.27) <u>10.60</u> each	
O.E.C.D. grow out test	\$(47.28) <u>48.83</u> each entry	No charge for control entry

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-317 Annual and rough bluegrass quarantine fees. Fees for sampling and analysis for the presence of annual or rough bluegrass are those fees established in this chapter and:

- (1) Annual Bluegrass - inspection fee for nursery plantings for the presence of annual bluegrass is ~~\$(51.39)~~ 53.08 per acre or portion thereof. The tagging fee is ~~\$(0.51)~~ 0.52 cwt. with a minimum fee of ~~\$(10.27)~~ 10.60.
- (2) Rough Bluegrass - inspection fee for nursery plantings is ~~\$(51.39)~~ 53.08 per acre or portion thereof.

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-320 Certification fees for seed certified by the department except grasses. Fees for seed certification services for seed certified by the department other than grasses are as follows. Fees apply to both new and renewal applications:

PERMANENT

Seed	Application Fee 1/	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes sampling and tagging)	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	\$ ((15.41)) <u>15.91</u> per variety per grower	\$ ((1.79)) <u>1.84</u> /acre	\$ ((30.83)) <u>31.84</u>	\$ ((41.11)) <u>42.46</u> ea. field	\$ ((0.51)) <u>0.52</u> /cwt. 5/	\$0.19/cwt.
Bean	\$ ((15.41)) <u>15.91</u> per variety per grower	\$ ((1.79)) <u>1.84</u> /acre 3/ (one inspection) \$ ((3.59)) <u>3.70</u> /acre 4/ (two inspections)	\$ ((30.83)) <u>31.84</u>	\$ ((41.11)) <u>42.46</u> ea. field	\$ ((0.51)) <u>0.52</u> /cwt.	\$0.19/cwt.
Corn	\$ ((15.41)) <u>15.91</u> for each separate combination/or isolation	\$ ((25.69)) <u>26.53</u> first acre \$ ((10.27)) <u>10.60</u> ea. additional acre except hybrid corn \$ ((3.59)) <u>3.70</u> ea. additional acre	---	---	---	---
Sudangrass	\$ ((15.41)) <u>15.91</u> per field	\$ ((1.79)) <u>1.84</u> /acre	\$ ((30.83)) <u>31.84</u> per field	---	\$ ((0.41)) <u>0.42</u> /cwt.	---
Rapeseed	\$ ((15.41)) <u>15.91</u> per variety per grower	\$ ((1.79)) <u>1.84</u> /acre (one inspection)	\$ ((15.41)) <u>15.91</u> per grower	\$ ((20.55)) <u>21.22</u> ea. field	\$ ((0.51)) <u>0.52</u> /cwt.	---

- 1/ Refer to WAC 16-302-050 for seed certification application due dates.
- 2/ Refundable if acreage is withdrawn before inspection. Except for bean seed, required of seedling fields to be harvested for certification the year of planting. Notification of seeding field to be harvested for certification and required fees are due July 31.
- 3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into Idaho.
- 5/ Sampling and production fees are billed at completion of tests. If none of the seed is tagged, ten cents of the ~~((fifty-one))~~ fifty-two cents per cwt. production fee is refundable.

AMENDATORY SECTION (Amending WSR 02-12-061, filed 5/30/02, effective 6/30/02)

WAC 16-303-330 Certification fees for grass seed. Certification fees for grass seed except Sudangrass are as follows:

- (1) Application fees:
 - (a) Seedling application fee:
Per variety, per field \$~~((15.41))~~ 15.91
 - (b) Late seedling penalty fee: (Per kind) \$~~((30.83))~~ 31.84
 - (c) Seedling producing application fee:
Per field, per grower \$~~((15.41))~~ 15.91

Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees shall be due July 31:

- (2) Renewal applications:
 - (a) Renewal application fee:
Per variety, per grower \$~~((15.41))~~ 15.91
 - (b) Late renewal penalty fee: (Per variety) \$~~((30.83))~~ 31.84
This additional fee shall be charged for renewal applications received after May 1.
 - (c) Inspection fee per field. \$~~((30.83))~~ 31.84
- (3) Annual grasses inspection fee per acre \$~~((1.79))~~ 1.84
Applications are due within sixty days after planting.
- (4) Reinspection: Other than isolation— \$~~((41.11))~~ 42.46
each field

(5) Inspection and final certification fees: Inspection and final certification fees are based on pounds sampled and billed upon completion of required tests (Option A). Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.

PERMANENT

(a) Option A: When based on pounds sampled, and billed at completion of required laboratory tests, the fees are:

(i) Final certification fee \$~~((0.82))~~
0.84

per one hundred pounds. (If no seed is tagged, twenty cents of the final certification fee is refundable upon request.)

(ii) Seed shipped out-of-state for conditioning per one hundred pounds (unclean weight). \$0.30

(iii) Service fee for out-of-state origin (per cwt.) \$0.30

(iv) Blend fee is as established by blend rule, and in addition to above fees. However, blend fee is not applicable to salvage blends.

(v) Payment of fees is the responsibility of the person signing the application. However, conditioner may assume this responsibility.

(b) Option B: When based on pounds tagged after required laboratory tests are completed, the fee is:

(i) Final certification fee \$~~((1.13))~~
1.16

per one hundred pounds. (Minimum fee per tagging) \$~~((10.27))~~
10.60

(ii) Service fee for out-of-state origin \$~~((0.66))~~
0.68

per one hundred pounds.

(iii) Blend fee (in addition to fee established by blend rule) is payable upon completion of blend on total weight of blend, and is as follows:

(A) Washington origin certified seed used in blend per one hundred pounds. \$~~((1.02))~~
1.05

(B) Out-of-state origin certified seed used in blend per one hundred pounds \$~~((0.64))~~
0.63

except that those fees listed in (a) and (b) above are not applicable to certified seed that is tagged and sealed, and on which final fees have been paid.

(C) A refund or credit is issued for the percent of the blend lot not tagged. (For example, if forty percent of the blend is not tagged, forty percent of the fees charged under Option B above are refundable.)

(6) Payment of fees is the responsibility of the conditioner. A conditioner choosing this program must handle all certified grasses in his warehouse under this program for the entire crop year. Upon termination or nonrenewal of Option B memorandum of agreement, conditioner is responsible for Option A fees on all certified seed not tagged at termination date.

(7) Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in these standards.

(8) Fees for reissue of tags are ten cents per tag with a minimum fee of ten dollars and ~~((twenty-seven))~~ sixty cents.

(9) The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may request the responsibility for additional fees.

WSR 03-08-017
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed March 25, 2003, 10:47 a.m.]

Date of Adoption: March 25, 2003.

Purpose: Chapter 16-662 WAC, Weights and measures—National Handbooks. RCW 19.94.195 requires the department to adopt the most recent version of the National Institute of Standards and Technology (NIST) Handbook 44 every year. The agency also adopts the most recent version of NIST Handbook 130 and NIST Handbook 133 each year in order to maintain uniformity with other states. This rule-making order amends WAC 16-662-100, 16-662-105, 16-662-110, and 16-662-115 by adopting the 2003 editions of these handbooks. Also, to comply with the clarity criteria in Executive Order 97-02, the department has made minor wording changes in WAC 16-662-100, 16-662-110, and 16-662-115 to make the sections easier to read and understand.

Citation of Existing Rules Affected by this Order: Amending WAC 16-662-100, 16-662-105, 16-662-110, and 16-662-115.

Statutory Authority for Adoption: Chapters 19.94 and 34.05 RCW.

Adopted under notice filed as WSR 03-03-123 on January 22, 2003.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

PERMANENT

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

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

March 25, 2003
Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 97-12-075, filed 6/4/97, effective 7/5/97)

WAC 16-662-100 Purpose. The purpose of this rule is to establish requirements for the state of Washington that are reasonably consistent with uniform state rules that have been adopted by the National Conference on Weights and Measures and that are in effect in other states. This chapter applies specifically to subject areas for:

(1) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology Handbook 44*;

(2) Uniform procedures for checking the net contents of packaged goods addressed in the *National ((Bureau of Standards Handbook 133 with supplements)) Institute of Standards and Technology, Handbook 133*;

(3) Uniform packaging and labeling requirements;

(4) Uniform method of sale of commodities requirements; and

(5) Uniform examination procedures for price verification addressed in the *National Institute of Standards and Technology Handbook 130*. The publications cited in this chapter, Handbook 44, Handbook 130 and Handbook 133, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The handbooks are also available on the National Institute of Standards and Technology website. For information regarding the contents of these publications, contact weights and measures in the Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, or e-mail wts&measures@agr.wa.gov.

AMENDATORY SECTION (Amending WSR 02-12-029, filed 5/29/02, effective 6/29/02)

WAC 16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification.

(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the ((2002)) 2003 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other*

Technical Requirements for Commercial Weighing and Measuring Devices.

(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Fourth Edition of National Institute of Standards and Technology (NIST) Handbook 133 published by the United States Department of Commerce, entitled *NIST Handbook 133 - Fourth Edition - Checking the Net Contents of Packaged Goods - Fourth Edition, ((2002)) 2003 Edition.*

(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the ((2002)) 2003 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 - Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality*, specifically:

(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((2002)) 2003 Edition.

(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((2002)) 2003 Edition.

(c) Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, ((2002)) 2003 Edition.

AMENDATORY SECTION (Amending WSR 01-16-005, filed 7/19/01, effective 8/19/01)

WAC 16-662-110 Modifications to NIST Handbook 44. The following modifications are made to Handbook 44, identified in WAC 16-662-105:

(1) General Code:
((a) Section G-T. Tolerances. In paragraphs (b), (c), and (d) of subsection G-T.1. "Acceptance Tolerances", change "30 days" to "90 days."

(b)) Section G-UR. User Requirements. In the last sentence of subsection G-UR.4.1. "Maintenance of Equipment", change "device user" to "device owner or operator."

(2) Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner refuse."

((3) Appendix D Definitions, Direct Sale. Replace with the following: "A sale in which both parties in the transaction are present when the quantity is being determined.")

PERMANENT

AMENDATORY SECTION (Amending WSR 98-13-072, filed 6/15/98, effective 7/16/98)

WAC 16-662-115 Modifications to NIST Handbook 130. The following modifications are made to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in NIST Handbook 130, identified in WAC 16-662-105 (3)(b):

(1) Section 2.20. Gasoline-Oxygenate Blends. Delete Section 2.20 ((because)). The requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC.

(2) Section 2.23. Animal Bedding. Add a new subsection 2.23.1. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. Quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials when advertised, offered for sale, or sold within the state of Washington shall be in terms of cubic measure or units and fractions thereof.

WSR 03-08-018
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed March 25, 2003, 10:48 a.m.]

Date of Adoption: March 25, 2003.

Purpose: Chapter 16-321 WAC, Grass sod—Certification standards. The original purpose of this chapter was to maintain and make available to the public high quality sod of turfgrasses to insure genetic identity and purity and a high degree of freedom from weeds, diseases, injurious insects, and other pests. This rule-making order repeals the entire chapter. Participation in the program was voluntary and to the department's knowledge no one, since the program was adopted in 1980, has participated in the program. Currently, there are no certified sod growers in this state, and there does not appear to have been any in at least a decade.

Citation of Existing Rules Affected by this Order: Repealing chapter 16-321 WAC.

Statutory Authority for Adoption: Chapters 15.13 and 34.05 RCW.

Adopted under notice filed as WSR 03-03-124 on January 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 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 13.

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 13.

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

March 25, 2003

Valoria H. Loveland
 Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-321-001	Purpose.
WAC 16-321-010	Grass sod certification standards.
WAC 16-321-020	By whom certified.
WAC 16-321-030	Varieties eligible.
WAC 16-321-040	Application for sod certification.
WAC 16-321-050	Certification fees.
WAC 16-321-060	Land requirements.
WAC 16-321-070	Eligibility of seed stock.
WAC 16-321-080	Field standards.
WAC 16-321-090	Specific requirements.
WAC 16-321-100	Inspection.
WAC 16-321-110	Labeling.
WAC 16-321-120	Responsibility and obligations.

WSR 03-08-026
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed March 26, 2003, 4:45 p.m.]

Date of Adoption: March 21, 2003.

Purpose: This new chapter 388-145 WAC establishes licensing rules for emergency respite centers (ERCs), also known as crisis nurseries. The legislature passed chapter 230, Laws of 2001 that included an amendment to RCW 74.15.020 defining center-based ERCs and adding RCW 74.15.280 authorizing the department to adopt licensing rules. Emergency respite centers for facilities licensed to provide respite care for children to parents or legal guardians to prevent child abuse or neglect. The permanent rules will replace and supersede the emergency rules filed under WSR 03-06-091 (emergency WAC 388-148-1205 through 388-148-1300).

Statutory Authority for Adoption: RCW 74.15.280, 74.15.020 and chapter 230, Laws of 2001.

PERMANENT

Adopted under notice filed as WSR 03-01-117 on December 18, 2002.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 388-145-0020 Definitions.

a. References to "home or foster home" have been removed. These terms unintentionally appear in several of the chapter definitions. Emergency respite centers are facility-based not home-based.

b. The office of the state fire marshal indicated that their official name is the Washington State Patrol Fire Protection Bureau. Their name has been changed in the text of chapter 388-145 WAC, where "the state fire marshal" was referenced.

2. WAC 388-145-0180. The rule caption has been changed to "May a facility have more than one type of license?" instead of "May an agency have more than one type of license?" If a facility meets the requirements for both an ERC and a child care center they could be licensed for both. The intent is not to preclude an agency from providing other services such as those of a child-placing agency. The change will be made to clarify the intent of WAC 388-145-0180.

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 122, 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 122, Amended 0, Repealed 0.

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

March 21, 2003

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 03-10 issue of the Register.

WSR 03-08-037

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 27, 2003, 10:08 a.m.]

Date of Adoption: March 26, 2003.

Purpose: The purpose is to adopt revisions necessary to be consistent with federally promulgated Environmental Protection Agency (EPA) rules and regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-290-495 Public notification; and amending WAC 246-290-002, 246-290-010, 246-290-025, 246-290-060, 246-290-100, 246-290-105, 246-290-125, 246-

290-220, 246-290-300, 246-290-310, 246-290-320, 246-290-416, 246-290-451, 246-290-480, 246-290-490, 246-290-601, 246-290-630, 246-290-634, 246-290-638, 246-290-654, 246-290-660, 246-290-662, 246-290-664, 246-290-666, 246-290-672, 246-290-674, 246-290-676, 246-290-690, 246-290-691, 246-290-692, 246-290-694, 246-290-696, 246-290-72001, 246-290-72005, 246-290-72007, 246-290-72010, and 246-290-72012.

Statutory Authority for Adoption: RCW 43.20.050 (2) and (3).

Other Authority: RCW 70.119A.080.

Adopted under notice filed as WSR 03-03-078 and 03-03-079 on January 15, 2003.

Changes Other than Editing from Proposed to Adopted Version:

- Combined WSR 03-03-078 and 03-03-079 filed on January 15, 2003.
- WAC 246-290-300 (1)(c), inserted the language that states who is qualified to perform measurements for water samples as required by federal regulations.
- WAC 246-290-300, Table 3, added federally required language to the Radionuclides sample location that states more specifically where in the distribution system samples should be taken.
- WAC 246-290-416 (3)(a) was removed to more clearly state that only surface and GWI systems must respond to significant deficiencies within forty-five days as required by federal regulations.
- WAC 246-290-71001(1) language was added to more clearly state that violations for which public notification is required are not inclusive of all Safe Drinking Water Act violations, but that they are categorized into three different levels regarding the form, manner and timing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 37, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

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

March 23, 2003

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-002 Guidance. (1) The department has numerous guidance documents available to help purveyors comply with state and federal rules regarding drinking water. These include documents on the following subjects:

- (a) Compliance;
- (b) System management and financial assistance;
- (c) Ground water protection;
- (d) Growth management;
- (e) Operations/maintenance;
- (f) Operator certification;
- (g) Water system planning;
- (h) Monitoring and water quality;
- (i) System approval;
- (j) Small water systems;
- (k) Water resources;
- (l) Water system design; and
- (m) General information.

(2) The department's guidance documents are available at minimal or no cost by contacting the division of drinking water's publication service at (360) 236-3099 or (800) 521-0323. Individuals can also request the documents via the Internet at <http://www.doh.wa.gov/ehp/dw> or through conventional mail at P.O. Box 47822, Olympia, Washington 98504-7822.

(3) Federal guidance documents are available from the Environmental Protection Agency for a wide range of topics. These are available from the EPA Office of Ground Water and Drinking Water website at www.epa.gov/safewater/index.html.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-010 Definitions. Abbreviations and acronyms:

- ADD** - average day demand;
AG - air gap;
ANSI - American National Standards Institute;
APWA - American Public Works Association;
ASCE - American Society of Civil Engineers;
AVB - atmospheric vacuum breaker;
AWWA - American Water Works Association;
BAT - best available technology;
BAT - backflow assembly tester (for WAC 246-29-490);
C - residual disinfectant concentration in mg/L;
CCS - cross-connection control specialist;
CFR - code of federal regulations;
CPE - comprehensive performance evaluation;
CT - the mathematical product in mg/L - minutes of "C" and "T";
CTA - comprehensive technical assistance;
CWSSA - critical water supply service area;
DBPs - disinfection by-products;
DCDA - double check detector assembly;
DCVA - double check valve assembly;

- ~~(DWSRF - drinking water state revolving fund;)~~
EPA - Environmental Protection Agency;
ERU - equivalent residential unit;
gph - gallons per hour;
gpm - gallons per minute;
GAC - granular activated carbon;
GAC10 - granular activated carbon with ten-minute empty bed contact time based on average daily flow and one hundred eighty-day reactivation frequency;
GW - ground water under the direct influence of surface water;
HAAS - haloacetic acids (five);
HPC - heterotrophic plate count;
IAPMO - International Association of Plumbing and Mechanical Officials;
kPa - kilo pascal (SI units of pressure);
~~((m - meter;))~~
MCL - maximum contaminant level;
MDD - maximum day demand;
mg/L - milligrams per liter (1 mg/L = 1 ppm);
mL - milliliter;
mm - millimeter;
MRDL - maximum residual disinfectant level;
MRDLG - maximum residual disinfectant level goal;
MTTP - maximum total trihalomethane potential;
NSF - National Sanitation Foundation;
NTNC - nontransient **noncommunity**;
NTU - nephelometric turbidity unit;
PAA - project approval application;
pCi/L - picocuries per liter;
PHD - peak hourly demand;
ppm - parts per million (1 ppm = 1 mg/L);
psi - pounds per square inch;
PVBA - pressure vacuum breaker assembly;
RPBA - reduced pressure backflow assembly;
RPDA - reduced pressure detector assembly;
SAL - state advisory level;
SCA - sanitary control area;
SDWA - Safe Drinking Water Act;
SEPA - State Environmental Policy Act;
SOC - synthetic organic chemical;
SMA - satellite management agency;
SPI - special purpose investigation;
SRF - state revolving fund;
SUVA - specific ultraviolet absorption;
SVBA - spill resistant vacuum breaker assembly;
SWTR - surface water treatment rule;
T - disinfectant contact time in minutes;
TTHM - total trihalomethane;
TNC - transient **noncommunity**;
TNTC - too numerous to count;
TOC - total organic carbon;
UBC - Uniform Building Code;
ug/L - micrograms per liter;
UL - Underwriters Laboratories, Inc.;

umhos/cm - micromhos per centimeter;
UPC - Uniform Plumbing Code;
UTC - utilities and transportation commission;
VOC - volatile organic chemical;
WAC - Washington Administrative Code;
 ((WADOT—Washington department of transportation;))
WFI - water facilities inventory and report form; and
WHPA - wellhead protection area.

"**Acute**" means posing an immediate risk to human health.

"**Alternate filtration technology**" means a filtration process for substantial removal of particulates (generally > 2 log *Giardia lamblia* cysts and/or, for systems serving at least 10,000 people, ≥ 2-log removal of *Cryptosporidium* oocysts) by other than conventional, direct, diatomaceous earth, or slow sand filtration processes.

"**Analogous treatment system**" means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

"**Approved air gap**" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an air gap approved by the department, the separation must be at least:

Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and:

Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

"**Approved atmospheric vacuum breaker**" means an AVB of make, model, and size that is approved by the department. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the local administrative authority are considered approved by the department.

"**Approved backflow preventer**" means an approved air gap, an approved backflow prevention assembly, or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490 do not apply to backflow preventers installed for other purposes.

"**Approved backflow prevention assembly**" means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern

California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

"**As-built drawing**" means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

"**Authorized agent**" means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

"**Average day demand (ADD)**" means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day per ERU (gpd/ERU).

"**Backflow**" means the undesirable reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

"**Backflow assembly tester**" means a person holding a valid BAT certificate issued in accordance with chapter 246-292 WAC.

"**Backpressure**" means a pressure (caused by a pump, elevated tank or piping, boiler, or other means) on the consumer's side of the service connection that is greater than the pressure provided by the public water system and which may cause backflow.

"**Backsiphonage**" means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's water system.

"**Best available technology (BAT)**" means the best technology, treatment techniques, or other means that EPA finds, after examination for efficacy under field conditions, are available, taking cost into consideration.

"**Blended sample**" means a sample collected from two or more individual sources at a point downstream of the confluence of the individual sources and prior to the first connection.

"**C**" means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

"**Category red operating permit**" means an operating permit identified as such ((pursuant to)) under chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

"**Chemical contaminant treatment facility**" means a treatment facility specifically used for the purpose of removing chemical contaminants.

"**Clarification**" means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

"**Closed system**" means any water system or portion of a water system in which water is transferred to a higher pressure zone closed to the atmosphere, such as when no gravity storage is present.

"Coagulant" means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

"Coagulation" means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

"Combination fire protection system" means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection; and

Is constructed of approved potable water piping and materials that serve both the fire sprinkler system and the consumer's potable water system.

"Completely treated water" means water from a surface or GWI source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

"Composite sample" means a sample in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

"Comprehensive monitoring plan" means a schedule that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

"Comprehensive performance evaluation (CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. The comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Comprehensive technical assistance (CTA)" means technical assistance intended to identify specific steps that may help a water treatment plant overcome operational or design limitations identified during a comprehensive performance evaluation.

"Confirmation" means to demonstrate the accuracy of results of a sample by analyzing another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation is when analysis results fall within plus or minus thirty percent of the original sample results.

"Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

"Conservation program" means policies and activities implemented to encourage or cause efficient use of water on a long-term basis. Conservation programs shall include identification of the conservation objectives of the purveyor, evaluation of conservation measures considered, and identification of specific conservation measures identified for implementation.

"Construction completion report" means a form provided by the department and completed for each specific construction project to document:

- Project construction in accordance with this chapter and general standards of engineering practice;
- Physical capacity changes; and
- Satisfactory test results.

The completed form must be stamped with an engineer's seal, and signed and dated by a professional engineer.

"Consumer" means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

"Consumer's water system," as used in WAC 246-290-490, means any potable and/or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

"Contaminant" means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic qualities of the water.

"Contingency plan" means that portion of the wellhead protection program section of the water system plan or small water system management program that addresses the replacement of the major well(s) or wellfield in the event of loss due to ground water contamination.

"Continuous monitoring" means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal ((\rightarrow \approx 2.5 log *Giardia lamblia* cysts)) in compliance with Part 6 of this chapter.

"Critical water supply service area (CWSSA)" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

"Cross-connection" means any actual or potential physical connection between a public water system or the consumer's water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

"Cross-connection control program" means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

"Cross-connection control specialist" means a person holding a valid CCS certificate issued in accordance with chapter 246-292 WAC.

"Cross-connection control summary report" means the annual report that describes the status of the purveyor's cross-connection control program.

"CT" or **"CTcalc"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T".

"CT_{99.9}" means the CT value required for 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts.

"CTreq" means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

"Curtailement" means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

"Dead storage" means the volume of stored water not available to all consumers at the minimum design pressure in accordance with WAC 246-290-230 (5) and (6).

"Demand forecast" means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected conservation savings from implementation of a conservation program, and other appropriate factors.

"Department" means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-290-030(1).

"Design and construction standards" means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

"Diatomaceous earth filtration" means a filtration process for substantial removal of particulates (> 2 log *Giardia lamblia* cysts) in which:

A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal (~~((> 2 log *Giardia lamblia* cysts)))~~) in compliance with Part 6 of this chapter.

"Direct service connection" means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

"Disinfectant contact time (T in CT)" means: When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the C measurement point for which the particular T is being calculated.

"Disinfection" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"Disinfection profile" means a summary of *Giardia lamblia* inactivation through a surface water treatment plant.

"Distribution coliform sample" means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"Distribution-related projects" means distribution projects such as storage tanks, booster pump facilities, transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

"Distribution reservoir" means a water storage structure that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

"Distribution system" means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

"Domestic or other nondistribution system plumbing problem," means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

"Drinking water state revolving fund (DWSRF)" means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act.

"Duplicate (verification) sample" means a second sample collected at the same time and location as the first sample and used for verification.

"Emergency" means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

"Emergency source" means any source that is approved by the department for emergency purposes only, is not used for routine or seasonal water demands, is physically disconnected, and is identified in the purveyor's emergency response plan.

"Engineering design review report" means a form provided by the department and completed for a specific distribution-related project to document:

- Engineering review of a project report and/or construction documents under the submittal exception process in accordance with WAC 246-290-125(3); and
- Design in accordance with this chapter and general standards of engineering practice.

The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

"Equalizing storage" means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

"Equivalent residential unit (ERU)" means a system-specific unit of measure used to express the amount of water consumed by a typical full-time single family residence.

"Expanding public water system" means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities that will enable the system to increase in size its existing service area and/or its number of approved service connections. Exceptions:

A system that connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

A distribution system extension in an existing service area identified in a current and approved water system plan or project report.

"Filter profile" means a graphical representation of individual filter performance in a direct or conventional surface water filtration plant, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Filtration" means a process for removal of particulate matter from water by passage through porous media.

"Financial viability" means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

"Fire flow" means the maximum rate and duration of water flow needed to suppress a fire under WAC 246-293-640 or as required under local fire protection authority standards.

"Fire suppression storage" means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

"First consumer" means the first service connection associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

"Flocculation" means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

"Flow-through fire protection system" means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection;

Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and

Terminates at a connection to a toilet or other plumbing fixture to prevent the water from becoming stagnant.

"Grab sample" means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

"Ground water under the direct influence of surface water (GWI)" means any water beneath the surface of the ground that the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or for systems serving ten thousand people or more, *Cryptosporidium*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

"Guideline" means a department document assisting the purveyor in meeting a rule requirement.

"Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"Heterotrophic Plate Count (HPC)" means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

"High health cross-connection hazard" means a cross-connection which could impair the quality of potable water and create an actual public health hazard through poisoning or spread of disease by sewage, industrial liquids or waste.

"Human consumption" means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

"Hydraulic analysis" means the study of a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

"Inactivation" means a process which renders pathogenic microorganisms incapable of producing disease.

"Inactivation ratio" means the ratio obtained by dividing CTcalc by CTreq.

"Incompletely treated water" means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

"In-line filtration" means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

"In-premises protection" means a method of protecting the health of consumers served by the consumer's potable water system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

"Intertie" means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

"Legionella" means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' Disease.

"Limited alternative to filtration" means a process that ensures greater removal and/or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

"Local administrative authority" means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

"Low health cross-connection hazard" means a cross-connection that could cause an impairment of the quality of potable water to a degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

"Major project" means all construction projects subject to SEPA in accordance with WAC 246-03-030 (3)(a) and include all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet and larger than eight inches in diameter located in new rights of way and major extensions to existing water distribution systems involving use of pipes greater than eight inches in diameter, that are designed to increase the existing service area by more than one square mile.

"Mandatory curtailment" means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table 3.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

"Maximum day demand (MDD)" means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, excluding unusual events or emergencies. MDD is typically expressed as gallons per day per ERU (gpd/ERU).

"Monitoring waiver" means an action taken by the department ((pursuant to)) under WAC 246-290-300 (4)(g) or (7)(f) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination.

"Nested storage" means one component of storage is contained within the component of another.

"Nonacute" means posing a possible or less than immediate risk to human health.

"Nonresident" means a person having access to drinking water from a public water system, but who lives elsewhere. Examples include travelers, transients, employees, students, etc.

"Normal operating conditions" means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

"Operational storage" means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

"Peak hourly demand (PHD)" means the maximum rate of water use, excluding fire flow, that can be expected to occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

"Peak hourly flow" means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

"Performance criteria" means the level at which a system shall operate in order to maintain system reliability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

"Permanent residence" means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

"Permanent source" means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in operation for less than three consecutive months per year, their sources shall also be considered to be permanent.

"Point of disinfectant application" means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

"Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not such persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

"Potable" means water suitable for drinking by the public.

"Potential GWI" means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the well-head and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

"Premises isolation" means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection or alternative location acceptable to the purveyor to isolate the consumer's water system from the purveyor's distribution system.

"Pressure filter" means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

"Primary disinfection" means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Primary turbidity standard" means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

"Project approval application (PAA)" means a department form documenting ownership of water system, design engineer for the project, and type of project.

"Protected ground water source" means a ground water source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

"Public water system" is defined and referenced under WAC 246-290-020.

"Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's consumers.

"Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

"Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

"Record drawings" means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

"Recreational tract" means an area that is clearly defined for each occupant, but has no permanent structures

with internal plumbing, and the area has been declared as such in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

"Regional public water supplier" means a water system that provides drinking water to one, or more, other public water systems.

"Regularly" means four hours or more per day for four days or more per week.

"Removal credit" means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

"Repeat sample" means a sample collected to confirm the results of a previous analysis.

"Resident" means an individual living in a dwelling unit served by a public water system.

"Residual disinfectant concentration" means the analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

"Same farm" means a parcel of land or series of parcels that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a **Group A** public water system.

"Sanitary survey" means a review, inspection, and assessment of a public water system by the department or department designee including, but not limited to: Source, facilities, equipment, administration and operation, maintenance procedures, monitoring, recordkeeping, planning documents and schedules, and management practices. The purpose of the survey is to evaluate the adequacy of the water system for producing and distributing safe and adequate drinking water.

"Satellite management agency (SMA)" means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between such systems.

"Seasonal source" means a public water system source used on a regular basis, that is not a permanent or emergency source.

"Secondary standards" means standards based on factors other than health effects.

"Service connection" means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection provides water to a residential population without clearly defined single family residences, the following formulas shall be used in determining the number of services to be included as residential connections on the WFI form:

Divide the average population served each day by two and one-half; or

Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

In no case shall the calculated number of services be less than one.

"Significant noncomplier" means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health. Such violations include, but are not limited to, repeated violations of monitoring requirements, failure to address an exceedance of permissible levels of regulated contaminants, or failure to comply with treatment technique standards or requirements.

"Simple disinfection" means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

"Slow sand filtration" means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft²) that results in substantial particulate removal (> 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

"Source meter" means a meter that measures total output of a water source over specific time periods.

"Source water" means untreated water that is not subject to recontamination by surface runoff and:

For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

"Special purpose investigation (SPI)" means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

"Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"Spring" means a source of water where an aquifer comes in contact with the ground surface.

"Standard methods" means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"Standby storage" means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

"State advisory level (SAL)" means a level established by the department and state board of health for a contaminant without an existing MCL. The SAL represents a level that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

"State board of health" and **"board"** means the board created by RCW 43.20.030.

"Subpart H System" see definition for **"surface water system."**

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Surface water system" means a public water system that uses in whole, or in part, source water from a surface water (GWI) supply, or ground water under the direct influence of surface water (GWI) supply. This includes systems that operate surface water treatment facilities, and systems that purchase "completely treated water" (as defined in this subsection). A "surface water system" is also referred to as a "Subpart H System" in some federal regulatory language adopted by reference and the two terms are considered equivalent for the purposes of this chapter.

"Susceptibility assessment" means the completed Susceptibility Assessment Survey Form developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's overall susceptibility to contamination from surface activities.

"Synthetic organic chemical (SOC)" means a manufactured carbon-based chemical.

"System capacity" means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

"System physical capacity" means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

"Time-of-travel" means the time required for ground water to move through the water bearing zone from a specific point to a well.

"Too numerous to count (TNTC)" means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Tracer study" means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

"Transmission line" means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined as such on the plans and no service connections are allowed along the transmission main.

"Treatment technique requirement" means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A "treatment technique requirement" is estab-

lished in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

"Trihalomethane (THM)" means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. THMs may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection by-products.

"Turbidity event" means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

"T10" means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or from published engineering reports or guidance documents for similarly configured tanks.

"Unapproved auxiliary water supply" means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

"Uncovered distribution reservoir" means a distribution reservoir that is open, without a suitable water-tight roof or cover, where the potable water supply is exposed to external contaminants, including but not limited to people, birds, animals, and insects and will undergo no further treatment except for residual disinfection.

"Uniform Plumbing Code" means the code adopted under RCW 19.27.031(4) and amended under chapter 51-46 WAC. This code establishes statewide minimum plumbing standards applicable within the property lines of the consumer's premises.

"Used water" means water which has left the control of the purveyor.

"Verification" means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

"Virus" means a virus of fecal origin which is infectious to humans and transmitted through water.

"Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"Voluntary curtailment" means a curtailment of water use requested, but not required of consumers.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

"Water facilities inventory (WFI) form" means the department form summarizing each public water system's characteristics.

"Water right" means a permit, claim, or other authorization, on record with or accepted by the department of ecol-

ogy, authorizing the beneficial use of water in accordance with all applicable state laws.

"Water right assessment" means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. Such an assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

"Watershed" means the region or area that:

Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

"Water shortage" means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

"Water shortage response plan" means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

"Well field" means a group of wells one purveyor owns or controls that:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

"Wellhead protection area (WHPA)" means the portion of a well's, wellfield's or spring's zone of contribution defined as such using WHPA criteria established by the department.

"Zone of contribution" means the area surrounding a pumping well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-025 Adoption by reference. The following sections and subsections of Title 40 Code of Federal Regulations (CFR) Part 141 National Primary Drinking Water Regulations revised as of July 1, ((1996)) 2002, and including all amendments and modifications thereto effective as of the date of adoption of this chapter are adopted by reference:

141.2 Definitions. Only those definitions listed as follows:

Action level;

Corrosion inhibitor;

Effective corrosion inhibitor residual;

Enhanced coagulation;

Enhanced softening;

Granular activated carbon (GAC10);

Haloacetic acids (five) (HAA5);

First draw sample;

Large water system;

Lead service line;
Maximum residual disinfectant level (MRDL);
Maximum residual disinfectant level goal (MRDLG);
 Medium-size water system;
 Optimal corrosion control treatment;
 Service line sample;
 Single family structure; ~~((and))~~
 Small water system;
Specific ultraviolet absorption (SUVA); and
Total Organic Carbon (TOC).
 141.12 Maximum contaminant levels for organic chemicals.
 141.13 Maximum contaminant levels for turbidity.
 141.21 Coliform monitoring.
 141.22 Turbidity sampling and analytical requirements.
 141.23(a) - 141.23(j), Inorganic chemical sampling.
 141.23(m) - 141.23(o)
 141.24(a) - 141.24(d), Organic chemicals other than total trihalomethanes.
 141.24 (f)(1) - 141.24 (f)(15),
 141.24 (f)(18), 141.24 (f)(19),
 141.24 (f)(21),
 141.24 (g)(1) - 141.24 (g)(9),
 141.24 (g)(12) - 141.24 (g)(14),
 141.24 (h)(1) - 141.24 (h)(11),
 141.24 (h)(14) - 141.24 (h)(17)
141.25(a), 141.25 (c) - (d), Analytical methods for radioactivity.
141.26 Monitoring frequency and compliance for radioactivity in community water systems.
141.31(d) Reporting of public notices and compliance certifications.
141.33(e) Record maintenance of public notices and certifications.
 141.40(a) - 141.40(e), Special monitoring for inorganic and organic chemicals.
 141.40(g), 141.40(i) - 141.40(n)
 141.61 Maximum contaminant levels for organic contaminants.
 141.62 Maximum contaminant levels for inorganic chemical and physical contaminants.
141.64(c) Best Available Technologies (BATs) for Disinfection By-Products.
141.65(c) Best Available Technologies (BATs) for Maximum Residual Disinfectant Levels.
141.66 Maximum contaminant levels for radionuclides.

Control of Lead and Copper
 141.80 General requirements.
 141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems.
 141.82(a) - 141.82(h) Description of corrosion control treatment requirements.
 141.83 Source water treatment requirements.
 141.84 Lead service line replacement requirements.
 141.85 Public education and supplemental monitoring requirements.
 141.86 (a) - (f) Monitoring requirements for lead and copper in tap water.
 141.87 Monitoring requirements for water quality parameters.
 141.88 Monitoring requirements for lead and copper in source water.
141.89 Analytical methods for lead and copper testing.
141.90, excluding (a)(4) Reporting requirements.
 141.91 Recordkeeping requirements.
~~((143.1-143.5 Secondary contaminants-))~~
Disinfectants and Disinfection By-Products (D/DBP)
141.130 General requirements.
141.131 Analytical requirements.
141.132 Monitoring requirements.
141.133 Compliance.
141.134 Reporting and recordkeeping.
141.135 Treatment technique for control of disinfection by-product precursors.
Enhanced Filtration - Reporting and Recordkeeping
141.175(b) Individual filter reporting and follow-up action requirements for systems treating surface water with conventional, direct, or in-line filtration and serving at least 10,000 people.
141.201, excluding (3)(ii) of Table 1 General public notification requirements.
141.202, excluding (3) of Table 1 Tier 1 Public Notice - Form, manner, and frequency of notice.
141.203 Tier 2 Public Notice - Form, manner, and frequency of notice.
141.204 Tier 3 Public Notice - Form, manner, and frequency of notice.
141.205 Content of the public notice.
141.206 Notice to new billing units or new customers.

PERMANENT

141.207 Special notice of the availability of unregulated contaminant monitoring results.

141.208 Special notice for exceedances of the SMCL for fluoride.

Subpart Q - Public Notification Rule, Appendix A and B

143.1 - Secondary contaminants.

143.4

Copies of the incorporated sections and subsections of Title 40 CFR are available from the Department of Health, Airstustrial Center Building 3, P.O. Box 47822, Olympia, Washington 98504-7822, or by calling the department's drinking water hotline at 1-800-521-0323.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-060 Variances, exemptions, and waivers. (1) General.

(a) The state board of health may grant variances, exemptions, and waivers of the requirements of this chapter according to the procedures outlined in subsection (5) of this section. See WAC 246-290-300 (4)(g) and ~~((7))~~ (8)(f) for monitoring waivers.

(b) Consideration by the board of requests for variances, exemptions, and waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(c) Statements and written material regarding the request may be presented to the board at or before the public hearing ~~((wherein))~~ where the application will be considered. Allowing cross-examination of witnesses shall be within the discretion of the board.

(d) The board may grant a variance, exemption, or waiver if it finds:

(i) Due to compelling factors, the public water system is unable to comply with the requirements; and

(ii) The granting of the variance, exemption, or waiver will not result in an unreasonable risk to the health of consumers.

(2) Variances.

(a) MCL.

(i) The board may grant a MCL variance to a public water system that cannot meet the MCL requirements because of characteristics of the source water that is reasonably available to the system.

(ii) A MCL variance may only be granted ~~((after the system has applied the best available technology (BAT), treatment techniques, or other means as identified by the environmental protection agency (EPA) and still cannot meet an MCL standard as specified in section 1415, Public Law 93-523 (federal Safe Drinking Water Act) as amended by Public Law 99-339 (SDWA amendments of 1986), and Public Law 104-182 (SDWA amendments of 1996), as codified at 42 USC 300g-4))~~ in accordance with 40 CFR 141.4.

(iii) A variance shall not be granted from the MCL for presence of total coliform under WAC 246-290-310(2).

(b) Treatment techniques.

(i) The board may grant a treatment technique variance to a public water system if the system demonstrates that the

treatment technique is not necessary to protect the health of consumers because of the nature of the system's source water.

(ii) A treatment technique variance ~~((shall not be))~~ granted ~~((from any treatment technique requirement under Part 6 of chapter 246-290 WAC))~~ in accordance with 40 CFR 141.4.

(iii) A variance shall not be granted from any treatment technique requirement under Part 6 of chapter 246-290 WAC.

(c) The board shall condition the granting of a variance upon a compliance schedule as described in subsection (6) of this section.

(3) Exemptions.

(a) The board may grant a MCL or treatment technique exemption to a public water system that cannot meet an MCL standard or provide the required treatment in a timely manner, or both, ~~((as specified under section 1416, Public Law 93-523 (federal Safe Drinking Water Act) as amended by Public Law 99-339 (SDWA amendments of 1986), and Public Law 104-182 (SDWA amendments of 1996), as codified at 42 USC 300g-4))~~ in accordance with 40 CFR 141.4.

(b) ~~((An exemption may be granted for up to one year if the system was:~~

(i) ~~In operation on the effective date of the MCL or treatment technique requirement; or~~

(ii) ~~Not in operation on the effective date, and no reasonable alternative source of drinking water is available.~~

~~((e))~~ No exemption shall be granted from:

(i) The requirement to provide a residual disinfectant concentration in the water entering the distribution system under WAC 246-290-662 or 246-290-692; or

(ii) The MCL for presence of total coliform under WAC 246-290-310(2).

~~((d))~~ (c) The board shall condition the granting of an exemption upon a compliance schedule as described in subsection (6) of this section.

(4) Waivers. The board may grant a waiver to a public water system if the system cannot meet the requirements of these regulations pertaining to any subject not covered by EPA variance and/or exemption regulations.

(5) Procedures.

(a) For variances and exemptions. The board shall consider granting a variance or exemption to a public water system ~~((upon completion of the following actions:~~

(i) ~~The purveyor applies in writing to the department. The application, which may be in the form of a letter, shall clearly state the reason for the request and what actions the purveyor has taken to meet the requirement;~~

(ii) ~~The purveyor provides notice of the purveyor's application to consumers and provides proof of such notice to the department;~~

(iii) ~~The department prepares recommendations, including a compliance schedule for the board's consideration;~~

(iv) ~~The board provides notice for and conducts a public hearing on the purveyor's request; and~~

~~((v))~~ EPA reviews any variance or exemption granted by the board for concurrence, revocation, or revision as provided under sections 1415 and 1416 of Public Law 93-523 (federal Safe Drinking Water Act), as amended, codified at 42 USC 300g-4) in accordance with 40 CFR 141.4.

(b) For waivers. The board shall consider granting a waiver upon completion of the following actions:

(i) The purveyor applies to the department in writing. The application, which may be in the form of a letter, shall clearly state the reason for the request;

(ii) The purveyor provides notice of the purveyor's application to consumers and provides proof of ~~((such))~~ the notice to the department;

(iii) The department prepares a recommendation to the board; and

(iv) The board provides notice for and conducts a public hearing on the purveyor's request.

(6) Compliance schedule.

(a) The board shall condition the granting of a variance or exemption based on a compliance schedule. The compliance schedule shall include:

(i) Actions the purveyor shall undertake to comply with a MCL or treatment technique requirement within a specified time period; and

(ii) A description and time-table for implementation of interim control measures the department may require while the purveyor completes the actions required in (a)(i) of this subsection.

(b) The purveyor shall complete the required actions in the compliance schedule within the stated time frame.

(7) Extensions to variances and exemptions.

(a) The board may extend the final date of compliance prescribed in the compliance schedule for a ~~((period of up to three years after the date the exemption was granted upon a finding that the water system:~~

~~(i) Cannot meet the MCL or treatment technique requirements without capital improvements that cannot be completed within the original exemption period;~~

~~(ii) Has entered into an agreement to obtain needed financial assistance for necessary improvements; or~~

~~(iii) Has entered into an enforceable agreement to become part of a regional public water system and the system is taking all practicable steps to meet the MCL.~~

~~(b) The board may extend the final date of compliance prescribed in the compliance schedule of an exemption for one or more additional two-year periods if the purveyor:~~

~~(i) Is a community water system providing water to less than five hundred service connections;~~

~~(ii) Needs financial assistance for the necessary improvements; and~~

~~(iii) Is taking all practicable steps to meet the compliance schedule.~~

~~(e) Procedures listed in subsection (5) of this section shall be followed in the granting of extensions to exemptions)) variance and/or exemption in accordance with 40 CFR 141.4.~~

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-100 Water system plan. (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain

compliance with relevant local, state, and federal plans and regulations;

(b) Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;

(c) Establish eligibility for funding ~~((pursuant to))~~ under the drinking water state revolving fund (SRF).

(2) Purveyors of the following categories of community public water systems shall submit a water system plan for review and approval by the department:

(a) Systems having one thousand or more services;

(b) Systems required to develop water system plans under the Public Water System Coordination Act of 1977 (chapter 70.116 RCW);

(c) Any system experiencing problems related to planning, operation, and/or management as determined by the department;

(d) All new systems;

(e) Any expanding system; and

(f) Any system proposing to use the document submittal exception process in WAC 246-290-125.

(3) The purveyor shall work with the department and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size, complexity, past performance, and use of the water system. Project reports may be combined with a water system plan.

(4) In order to demonstrate system capacity, the water system plan shall address the following elements, as a minimum, for a period of at least twenty years into the future:

(a) Description of the water system, including:

(i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;

(ii) System history and background;

(iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, ground water management plans, and basin plans;

(iv) Service area map, characteristics, agreements, and policies; and

(v) Satellite management, if applicable.

(b) Basic planning data, including:

(i) Current population, service connections, water use, and equivalent residential units; and

(ii) Projected land use, future population, and water demand for a consecutive six-year and final twenty-year planning period within the system's service area.

(c) System analysis, including:

(i) System design standards;

(ii) Water quality analysis;

(iii) System inventory description and analysis; and

(iv) Summary of system deficiencies.

(d) Water resource analysis, including:

(i) Development and implementation of a cost-effective conservation program, which includes evaluation of conservation-oriented water rate structures;

(ii) Water demand forecasts;

(iii) Water use data collection;

(iv) Source of supply analysis, which includes an evaluation of water supply alternatives if additional water rights will be pursued within twenty years;

(v) Water shortage response plan if a water system experiences a water shortage, or anticipates it will experience a water shortage within the next six-year planning period;

(vi) Water right assessment;

(vii) Water supply reliability analysis; and

(viii) Interties.

(e) Source water protection in accordance with WAC 246-290-135.

(f) Operation and maintenance program in accordance with WAC 246-290-415 and 246-290-654(5), as applicable.

(g) Improvement program, including a six-year capital improvement schedule.

(h) Financial program, including demonstration of financial viability by providing:

(i) A summary of past income and expenses;

(ii) A one-year balanced operational budget for systems serving one thousand or more connections or a six-year balanced operational budget for systems serving less than one thousand connections;

(iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and

(iv) A rate structure that has considered:

(A) The affordability of water rates; and

(B) The feasibility of adopting and implementing a rate structure that encourages water conservation.

(i) Other documents, such as:

(i) Documentation of SEPA compliance;

(ii) Agreements; and

(iii) Comments from the county and adjacent utilities.

(5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:

(a) Standard construction specifications for distribution mains; and/or

(b) Design and construction standards for distribution-related projects, including:

(i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;

(ii) Construction-related policies and requirements for external parties, including consumers and developers;

(iii) Performance and sizing criteria; and

(iv) General reference to construction materials and methods.

(6) The department, at its discretion, may require reports from purveyors identifying the progress in developing their water system plans.

(7) Purveyors shall transmit water system plans to adjacent utilities and local governments having jurisdiction, to assess consistency with ongoing and adopted planning efforts.

(8) For community systems, the purveyor shall hold an informational meeting for system consumers prior to departmental approval of a water system plan or a water system

plan update. The purveyor shall notify consumers in a way that is appropriate to the size of the system.

(9) Department approval of a water system plan shall be in effect for six years from the date of written approval unless:

(a) Major projects subject to SEPA as defined in WAC 246-03-030 (3)(a) are proposed that are not addressed in the plan;

(b) Changes occur in the basic planning data significantly affecting system improvements identified; or

(c) The department requests an updated plan or plan amendment.

(10) The purveyor shall update the plan and submit it for approval at least every six years. If the system no longer meets the conditions of subsection (2) of this section, the purveyor shall as directed by the department, submit either a plan amendment the scope of which will be determined by the department, or a small water system management program under WAC 246-290-105.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-105 Small water system management program. (1) The purpose of a small water system management program is to:

(a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations; and

(b) Establish eligibility for funding ((pursuant to)) under the drinking water state revolving fund (SRF).

(2) All noncommunity and all community systems not required to complete a water system plan as described under WAC 246-290-100(2) shall develop and implement a small water system management program.

(3) The purveyor shall submit this program for review and approval to the department when:

(a) A new NTNC public water system is created; or

(b) An existing system has operational, technical, managerial, or financial problems, as determined by the department.

(4) Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:

(a) System management;

(b) Annual operating permit;

(c) Water facilities inventory form;

(d) Service area and facility map;

(e) Documentation of water rights, through a water right assessment;

(f) Record of source water pumped;

(g) Water usage;

(h) Water conservation program;

(i) Source protection;

(j) Component inventory and assessment;

(k) List of planned system improvements;

(l) Water quality monitoring program;

(m) Operation and maintenance program;

- (n) Cross-connection control program;
- (o) Emergency response plan; and
- (p) Budget.

(5) The department may require changes be made to a small water system management program if necessary to effectively accomplish the program's purpose.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-125 Project report and construction document submittal exceptions. (1) The following projects do not require project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 to be submitted to the department for review and approval prior to installation:

(a) Installation of valves, fittings, and meters, including backflow prevention assemblies;

(b) Installation of hydrants in accordance with WAC 246-290-230 (3) and (6);

(c) Repair of a system component or replacement with a component of a similar capacity and material in accordance with the original construction specifications of the approved design; or

(d) Maintenance or painting of surfaces not contacting potable water.

(2) Purveyors may elect to not submit to the department for review and approval project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 for new distribution mains ~~((providing))~~ if:

(a) The purveyor ~~((water system))~~ has on file with the department a current department-approved water system plan that includes standard construction specifications for distribution mains; and

(b) The purveyor maintains on file a completed construction completion report (departmental form) in accordance with WAC 246-290-120(5) and makes it available for review upon request by the department.

(3) Purveyors may elect to not submit to the department for review and approval project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 for review and approval of other distribution-related projects as defined in WAC 246-290-010 providing:

(a) The purveyor has on file with the department a current department-approved water system plan, in accordance with WAC 246-290-100(5);

(b) The purveyor submits a written request with a new water system plan or an amendment to a water system plan, and updates the request with each water system plan update. The written request should specifically identify the types of projects or facilities for which the submittal exception procedure is requested;

(c) The purveyor has documented that they have employed or hired under contract the services of a professional engineer licensed in the state of Washington to review distribution-related projects not submitted to the department for review and approval. The review engineer and design engineer shall not be the same individual. The purveyor shall

provide written notification to the department whenever they ~~((proposed))~~ propose to change their designated review engineer;

(d) If the project is a new transmission main, storage tank, or booster pump station, it must be identified in the capital improvement program of the utility's water system plan. If not, either the project report must be submitted to the department for review and approval, or the water system plan must be amended;

(e) A project summary file is maintained by the purveyor for each project and made available for review upon request by the department, and includes:

- (i) Descriptive project summary;
- (ii) Anticipated completion schedule;
- (iii) Consistency with utility's water system plan;
- (iv) Water right assessment, where applicable;
- (v) Change in system physical capacity;
- (vi) Copies of original design and record drawings;
- (vii) Engineering design review report (departmental form). The form shall:

(A) Bear the seal, date, and signature of a professional engineer licensed in the state of Washington prior to the start of construction;

(B) Provide a descriptive reference to completed project report and/or construction documents reviewed, including date of design engineer's seal and signature; and

(C) State the project report and/or construction documents have been reviewed, and the design is in accordance with department regulations and principles of standard engineering practice;

(f) The construction completion report is submitted to the department in accordance with WAC 246-290-120(5) for new storage tanks and booster pump stations, and maintained on file with the water system for all other distribution-related projects;

(g) A WFI is completed in accordance with WAC 246-290-120(6); and

(h) The purveyor meets the requirements of chapter 246-294 WAC to have a category "green" operating permit.

(4) Source of supply (including interties) and water quality treatment-related projects shall not be eligible for the submittal exception procedure.

(5) Purveyors not required to prepare a water system plan under WAC 246-290-100 shall be eligible for the submittal exception procedure ~~((provided that))~~ if the purveyor:

(a) ~~((They have))~~ Has a department-approved water system plan meeting the requirements of WAC 246-290-100; and

(b) ~~((They comply))~~ Complies with all other requirements in this section.

(6) ~~((Purveyors shall))~~ Ensures that all work required to be prepared under the direction of a professional engineer be accomplished per WAC 246-290-040 and chapter 18.43 RCW.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-220 Drinking water materials and additives. (1) All materials shall conform to the ANSI/NSF

Standard 61 if in substantial contact with potable water supplies. For the purposes of this section, "substantial contact" means the elevated degree that a material in contact with water may release leachable contaminants into the water such that levels of these contaminants may be unacceptable with respect to either public health or aesthetic concerns. It should take into consideration the total material/water interface area of exposure, volume of water exposed, length of time water is in contact with the material, and level of public health risk. Examples of water system components that would be considered to be in "substantial contact" with drinking water are filter media, storage tank interiors or liners, distribution piping, membranes, exchange or adsorption media, or other similar components that would have high potential for contacting the water. Materials associated with ~~((such))~~ components such as valves, pipe fittings, debris screens, gaskets, or similar appurtenances would not be considered to be in substantial contact.

(2) Materials or additives in use prior to the effective date of these regulations that have not been listed under ANSI/NSF Standard 60 or 61 ~~((shall))~~ may be ~~((allowed))~~ used for their current applications until ~~((such time that))~~ the materials are scheduled for replacement, or that stocks of existing additives are depleted and scheduled for reorder.

(3) Any treatment chemicals, with the exception of commercially retailed hypochlorite compounds such as unscented Clorox, Purex, etc., added to water intended for potable use ~~((shall))~~ must comply with ANSI/NSF Standard 60. The maximum application dosage recommendation for the product certified by the ANSI/NSF Standard 60 shall not be exceeded in practice.

(4) Any products used to coat, line, seal, patch water contact surfaces or that have substantial water contact within the collection, treatment, or distribution systems ~~((shall))~~ must comply with the appropriate ANSI/NSF Standard 60 or 61. Application of these products ~~((shall))~~ must comply with recommendations contained in the product certification.

(5) The department may accept continued use of, and proposals involving, certain noncertified chemicals or materials on a case-by-case basis, ~~((provided))~~ if all of the following criteria are met:

(a) The chemical or material has an acknowledged and demonstrable history of use in the state for drinking water applications;

(b) There exists no substantial evidence that the use of the chemical or material has caused consumers to register complaints about aesthetic issues, or health related concerns, that could be associated with leachable residues from the material; and

(c) The chemical or material has undergone testing through a protocol acceptable to the department and has been found to not contribute leachable compounds into drinking water at levels that would be of public health concern.

(6) Any pipe, pipe fittings, fittings, fixtures, solder, or flux used in the installation or repair of a public water system shall be lead-free:

(a) This prohibition shall not apply to leaded joints necessary for the repair of cast iron pipes; and

(b) Within the context of this section, lead-free shall mean:

(i) No more than eight percent lead in pipes and pipe fittings; ~~((and))~~

(ii) No more than two-tenths of one percent lead in solder and flux; and

(iii) Fittings and fixtures that are in compliance with standards established in accordance with 42 USC 300g-6(e).

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-300 Monitoring requirements. (1) General.

(a) The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) A ground water source is determined to be a potential GWI;

(iii) The degree of source protection is not satisfactory;

(iv) Additional monitoring is needed to verify source vulnerability for a requested monitoring waiver;

(v) Under other circumstances as identified in a departmental order; or

(vi) Additional monitoring is needed to evaluate continuing effectiveness of a treatment process where problems with the treatment process may exist.

(b) Special purpose samples collected by the purveyor shall not count toward fulfillment of the monitoring requirements of this chapter unless the quality of data and method of sampling and analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to ~~((department))~~ EPA-approved methods. The analyses shall be performed by ~~((the state public health))~~ a laboratory ~~((or another laboratory certified))~~ accredited by the ~~((department))~~ state. Qualified water utility, ~~((certified))~~ accredited laboratory, ~~((or))~~ health department personnel, and other parties approved by the department may conduct measurements for pH, temperature, residual disinfectant concentration, alkalinity, bromide, chlorite, TOC, SUVA, and turbidity as required by this chapter, provided, these measurements are made in accordance with ~~(("standard methods:"))~~ EPA approved methods.

(d) Compliance samples required by this chapter shall be taken at locations listed in Table 3 of this section.

(e) Purveyors failing to comply with a monitoring requirement shall notify:

(i) The department in accordance with WAC 246-290-480; and

(ii) The owner or operator of any consecutive system served and the appropriate water system users in accordance with ((WAC 246-290-495)) 40 CFR 141.201 and Part 7, Subpart A of this chapter.

(2) Selling and receiving water.

(a) Source monitoring. Purveyors, with the exception of those that "wheel" water to their consumers (i.e., sell water that has passed through another purchasing purveyor's distribution system), shall conduct source monitoring in accordance with this chapter for the sources under their control.

The level of monitoring shall satisfy the monitoring requirements associated with the total population served by the source.

(b) Distribution system monitoring. The purveyor of a system that receives and distributes water shall perform distribution-related monitoring requirements. Monitoring shall include, but not be limited to, the following:

(i) Collect coliform samples in accordance with subsection (3) of this section;

(ii) Collect trihalomethane samples ~~((in accordance with))~~ if required by subsection (6) of this section or disinfection by-product samples if required by subsection (7) of this section;

(iii) Perform the distribution system residual disinfectant concentration monitoring in accordance with subsection (7) of this section, and as required under WAC 246-290-451 or 246-290-694;

(iv) Perform lead and copper monitoring required under 40 CFR 141.86, 141.87, and 141.88;

(v) Perform the distribution system monitoring in accordance with 40 CFR 141.23(b) for asbestos if applicable;

(vi) Other monitoring as required by the department.

(c) Reduced monitoring for regional programs. The receiving purveyor may receive reductions in the coliform, lead and copper, ~~((THM))~~ disinfection by-product (including THMs) and distribution system disinfectant residual concentration monitoring requirements, provided the receiving system:

(i) ~~((Has a satisfactory water quality history as determined by the department;~~

~~((ii) Operates in a satisfactory manner consistent with this chapter;~~

~~((iii))~~ Purchases water from a purveyor that has a department-approved regional monitoring program; and

~~((iv))~~ (ii) Has a written agreement with the supplying system or regional water supplier that is acceptable to the department, and which identifies the responsibilities of both the supplying and receiving system(s) with regards to monitoring, reporting and maintenance of the distribution system.

(d) Periodic review of regional programs. The department may periodically review the sampling records of public water systems participating in a department-approved monitoring program to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

(3) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system. Samples shall be collected after the first service and at regular time intervals each month the system provides water to consumers. Samples shall be collected that represent normal system operating conditions.

(i) Systems providing disinfection treatment shall, when taking a routine or repeat sample, measure residual disinfectant

concentration within the distribution system at the same time and location and comply with the residual disinfection monitoring requirements under WAC 246-290-451.

(ii) Systems providing disinfection treatment shall assure that disinfectant residual concentrations are measured and recorded on all coliform sample report forms submitted for compliance purposes.

(b) Coliform monitoring plan.

(i) The purveyor shall prepare a written coliform monitoring plan and base routine monitoring upon the plan. The plan shall include coliform sample collection sites and a sampling schedule.

(ii) The purveyor shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) Purveyors of **community** systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 during each calendar month of operation;

(ii) Unless directed otherwise by the department, purveyors of **noncommunity** systems shall collect and submit for analysis no less than the number of samples required in Table 2, and no less than required under 40 CFR 141.21. Each month's population shall be based on the average daily population and shall include all residents and nonresidents served during that month. During months when the average daily population served is less than twenty-five, routine sample collection is not required when:

(A) Using only protected ground water sources;

(B) No coliform were detected in samples during the previous month; and

(C) One routine sample has been collected and submitted for analysis during one of the previous two months.

(iii) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident as determined by the department, but no less than the minimum required in Table 2; and

(iv) Purveyors of systems with a nonresident population lasting two weeks or less during a month shall sample as directed by the department. Sampling shall be initiated at least two weeks prior to the time service is provided to consumers.

(v) Purveyors of TNC systems shall not be required to collect routine samples in months where the population served is zero or the system has notified the department of an unscheduled closure.

(d) Invalid samples. When a coliform sample is determined invalid under WAC 246-290-320 (2)(d), the purveyor shall:

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- (i) Not include the sample in the determination of monitoring compliance; and
- (ii) Take follow-up action as defined in WAC 246-290-320 (2)(d).
- (e) The purveyor using a surface water or GWI source shall collect representative source water samples for bacteriological density analysis in accordance with WAC 246-290-664 and 246-290-694 as applicable.

TABLE 2
MINIMUM MONTHLY ROUTINE COLIFORM
SAMPLING REQUIREMENTS

Population Served ¹	Minimum Number of Routine Samples/Calendar Month	
	When NO samples with a coliform presence were collected during the previous month	When ANY samples with a coliform presence were collected during the previous month
During Month		
1 - 1,000	1*	5
1,001 - 2,500	2*	5
2,501 - 3,300	3*	5
3,301 - 4,100	4*	5
4,101 - 4,900	5	5
4,901 - 5,800	6	6
5,801 - 6,700	7	7
6,701 - 7,600	8	8
7,601 - 8,500	9	9
8,501 - 12,900	10	10
12,901 - 17,200	15	15
17,201 - 21,500	20	20
21,501 - 25,000	25	25
25,001 - 33,000	30	30
33,001 - 41,000	40	40
41,001 - 50,000	50	50
50,001 - 59,000	60	60
59,001 - 70,000	70	70
70,001 - 83,000	80	80
83,001 - 96,000	90	90
96,001 - 130,000	100	100
130,001 - 220,000	120	120
220,001 - 320,000	150	150
320,001 - 450,000	180	180
450,001 - 600,000	210	210
600,001 - 780,000	240	240
780,001 - 970,000	270	270
970,001 - 1,230,000 ³	300	300

¹ Does not include the population of a consecutive system that purchases water. The sampling requirement for consecutive systems is a separate determination based upon the population of that system.

² Noncommunity systems using only protected ground water sources and serving less than 25 individuals, may collect and submit for analysis, one sample every three months.

³ Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.

*In addition to the provisions of subsection (1)(a) of this section, if a system of this size cannot show evidence of having been subject to a sanitary survey on file with the department, or has been determined to be at risk to bacterio-

logical concerns following a survey, the minimum number of samples required per month may be increased by the department after additional consideration of such factors as monitoring history, compliance record, operational problems, and water quality concerns for the system.

(4) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical substances.

(i) Primary chemical and physical substances are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and for unfiltered surface water, turbidity.

(ii) Secondary chemical and physical substances are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate, total dissolved solids*, and zinc.

* Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Purveyors shall monitor for all primary and secondary chemical and physical substances identified in Table 4 and Table 5. Samples shall be collected in accordance with the monitoring requirements referenced in 40 CFR 141.23(a) through 141.23(j) and 40 CFR 143.4, except for composite samples for systems serving less than three thousand three hundred one persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency.

(c) Samples required by this subsection shall be taken at designated locations in accordance with 40 CFR 141.23(a) through 141.23(j), and 40 CFR 143.4, and Table 3 herein.

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) In accordance with 40 CFR 141.23 (a)(3), alternate sampling locations may be used if approved by the department. The process for determining these alternate sites is described in department guidance. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. Alternate sampling plans shall address the following:

- (A) Source vulnerability;
- (B) Individual source characteristics;
- (C) Previous water quality information;
- (D) Status of monitoring waiver applications; and
- (E) Other information deemed necessary by the department.

(d) Composite samples:

(i) In accordance with CFR 141.23 (a)(4), purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, the

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department may require the purveyor to sample before and after treatment. The department shall notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 CFR 141.23 (b)(3), 141.23 (c)(3), and 141.40 (n)(4).

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(5) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 CFR 141.86 (a) - (f), 141.87, and 141.88.

(6) Trihalomethanes (THMs).

(a) Purveyors of **community** systems serving ~~((a population of))~~ at least ten thousand ((or more)) people and providing water treated with chlorine or other halogenated disinfectant shall monitor as follows:

(i) Ground water sources. Until December 31, 2003, the purveyor shall collect one sample from each treated ground water source every twelve months. This sample shall be taken at the source before treatment and analyzed for maximum total trihalomethane potential (MTTP). The purveyor may receive approval from the department for an alternate sample location if it would provide essentially the same information as an MTTP analysis regarding the levels of THMs that the consumers are, or could potentially be, exposed to in the drinking water. Beginning January 1, 2004, systems that add a chemical disinfectant shall meet the monitoring requirements in subsection (7) of this section.

(ii) Surface water sources. ~~((The purveyor shall collect four samples per treated source every three months. The samples shall be taken within a twenty-four hour period. The purveyor shall take one of the samples from the extreme end of~~

~~the distribution system, the farthest point possible from the source of supply, and three samples from representative intermediate locations in the distribution system. The samples shall be analyzed for TTHM (i.e., the sum of trichloromethane, bromodichloromethane, dibromochloromethane, and tribromomethane). After one year of monitoring, the department may reduce the monitoring frequency to one sample every three months per treatment plant if the TTHM levels are less than 0.10 mg/L. The purveyor shall take the sample at the extreme end of the distribution system; or))~~ The purveyor shall meet the monitoring requirements in subsection (7) of this section.

(iii) Purchased surface water sources. ~~((The))~~ Purveyors of ((a)) consecutive systems ((shall collect one water sample per each purchased source originating from a surface supply or confirmed GWI every three months. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM.)) that add a chemical disinfectant to either the surface water they purchase, or to additional ground water supplies they use, shall meet the monitoring requirements in subsection (7) of this section.

(b) Until December 31, 2003, purveyors of **community** systems shall monitor for TTHM(s) when serving a population less than ten thousand and providing surface water treated with chlorine or other halogenated disinfectant. The purveyor shall collect one water sample per treated source every three months for one year. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM(s). After the first year, the purveyor shall monitor surface water sources every thirty-six months. Beginning January 1, 2004, systems that add a chemical disinfectant shall meet the monitoring requirements in subsection (7) of this section.

(c) Until December 31, 2003, purveyors of **community** systems shall monitor for TTHM(s) when serving less than ten thousand people and purchasing surface water treated with chlorine or other halogenated disinfectant or adding a halogenated disinfectant after purchase. The purveyor shall collect one water sample every three months at the extreme end of the distribution system or at a department-acceptable location. The sample shall be analyzed for TTHM(s). After the first year, the purveyor shall monitor every thirty-six months. Beginning January 1, 2004, systems that add a chemical disinfectant to either the surface water they purchase, or to additional ground water supplies they use, shall meet the monitoring requirements in subsection (7) of this section.

(d) After December 31, 2003, subsection (6) of this section no longer applies to any public water system.

(7) Disinfection by-products (DBP), disinfectant residuals, and disinfection by-product precursors (DBPP). Purveyors of community and NTNC systems providing water treated with chemical disinfectants and TNC systems using chlorine dioxide shall monitor as follows:

(a) General requirements.

(i) Systems shall collect samples during normal operating conditions.

(ii) All monitoring shall be conducted in accordance with the analytical requirements in 40 CFR 141.131.

(iii) Systems may consider multiple wells drawing from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with department approval in accordance with department guidance.

(iv) Systems required to monitor under this subsection shall prepare and implement a monitoring plan in accordance with 40 CFR 141.132(f).

(A) Community and NTNC surface water systems that add a chemical disinfectant and serve at least ten thousand people shall submit a monitoring plan to the department.

(B) Community and NTNC surface water systems that add a chemical disinfectant and serve less than ten thousand people, but more than three thousand three hundred people, shall submit a monitoring plan to the department by April 10, 2004.

(C) The department may require submittal of a monitoring plan from systems not specified in subsection (7)(a)(iv)(A) or (B) of this section, and may require revision of any monitoring plan.

(D) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the systems' failure to monitor makes it impossible to determine compliance with MCL's or MRDL's.

(b) Disinfection by-products - **Community and NTNC systems only.**

(i) Compliance dates.

(A) A system that is installing Granular Activated Carbon (GAC) with a minimum ten minutes of empty bed contact time (GAC10) or membrane technology to comply with WAC 246-290-310(5) may apply to the department for an extension of time to comply with this subsection. The extension may not go beyond December 31, 2003.

(B) Surface water systems that serve less than ten thousand people, or systems using only ground water, and that add a chemical disinfectant, including, but not limited to, chlorine, chloramines, chlorine dioxide, and/or ozone, shall comply with the applicable requirements of this subsection beginning January 1, 2004.

(ii) TTHMs and HAA5.

(A) Systems shall monitor for TTHMs and HAA5 in accordance with 40 CFR 141.132 (b)(1)(i).

(B) With department approval, systems may reduce monitoring in accordance with 40 CFR 141.132 (b)(1)(ii).

(C) Systems on department-approved reduced monitoring schedules may be required to return to routine monitoring, or initiate increased monitoring in accordance with 40 CFR 141.132 (b)(1)(iii).

(D) The department may return systems on increased monitoring to routine monitoring if, after one year, annual average results for TTHMs and HAA5 are less than or equal to 0.060 mg/L and 0.045 mg/L, respectively, or monitoring results are consistently below the MCLs indicating that increased monitoring is no longer necessary.

(iii) Chlorite - Only systems that use **chlorine dioxide.**

(A) Systems using chlorine dioxide shall conduct daily and monthly monitoring in accordance with 40 CFR 141.132

(b)(2)(i) and additional chlorine monitoring in accordance with 40 CFR 141.132 (b)(2)(ii).

(B) With department approval, monthly monitoring may be reduced in accordance with 40 CFR 141.132 (b)(2)(iii)(B). Daily monitoring at entry to distribution required by 40 CFR 141.132 (b)(2)(i)(A) may not be reduced.

(iv) Bromate - Only systems that use **ozone.**

(A) Systems using ozone for disinfection or oxidation must conduct bromate monitoring in accordance with 40 CFR 141.132 (b)(3)(i).

(B) With department approval, monthly bromate monitoring may be reduced to once per quarter, in accordance with the provisions and requirements of 40 CFR 141.132 (b)(3)(ii) and 40 CFR 141.132(e).

(c) Disinfectant residuals.

(i) Compliance dates.

(A) Community and NTNC surface water systems that add a chemical disinfectant, including, but not limited to, chlorine, chloramines, chlorine dioxide, and/or ozone, and serve less than ten thousand people, or systems using only ground water, shall comply with the applicable requirements of this section beginning January 1, 2004.

(B) TNC surface water systems that add chlorine dioxide as a disinfectant or oxidant, and serve less than ten thousand people, or systems using only ground water, shall comply with the chlorine dioxide MRDL beginning January 1, 2004.

(ii) Chlorine and chloramines. Systems that use chlorine or chloramines shall monitor and record the residual disinfectant level in the distribution system in accordance with WAC 246-290-451(6), 246-290-664 (6)(a), or 246-290-694 (8)(a).

(iii) Chlorine dioxide. Community, NTNC, or TNC systems that use chlorine dioxide shall monitor in accordance with 40 CFR 141.132 (c)(2) and record results.

(d) Disinfection by-product precursors.

(i) Compliance dates.

Community and NTNC surface water systems serving less than ten thousand people using conventional filtration that employs sedimentation shall comply with the applicable requirements of this subsection beginning January 1, 2004.

(ii) Surface water systems that use conventional filtration with sedimentation shall monitor in accordance with 40 CFR 141.132(d), and meet the requirements of 40 CFR 141.135.

((7)) (8) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements in accordance with 40 CFR 141.24 (a) - (d), 141.24 (f)(1) - (f)(15), 141.24 (f)(18) - (19), 141.24 (f)(21), 141.24 (g)(1) - (9), 141.24 (g)(12) - (14), 141.24 (h)(1) - (11), 141.24 (h)(14) - (17), 141.40(a), 141.40(d), and 141.40(e).

(b) Sampling locations shall be as defined in 40 CFR 141.24(f), 141.24(g), 141.24(h), 141.40(b) and 141.40(c).

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) In accordance with 40 CFR 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in department guidance. Purveyors may ask the department to approve an alternate sampling location for

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multiple sources within a single system that are blended prior to entry to the distribution system. The alternate sampling location shall consider the following:

- (A) Source vulnerability;
- (B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;
- (C) Individual source characteristics;
- (D) Previous water quality information;
- (E) Status of monitoring waiver applications; and
- (F) Other information deemed necessary by the department.

(c) Composite samples:

(i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance;

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.

(e) Organic chemical monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(f) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement except those relating to unregulated VOCs;

(ii) Purveyors requesting a monitoring waiver shall comply with 40 CFR 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), 141.24 (h)(7) or 141.40 (n)(4);

(iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(g) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section when they are actively providing water to consumers.

~~((8))~~ (9) Unregulated chemicals.

(a) Unregulated inorganic contaminants. Purveyors of community and NTNC systems shall:

(i) Monitor for the unregulated inorganic chemicals listed in 40 CFR 141.40 (n)(12);

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(2) through 141.40 (n)(9) and 141.40 (n)(12); and

(iii) Apply in writing for a monitoring waiver according to the conditions outlined in 40 CFR 141.40 (n)(3), and the departmental procedures described in subsection ~~((7))~~ (8)(f) of this section.

(b) Unregulated VOCs. Purveyors shall:

(i) Monitor in accordance with 40 CFR 141.40(e) and 141.40(j);

(ii) Comply with monitoring methods, frequency and sampling locations in accordance with 40 CFR 141.40(a) through 141.40(d), 141.40(g) and 141.40(i); and

(iii) Perform repeat monitoring for these compounds in accordance with 40 CFR 141.40(l).

(c) Unregulated SOCs. Purveyors shall:

(i) Monitor for the unregulated SOCs listed in 40 CFR 141.40 (n)(11); and

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(1) through 141.40 (n)(9).

Purveyors may request that the department defer this monitoring if a system has less than one hundred fifty service connections.

(d) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section whenever they are actively providing water to consumers.

~~((9))~~ (10) Radionuclides. Monitoring for radionuclides shall be conducted in accordance with 40 CFR 141.26.

~~((a) The purveyor's monitoring requirements for gross alpha particle activity, radium-226 and radium-228 shall be:~~

~~(i) Community systems shall monitor once every forty-eight months. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals;~~

~~(ii) The purveyor may omit analysis for radium-226 and radium-228 if the gross alpha particle activity is less than five pCi/L; and~~

~~(iii) If the results of the initial analysis are less than half of the established MCL, the department may allow compliance with the monitoring requirements based on analysis of a single sample collected every forty-eight months.~~

~~(b) The purveyor's monitoring requirements for man-made radioactivity shall be:~~

~~(i) Purveyors of community systems using surface water sources and serving more than one hundred thousand persons and other department designated water systems shall monitor for man-made radioactivity (beta particle and photon) every forty-eight months. Compliance shall be based on the analysis of a composite of four consecutive quarterly samples or the analysis of four quarterly samples; and~~

~~(ii) The purveyor of a water system located downstream from a nuclear facility as determined by the department, shall monitor once every three months for gross beta and iodine-131, and monitor once every twelve months for strontium-90 and tritium. The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioac-~~

activity if the department determines that such data is applicable to a particular public water system.

(10)) (11) Other substances.

On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.

TABLE 3
MONITORING LOCATION

Sample Type	Sample Location
Asbestos	One sample from distribution system or if required by department, from the source.
Bacteriological	From representative points throughout distribution system.
Complete Inorganic Chemical & Physical	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Lead/Copper	From the distribution system at targeted sample tap locations.
Nitrate/Nitrite	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Total Trihalomethanes - Surface Water (WAC 246-290-300(6) only)	From points at extreme end, and at intermediate locations, in the distribution system from the source after treatment.
Potential Trihalomethanes - Ground Water (WAC 246-290-300(6) only)	From the source before treatment.
Disinfection By-Products - TTHMs and HAA5 - WAC 246-290-300(7)	In accordance with 40 CFR 141.132 (b)(1).
Disinfection By-Products - Chlorite (Systems adding chlorine dioxide)	In accordance with 40 CFR 141.132 (b)(2).
Disinfection By-Products - Bromate (Systems adding ozone)	In accordance with 40 CFR 141.132 (b)(3).
Disinfectant Residuals - Chlorine and Chloramines	In accordance with 40 CFR 141.132 (c)(1).
Disinfectant Residuals - Chlorine dioxide	In accordance with 40 CFR 141.132 (c)(2).
Disinfection Precursors - Total Organic Carbon (TOC)	In accordance with 40 CFR 141.132(d).
Disinfection Precursors - Bromide (Systems using ozone)	From the source before treatment.
Radionuclides	((From the source.)) From a point representative of the source, after treatment and prior to entry to distribution system.

Sample Type	Sample Location
Organic Chemicals (VOCs & SOCs)	From a point representative of the source, after treatment and prior to entry to distribution system.
Other Substances (unregulated chemicals)	From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-310 Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs). (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its maximum contaminant level (MCL) or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action in accordance with WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.

(a) MCLs under this subsection shall be considered primary standards.

(b) Notwithstanding subsection (1) of this section, if coliform presence is detected in any sample, the purveyor shall take follow-up action in accordance with WAC 246-290-320(2).

(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:

- (i) Fecal coliform presence in a repeat sample;
- (ii) *E. coli* presence in a repeat sample; or
- (iii) Coliform presence in any repeat samples collected as a follow-up to a sample with fecal coliform or *E. coli* presence.

Note: For the purposes of the public notification requirements in Part 7, Subpart A of this chapter, an acute MCL is a violation that requires Tier 1 public notification.

(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:

- (i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or
- (ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence.

(e) MCL compliance. The purveyor shall determine compliance with the coliform MCL for each month the system provides drinking water to the public. In determining MCL compliance, the purveyor shall:

- (i) Include:
 - (A) Routine samples; and
 - (B) Repeat samples.
- (ii) Not include:

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- (A) Samples invalidated under WAC ((246-290-694 (1)(e))) 246-290-320 (2)(d); and
- (B) Special purpose samples.
- (3) Inorganic chemical and physical.

The primary and secondary MCLs are listed in Table 4 and 5:

TABLE 4
INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.05
Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	*
Cyanide (HCN)	0.2
Fluoride (F)	4.0
Lead (Pb)	*
Mercury (Hg)	0.002
Nickel (Ni)	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	*
Thallium (Tl)	0.002

Substance	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO ₄)	250.0
Zinc (Zn)	5.0

Note* Although the state board of health has not established MCLs for copper, lead, and sodium, there is sufficient public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are 0.015 mg/L for lead and 1.3 mg/L for copper and are applied to the highest concentration in ten percent of all samples collected from the distribution system. The EPA has also established a recommended level of

twenty mg/L for sodium as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

TABLE 5
PHYSICAL CHARACTERISTICS

Substance	Secondary MCLs
Color	15 Color Units
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(4) Trihalomethanes.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCL for total trihalomethanes (TTHMs) is 0.10 mg/L calculated on the basis of a running annual average of quarterly samples. The concentrations of each of the trihalomethane compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane) are totaled to determine the TTHM level.

(c) There is no MCL for maximum total trihalomethane potential (MTTP). When the MTTP value exceeds 0.10 mg/L, the purveyor shall follow up as described under WAC 246-290-320(6).

~~((5))~~ (d) The MCL for total trihalomethanes in this subsection applies only to monitoring required under WAC 246-290-300(6). After December 31, 2003, this section no longer applies to any public water system.

(5) Disinfection by-products.

(a) The department shall consider standards under this subsection as primary standards. The MCLs in this subsection apply to monitoring required by WAC 246-290-300(7).

(b) The MCLs for disinfection by-products are as follows:

Disinfection By-Product	MCL (mg/L)
Total Trihalomethanes (TTHMs)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(c) Whether a system has exceeded MCLs shall be determined in accordance with 40 CFR 141.133.

(6) Disinfectant residuals.

(a) The department shall consider standards under this subsection primary standards. The MRDLs in this subsection apply to monitoring required by WAC 246-290-300(7).

(b) The MRDL for disinfectants is as follows:

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl ₂)
Chloramines	4.0 (as Cl ₂)
Chlorine Dioxide	0.8 (as ClO ₂)

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 CFR 141.133.

(7) Radionuclides.

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(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226(~~(:)~~) and radium-228, (~~and~~) gross alpha particle activity, beta particle and photon radioactivity (~~(are:)~~), and uranium shall be as listed in 40 CFR 141.66.

(TABLE 6

Substance	MCL (pCi/L)
Radium-226	3
Combined Radium-226 and Radium-228	5
Gross alpha particle activity (excluding uranium)	15

~~(c) The MCL for beta particle and photon radioactivity from man-made radionuclides is: The average annual concentration shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.~~

NOTE: ~~The department shall assume compliance with the four millirem/year dose limitation if the average annual concentration for gross beta activity, tritium, and strontium 90 are less than 50 pCi/L, 20,000 pCi/L, and 8 pCi/L respectively. When both tritium and strontium 90 are present, the sum of their annual dose equivalents to bone marrow shall not exceed four millirem/year.~~

~~(6))~~ (8) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs shall be as listed in 40 CFR 141.61(a).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(f).

(c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 CFR 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(h).

~~((7))~~ (9) Other chemicals.

(a) The state board of health shall determine maximum contaminant levels for any additional substances.

(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:

(i) MCLs that have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or

(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated June 1996, that has been approved by the state board of health and is available.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-320 Follow-up action. (1) General.

(a) When an MCL or MRDL violation occurs, the purveyor shall take follow-up action as described in this section.

(b) When a primary standard violation occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify the consumers served by the system and the owner or operator of any consecutive system served in accordance with ~~((WAC 246-290-495))~~ 40 CFR 141.201 through 208, and Part 7, Subpart A of this chapter;

(iii) Determine the cause of the contamination; and

(iv) Take action as directed by the department.

(c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.

(d) The department may require additional sampling for confirmation of results.

(2) Bacteriological.

(a) When coliform bacteria are present in any sample and the sample is not invalidated under (d) of this subsection, the purveyor shall ensure the following actions are taken:

(i) The sample is analyzed for fecal coliform or E. coli. When a sample with a coliform presence is not analyzed for E. coli or fecal coliforms, the sample shall be considered as having a fecal coliform presence for MCL compliance purposes;

(ii) Repeat samples are collected in accordance with (b) of this subsection;

(iii) The department is notified in accordance with WAC 246-290-480; and

(iv) The cause of the coliform presence is determined and corrected.

(b) Repeat samples.

(i) The purveyor shall collect repeat samples in order to confirm the original sample results and to determine the cause of the coliform presence. Additional treatment, such as batch or shock chlorination, shall not be instituted prior to the collection of repeat samples unless prior authorization (~~((is given))~~) by the department is given. Following collection of repeat samples, and before the analytical results are known, there may be a need to provide interim precautionary treatment or other means to insure public health protection. The purveyor shall contact the department to determine the best interim approach in this situation.

(ii) The purveyor shall collect and submit for analysis a set of repeat samples for every sample in which the presence of coliforms is detected. A set of repeat coliform samples consists of:

(A) Four repeat samples for systems collecting one routine coliform sample each month; or

(B) Three repeat samples for all systems collecting more than one routine coliform sample each month.

(iii) The purveyor shall collect repeat sample sets according to Table 7;

(iv) The purveyor shall collect one set of repeat samples for each sample with a coliform presence. All samples in a set

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of repeat samples shall be collected on the same day and submitted for analysis within twenty-four hours after notification by the laboratory of a coliform presence, or as directed by the department.

(v) When repeat samples have coliform presence, the purveyor shall:

(A) Contact the department and collect a minimum of one additional set of repeat samples as directed by the department; or

(B) Collect one additional set of repeat samples for each sample where coliform presence was detected.

(vi) The purveyor of a system providing water to consumers via a single service shall collect repeat samples from the same location as the sample with a coliform presence. The set of repeat samples shall be collected:

(A) On the same collection date;

(B) Over consecutive days with one sample collected each day until the required samples in the set of repeat samples are collected; or

(C) As directed by the department.

(vii) If a sample with a coliform presence was collected from the first two or last two active services, the purveyor shall monitor as directed by the department;

(viii) The purveyor may change a previously submitted routine sample to a sample in a set of repeat samples when the purveyor:

(A) Collects the sample within five adjacent service connections of the location from which the initial sample with a coliform presence was collected;

(B) Collects the sample after the initial sample with a coliform presence was submitted for analysis;

(C) Collects the sample on the same day as other samples in the set of repeat samples, except under (b)(iv) of this subsection; and

(D) Requests and receives approval from the department for the change.

(ix) The department may determine that sets of repeat samples specified under this subsection are not necessary during a month when a nonacute coliform MCL violation is determined for the system.

**Table 7
REPEAT SAMPLE REQUIREMENTS**

# OF ROUTINE SAMPLES COLLECTED EACH MONTH	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
1	4	<ul style="list-style-type: none"> ◆ Site of previous sample with a coliform presence ◆ Within 5 active services upstream of site of sample with a coliform presence ◆ Within 5 active services downstream of site of sample with a coliform presence ◆ At any other active service or from a location most susceptible to contamination (i.e., well or reservoir)

# OF ROUTINE SAMPLES COLLECTED EACH MONTH	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
more than 1	3	<ul style="list-style-type: none"> ◆ Site of previous sample with a coliform presence ◆ Within 5 active services upstream of site of sample with a coliform presence ◆ Within 5 active services downstream of site of sample with a coliform presence

(c) Monitoring frequency following a coliform presence. Systems having one or more coliform presence samples that were not invalidated during the previous month shall collect and submit for analysis the minimum number of samples shown in the last column of Table 2.

(i) The purveyor may obtain a reduction in the monitoring frequency requirement when one or more samples with a coliform presence were collected during the previous month, if the purveyor proves to the satisfaction of the department;

(A) The cause of the sample with a coliform presence; and

(B) The problem is corrected before the end of the next month the system provides water to the public.

(ii) If the monitoring frequency requirement is reduced, the purveyor shall collect and submit at least the minimum number of samples required when no samples with a coliform presence were collected during the previous month.

(d) Invalid samples. Coliform samples may be determined to be invalid under any of the following conditions:

(i) A certified laboratory determines that the sample results show:

(A) Multiple tube technique cultures that are turbid without appropriate gas production;

(B) Presence-absence technique cultures that are turbid in the absence of an acid reaction;

(C) Occurrence of confluent growth patterns or growth of TNTC (too numerous to count) colonies without a surface sheen using a membrane filter analytic technique;

(ii) The analyzing laboratory determines there is excess debris in the sample.

(iii) The analyzing laboratory establishes that improper sample collection or analysis occurred;

(iv) The department determines that a nondistribution system problem has occurred as indicated by:

(A) All samples in the set of repeat samples collected at the same location, including households, as the original coliform presence sample also are coliform presence; and

(B) All other samples from different locations (households, etc.) in the set of repeat samples are free of coliform.

(v) The department determines a coliform presence result is due to a circumstance or condition that does not reflect water quality in the distribution system.

(e) Follow-up action when an invalid sample is determined. The purveyor shall take the following action when a coliform sample is determined to be invalid:

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(i) Collect and submit for analysis an additional coliform sample from the same location as each invalid sample within twenty-four hours of notification of the invalid sample; or

(ii) In the event that it is determined that the invalid sample resulted from circumstances or conditions not reflective of distribution system water quality, collect a set of samples in accordance with Table 7; and

(iii) Collect and submit for analysis samples as directed by the department.

(f) Invalidated samples shall not be included in determination of the sample collection requirement for compliance with this chapter.

(3) Inorganic chemical and physical follow-up monitoring shall be conducted in accordance with the following:

(a) For nonnitrate/nitrite primary inorganic chemicals, 40 CFR 141.23 (a)(4), 141.23 (b)(8), 141.23 (c)(7), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);

(b) For nitrate, 40 CFR 141.23 (a)(4), 141.23 (d)(2), 141.23 (d)(3), 141.23 (f)(2), 141.23(g), 141.23(m), 141.23(n), and 141.23(o);

(c) For nitrite, 40 CFR 141.23 (a)(4), 141.23 (e)(3), 141.23 (f)(2), and 141.23(g); or

(d) The purveyor of any public water system providing service that has secondary inorganic MCL exceedances shall take follow-up action as required by the department. Follow-up action shall be commensurate with the degree of consumer acceptance of the water quality and their willingness to bear the costs of meeting the secondary standard. For new community water systems and new nontransient noncommunity water systems without active consumers, treatment for secondary contaminant MCL exceedances will be required.

(4) Lead and copper follow-up monitoring shall be conducted in accordance with 40 CFR 141.85(d), 141.86 (d)(2), 141.86 (d)(3), 141.87(d) and 141.88(b) through 141.88(d).

(5) Turbidity.

Purveyors monitoring turbidity in accordance with Part 6 of this chapter shall provide follow-up in accordance with WAC 246-290-634.

(6) Trihalomethanes. For public water systems subject to WAC 246-290-300(6):

(a) When the average of all samples taken during any twelve-month period exceeds the MCL for total trihalomethanes as referenced in WAC 246-290-310 (4)(b), the violation is confirmed and the purveyor shall take corrective action as required by the department, and consistent with 40 CFR 141.30 (b)(3). When the maximum trihalomethane potential (MTTP) result is equal to or greater than 0.10 mg/L and the result is confirmed by a promptly collected repeat sample, the purveyor shall provide for additional monitoring and take action as directed by the department.

(7) Organic chemicals. Follow-up monitoring shall be conducted in accordance with the following:

(a) For VOCs, 40 CFR 141.24 (f)(11) through 141.24 (f)(15); or

(b) For SOCs, 40 CFR 141.24(b), 141.24(c) and 141.24 (h)(7) through 141.24 (h)(11).

(8) Unregulated inorganic and organic chemicals.

(a) Follow-up monitoring shall be conducted in accordance with 40 CFR 141.40 (n)(8) and 141.40 (n)(9).

(b) When an unregulated chemical is verified at a concentration above the detection limit, the purveyor shall:

(i) Submit the sample analysis results to the department within seven days of receipt from the laboratory; and

(ii) Sample the source a minimum of once every three months for one year and then annually thereafter during the three-month period when the highest previous measurement occurred.

(c) If the department determines that an unregulated chemical is verified at a level greater than a SAL, the department shall notify the purveyor in writing. The purveyor shall repeat sample the source as soon as possible after initial department notice that a SAL has been exceeded. The purveyor shall submit the analysis results to the department within seven days of receipt from the laboratory. If any repeat sample confirms that a SAL has been exceeded, the purveyor shall:

(i) Provide consumer information in accordance with ~~(WAC 246-290-495)~~ Part 7, Subpart A of this chapter;

(ii) Investigate the cause of the contamination; and

(iii) Take follow-up or corrective action as required by the department.

(d) The department may reduce the purveyor's monitoring requirement for a source detecting an unregulated chemical if the source has been monitored annually for at least three years, and all analysis results are less than the SAL.

(9) Radionuclide follow-up monitoring shall be conducted in accordance with 40 CFR 141.26 (a)(2)(iv), 141.26 (a)(3)(ii) through (v), 141.26 (a)(4), 141.26 (b)(6), and 141.26 (c)(5).

(10) The department shall determine the purveyor's follow-up action when a substance not included in this chapter is detected.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-416 Sanitary surveys. (1) All public water systems shall submit to a sanitary survey conducted by the department, or the department's designee, based upon the following schedule:

(a) For community and nontransient noncommunity water systems, every five years, or more frequently as determined by the department. The sanitary surveys shall be consistent with the schedules presented in 40 CFR 141.21; and

(b) For transient noncommunity water systems, every five years unless the system uses only disinfected ground water and has an approved wellhead protection program, in which case the survey shall be every ten years. The sanitary surveys shall be conducted consistent with schedules presented in 40 CFR 141.21.

(c) For community public water systems that use a surface water or GWI source, every three years. Surveys may be reduced to every five years upon written approval from the department.

(2) All public water system purveyors shall be responsible for:

(a) Ensuring cooperation in scheduling sanitary surveys with the department, or its designee; and

(b) Ensuring the unrestricted availability of all facilities and records at the time of the sanitary survey.

(3) All public water systems that use a surface water or GWI source shall, within forty-five days following receipt of a sanitary survey report that identifies significant deficiencies, identify in writing to the department how the system will correct the deficiencies and propose a schedule to complete the corrections. The department may modify the schedule if necessary to protect the health of water system users.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-451 Disinfection of drinking water. (1)

No portion of a public water system containing potable water shall be put into service, nor shall service be resumed until the facility has been effectively disinfected.

(a) In cases of new construction, drinking water shall not be furnished to the consumer until satisfactory bacteriological samples have been analyzed by a laboratory certified by the state; and

(b) In cases of existing water mains, when the integrity of the main is lost resulting in a significant loss of pressure that places the main at risk to cross-connection contamination, the purveyor shall use standard industry practices such as flushing, disinfection, and/or bacteriological sampling to ensure adequate and safe water quality prior to the return of the line to service;

(c) If a cross-connection is confirmed, the purveyor shall satisfy the reporting requirements as described under WAC 246-290-490(8).

(2) The procedure used for disinfection shall conform to standards published by the American Water Works Association, or other industry standards acceptable to the department.

(3) The purveyor of a system using ground water and required to disinfect, shall meet the following disinfection requirements, unless otherwise directed by the department:

(a) Minimum contact time at a point at or before the first consumer of:

(i) Thirty minutes if 0.2 mg/L free chlorine residual is maintained;

(ii) Ten minutes if 0.6 mg/L free chlorine residual is maintained; or

(iii) Any combination of free chlorine residual concentration (C), measured in mg/L, and contact time (T), measured in minutes, that results in a CT product (C X T) of greater than or equal to six; or

(iv) Contact time (T) for surface water or GWI sources shall be determined in accordance with WAC 246-290-636.

(b) Detectable residual disinfectant concentration in all active parts of the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide;

(c) Water in the distribution system with an HPC level less than or equal to 500 organisms/mL is considered to have a detectable residual disinfectant concentration.

(4) The department may require the purveyor to provide longer contact times, higher chlorine residuals, or additional treatment to protect the health of consumers served by the public water system.

(5) The purveyor of a system using surface water or GWI shall meet disinfection requirements specified in Part 6 of this chapter.

(6) The purveyor of a system (~~(providing ground water disinfection)~~) adding a chemical disinfectant shall monitor residual disinfectant concentration at representative points in the system on a daily basis, and at the same time and location of routine and repeat coliform sample collection. Frequency of disinfection residual monitoring may be reduced upon written request to the department if it can be shown that disinfection residuals can be maintained on a reliable basis without the provision of daily monitoring, but shall be no less frequent than specified in WAC 246-290-300 (3)(a)(i).

(7) The analyses shall be conducted in accordance with "standard methods." To assure adequate monitoring of chlorine residual, the department may require the use of continuous chlorine residual analyzers and recorders.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-480 Recordkeeping and reporting. (1)

Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results shall be kept for five years. Chemical analysis results shall be kept for as long as the system is in operation. Records of daily source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. Systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water standards. For each violation, records of actions taken to correct the violation, and copies of public notifications shall be kept for no less than three years after the last corrective action taken.

(c) Copies of any written reports, summaries, or communications relating to sanitary surveys or SPIs of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the sanitary survey or SPI involved.

(d) Copies of project reports, construction documents and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, daily records of the following shall be kept for a minimum of three years:

- (i) Chlorine residual;
- (ii) Fluoride level;
- (iii) Water treatment plant performance including, but not limited to:
 - (A) Type of chemicals used and quantity;
 - (B) Amount of water treated; and
 - (C) Results of analyses.
- (iv) Turbidity;
- (v) Source meter readings; and
- (vi) Other information as specified by the department.

(f) The purveyor shall retain copies of public notices made in accordance with Part 7, Subpart A of this chapter and certifications made to the department under 40 CFR 141.33(e) for a period of at least three years after issuance.

(g) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within their treatment plant shall, beginning no later than June 8, 2004, collect and retain on file the following information for review and evaluation by the department:

(i) A copy of the recycle notification and information submitted to the department in accordance with WAC 246-290-660 (4)(a)(i).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours(~~(=~~

~~(i) The failure to comply with the primary standards or treatment technique requirements under this chapter;~~

~~(ii) The failure to comply with the monitoring requirements under this chapter; and~~

~~(iii) The violation of a primary MCL)) the failure to comply with any national primary drinking water regulation (including failure to comply with any monitoring requirements) as set forth in this chapter. For violations assigned to Tier 1 in WAC 246-290-71001, the department must be notified as soon as possible, but no later than twenty-four hours after the violation is known.~~

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) The purveyor shall submit to the department copies of any written summaries or communications relating to the

status of monitoring waivers during each monitoring cycle or as directed by the department.

(d) Source meter readings shall be made available to the department.

(e) Water facilities inventory form (WFI).

(i) Purveyors of **community** and NTNC systems shall submit an annual WFI update to the department;

(ii) Purveyors of TNC systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(v) Purveyors shall provide in the WFI total annual water production and use, including:

(i) Total annual water production for each source;

(ii) Monthly and annual totals for water purchased from or sold to other purveyors; and

(iii) For purveyors with more than one thousand service connections, monthly and annual totals for purveyor consumer classes. Monthly data may be estimated if the water system bills less frequently than monthly.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or E. coli in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

~~((ii) When a coliform MCL violation is determined, the purveyor shall:~~

~~(A) Notify the department within twenty-four hours of determining acute coliform MCL violations; and~~

~~(B) Notify the department before the end of the next business day when a nonacute coliform MCL is determined.))~~

(g) Systems monitoring for unregulated (~~(VOCs)) contaminants in accordance with WAC 246-290-300 ~~((8)(b))~~ (9), shall send a copy of the results of such monitoring ~~((and any public notice))~~ to the department within thirty days of receipt of analytical results.~~

(h) Systems monitoring for disinfection by-products in accordance with WAC 246-290-300(7) shall report information to the department as specified in 40 CFR 141.134.

(i) Systems monitoring for disinfectant residuals in accordance with WAC 246-290-300(7) shall report information to the department as specified in subsection (2)(a) of this section, and 40 CFR 141.134(c).

(j) Systems required to monitor for disinfection by-product precursor removal in accordance with WAC 246-290-300(7) shall report information to the department as specified in 40 CFR 141.134(d).

(k) Systems shall submit to the department, in accordance with 40 CFR 141.31(d), a certification that the system

has complied with the public notification regulations (Part 7, Subpart A of this chapter) when a public notification is required. Along with the certification, the system shall submit a representative copy of each type of notice.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-490 Cross-connection control. (1) Applicability, purpose, and responsibility.

(a) All community water systems shall comply with the cross-connection control requirements specified in this section.

(b) All noncommunity water systems shall apply the principles and provisions of this section, including subsection (4)(b) of this section, as applicable to protect the public water system from contamination via cross-connections. Noncommunity systems that comply with subsection (4)(b) of this section and the provisions of WAC ((51-46-0603)) 51-56-0600 of the UPC (which addresses the installation of backflow preventers at points of water use within the potable water system) shall be considered in compliance with the requirements of this section.

(c) The purpose of the purveyor's cross-connection control program shall be to protect the public water system, as defined in WAC 246-290-010, from contamination via cross-connections.

(d) The purveyor's responsibility for cross-connection control shall begin at the water supply source, include all the public water treatment, storage, and distribution facilities, and end at the point of delivery to the consumer's water system, which begins at the downstream end of the service connection or water meter located on the public right-of-way or utility-held easement.

(e) Under the provisions of this section, purveyors are not responsible for eliminating or controlling cross-connections within the consumer's water system. Under chapter 19.27 RCW, the responsibility for cross-connection control within the consumer's water system, i.e., within the property lines of the consumer's premises, falls under the jurisdiction of the local administrative authority.

(2) General program requirements.

(a) The purveyor shall develop and implement a cross-connection control program that meets the requirements of this section, but may establish a more stringent program through local ordinances, resolutions, codes, bylaws, or operating rules.

(b) Purveyors shall ensure that good engineering and public health protection practices are used in the development and implementation of cross-connection control programs. Department publications and the most recently published editions of references, such as, but not limited to, those listed below, may be used as guidance for cross-connection program development and implementation:

(i) *Manual of Cross-Connection Control* published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California (USC Manual);

or

(ii) *Cross-Connection Control Manual, Accepted Procedure and Practice* published by the Pacific Northwest Section of the American Water Works Association (PNWS-AWWA Manual).

(c) The purveyor may implement the cross-connection control program, or any portion thereof, directly or by means of a contract with another agency or party acceptable to the department.

(d) The purveyor shall coordinate with the local administrative authority in all matters concerning cross-connection control. The purveyor shall document and describe such coordination, including delineation of responsibilities, in the written cross-connection control program required in (e) of this subsection.

(e) The purveyor shall include a written description of the cross-connection control program in the water system plan required under WAC 246-290-100 or the small water system management program required under WAC 246-290-105. The cross-connection control program shall include the minimum program elements described in subsection (3) of this section.

(f) The purveyor shall ensure that cross-connections between the distribution system and a consumer's water system are eliminated or controlled by the installation of an approved backflow preventer commensurate with the degree of hazard. This can be accomplished by implementation of a cross-connection program that relies on:

(i) Premises isolation as defined in WAC 246-290-010;

or

(ii) Premises isolation and in-premises protection as defined in WAC 246-290-010.

(g) Purveyors with cross-connection control programs that rely both on premises isolation and in-premises protection:

(i) Shall comply with the premises isolation requirements specified in subsection (4)(b) of this section; and

(ii) May reduce premises isolation requirements and rely on in-premises protection for premises other than the type not addressed in subsection (4)(b) of this section, if the conditions in (h) of this subsection are met.

(h) Purveyors may rely on in-premises protection only when the following conditions are met:

(i) The in-premises backflow preventers provide a level of protection commensurate with the purveyor's assessed degree of hazard;

(ii) Backflow preventers which provide the in-premises backflow protection meet the definition of approved backflow preventers as described in WAC 246-290-010;

(iii) The approved backflow preventers are installed, inspected, tested (if applicable), maintained, and repaired in accordance with subsections (6) and (7) of this section;

(iv) Records of such backflow preventers are maintained in accordance with subsections (3)(j) and (8) of this section; and

(v) The purveyor has reasonable access to the consumer's premises to conduct an initial hazard evaluation and periodic reevaluations to determine whether the in-premises protection is adequate to protect the purveyor's distribution system.

(i) The purveyor shall take appropriate corrective action within its authority if:

(i) A cross-connection exists that is not controlled commensurate to the degree of hazard assessed by the purveyor; or

(ii) A consumer fails to comply with the purveyor's requirements regarding the installation, inspection, testing, maintenance or repair of approved backflow preventers required by this chapter.

(j) The purveyor's corrective action may include, but is not limited to:

(i) Denying or discontinuing water service to a consumer's premises until the cross-connection hazard is eliminated or controlled to the satisfaction of the purveyor;

(ii) Requiring the consumer to install an approved backflow preventer for premises isolation commensurate with the degree of hazard; or

(iii) The purveyor installing an approved backflow preventer for premises isolation commensurate with the degree of hazard.

(k) Purveyors denying or discontinuing water service to a consumer's premises for one or more of the reasons listed in (i) of this subsection shall notify the local administrative authority prior to taking such action except in the event of an emergency.

(l) The purveyor shall prohibit the intentional return of used water to the purveyor's distribution system. Such water would include, but is not limited to, water used for heating, cooling, or other purposes within the consumer's water system.

(3) Minimum elements of a cross-connection control program.

(a) To be acceptable to the department, the purveyor's cross-connection control program shall include the minimum elements identified in this subsection.

(b) Element 1: The purveyor shall adopt a local ordinance, resolution, code, bylaw, or other written legal instrument that:

(i) Establishes the purveyor's legal authority to implement a cross-connection control program;

(ii) Describes the operating policies and technical provisions of the purveyor's cross-connection control program; and

(iii) Describes the corrective actions used to ensure that consumers comply with the purveyor's cross-connection control requirements.

(c) Element 2: The purveyor shall develop and implement procedures and schedules for evaluating new and existing service connections to assess the degree of hazard posed by the consumer's premises to the purveyor's distribution system and notifying the consumer within a reasonable time frame of the hazard evaluation results. At a minimum, the program shall meet the following:

(i) For new connections made on or after the effective date of these regulations, procedures shall ensure that an initial evaluation is conducted before service is provided;

(ii) For existing connections made prior to the effective date of these regulations, procedures shall ensure that an initial evaluation is conducted in accordance with a schedule acceptable to the department; and

(iii) For all service connections, once an initial evaluation has been conducted, procedures shall ensure that periodic reevaluations are conducted in accordance with a schedule acceptable to the department and whenever there is a change in the use of the premises.

(d) Element 3: The purveyor shall develop and implement procedures and schedules for ensuring that:

(i) Cross-connections are eliminated whenever possible;

(ii) When cross-connections cannot be eliminated, they are controlled by installation of approved backflow preventers commensurate with the degree of hazard; and

(iii) Approved backflow preventers are installed in accordance with the requirements of subsection (6) of this section.

(e) Element 4: The purveyor shall ensure that personnel, including at least one person certified as a CCS, are provided to develop and implement the cross-connection control program.

(f) Element 5: The purveyor shall develop and implement procedures to ensure that approved backflow preventers are inspected and/or tested (as applicable) in accordance with subsection (7) of this section.

(g) Element 6: The purveyor shall develop and implement a backflow prevention assembly testing quality control assurance program, including, but not limited to, documentation of tester certification and test kit calibration, test report contents, and time frames for submitting completed test reports.

(h) Element 7: The purveyor shall develop and implement (when appropriate) procedures for responding to backflow incidents.

(i) Element 8: The purveyor shall include information on cross-connection control in the purveyor's existing program for educating consumers about water system operation. Such a program may include periodic bill inserts, public service announcements, pamphlet distribution, notification of new consumers and consumer confidence reports.

(j) Element 9: The purveyor shall develop and maintain cross-connection control records including, but not limited to, the following:

(i) A master list of service connections and/or consumer's premises where the purveyor relies upon approved backflow preventers to protect the public water system from contamination, the assessed hazard level of each, and the required backflow preventer(s);

(ii) Inventory information on:

(A) Approved air gaps installed in lieu of approved assemblies including exact air gap location, assessed degree of hazard, installation date, history of inspections, inspection results, and person conducting inspections;

(B) Approved backflow assemblies including exact assembly location, assembly description (type, manufacturer, model, size, and serial number), assessed degree of hazard, installation date, history of inspections, tests and repairs, test results, and person performing tests; and

(C) Approved AVBs used for irrigation system applications including location, description (manufacturer, model, and size), installation date, history of inspection(s), and person performing inspection(s).

(iii) Cross-connection program summary reports and backflow incident reports required under subsection (8) of this section.

(k) Element 10: Purveyors who distribute and/or have facilities that receive reclaimed water within their water service area shall meet any additional cross-connection control requirements imposed by the department under a permit issued in accordance with chapter 90.46 RCW.

(4) Approved backflow preventer selection.

(a) The purveyor shall ensure that a CCS:

(i) Assesses the degree of hazard posed by the consumer's water system upon the purveyor's distribution system; and

(ii) Determines the appropriate method of backflow protection for premises isolation in accordance with Table 8.

TABLE 8

APPROPRIATE METHODS OF BACKFLOW PROTECTION FOR PREMISES ISOLATION

Degree of Hazard	Application Condition	Appropriate Approved Backflow Preventer
High health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, or RPDA
Low health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, RPDA, DCVA, or DCDA

(b) Premises isolation requirements.

(i) For service connections with remises posing a high health cross-connection hazard including, but not limited to, those premises listed in Table 9, the purveyor shall ensure that an approved air gap or RPBA is installed for premises isolation.

(ii) If the purveyor's CCS determines that no hazard exists for a connection serving premises of the type listed in Table 9, the requirements of (b)(i) of this subsection do not apply.

(iii) The purveyor shall document, on a case-by-case basis, the reasons for not applying the requirements of (b)(i) of this subsection to a connection serving premises of the type listed in Table 9 and include such documentation in the cross-connection control program summary report required in subsection (8) of this section.

TABLE 9

HIGH HEALTH CROSS-CONNECTION HAZARD PREMISES REQUIRING PREMISES ISOLATION BY AG OR RPBA

- Agricultural (farms and dairies)
- Beverage bottling plants
- Car washes
- Chemical plants
- Commercial laundries and dry cleaners
- Premises where both reclaimed water and potable water are provided

- Film processing facilities
- Food processing plants
- Hospitals, medical centers, nursing homes, veterinary, medical and dental clinics, and blood plasma centers
- Premises with separate irrigation systems using the purveyor's water supply and with chemical addition*
- Laboratories
- Metal plating industries
- Mortuaries
- Petroleum processing or storage plants
- Piers and docks
- Radioactive material processing plants or nuclear reactors*
- Survey access denied or restricted
- Wastewater lift stations and pumping stations
- Wastewater treatment plants*
- Premises with an unapproved auxiliary water supply interconnected with the potable water supply

+ For example, parks, playgrounds, golf courses, cemeteries, estates, etc.

* RPBA's for connections serving these premises are acceptable only when used in combination with an in-plant approved air gap; otherwise, the purveyor shall require an approved air gap at the service connection.

(c) Backflow protection for single-family residences.

(i) For single-family residential service connections, the purveyor shall comply with the requirements of (b) of this subsection when applicable.

(ii) If the requirements of (b) of this subsection do not apply and the requirements specified in subsection (2)(h) of this section are met, the purveyor may rely on backflow protection provided at the point of hazard in accordance with WAC ((51-46-0603)) 51-56-0600 of the UPC for hazards such as, but not limited to:

- (A) Irrigation systems;
- (B) Swimming pools or spas;
- (C) Ponds; and
- (D) Boilers.

For example, the purveyor may accept an approved AVB on a residential irrigation system, if the AVB is properly installed in accordance with the UPC.

(d) Backflow protection for fire protection systems.

(i) Backflow protection is not required for residential flow-through or combination fire protection systems constructed of potable water piping and materials.

(ii) For service connections with fire protection systems other than flow-through or combination systems, the purveyor shall ensure that backflow protection consistent with WAC ((51-46-0603)) 51-56-0600 of the UPC is installed. The UPC requires minimum protection as follows:

- (A) An RPBA or RPDA for fire protection systems with chemical addition or using unapproved auxiliary water supply; and
- (B) A DCVA or DCDA for all other fire protection systems.

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(iii) For new connections made on or after the effective date of these regulations, the purveyor shall ensure that backflow protection is installed before water service is provided.

(iv) For existing fire protection systems:

(A) With chemical addition or using unapproved auxiliary supplies, the purveyor shall ensure that backflow protection is installed within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard or in accordance with an alternate schedule acceptable to the purveyor.

(B) Without chemical addition, without on-site storage, and using only the purveyor's water (i.e., no unapproved auxiliary supplies on or available to the premises), the purveyor shall ensure that backflow protection is installed in accordance with a schedule acceptable to the purveyor or at an earlier date if required by the agency administering the Uniform Building Code as adopted under chapter 19.27 RCW.

(C) When establishing backflow protection retrofitting schedules for fire protection systems that have the characteristics listed in (d)(iv)(B) of this subsection, the purveyor may consider factors such as, but not limited to, impacts of assembly installation on sprinkler performance, costs of retrofitting, and difficulty of assembly installation.

(e) Purveyors may require backflow preventers commensurate with the degree of hazard determined by the purveyor to be installed for premises isolation for connections serving premises that have characteristics such as, but not limited to, the following:

(i) Complex plumbing arrangements or plumbing potentially subject to frequent changes that make it impracticable to assess whether cross-connection hazards exist;

(ii) A repeated history of cross-connections being established or reestablished; or

(iii) Cross-connection hazards are unavoidable or not correctable, such as, but not limited to, tall buildings.

(5) Approved backflow preventers.

(a) The purveyor shall ensure that all backflow prevention assemblies relied upon by the purveyor are models included on the current list of backflow prevention assemblies approved for use in Washington state. The current approved assemblies list is available from the department upon request.

(b) The purveyor may rely on testable backflow prevention assemblies that are not currently approved by the department, if the assemblies:

(i) Were included on the department and/or USC list of approved backflow prevention assemblies at the time of installation;

(ii) Have been properly maintained;

(iii) Are commensurate with the purveyor's assessed degree of hazard; and

(iv) Have been inspected and tested at least annually and have successfully passed the annual tests.

(c) The purveyor shall ensure that an unlisted backflow prevention assembly is replaced by an approved assembly commensurate with the degree of hazard, when the unlisted assembly:

(i) Does not meet the conditions specified in (b)(i) through (iv) of this subsection;

(ii) Is moved; or

(iii) Cannot be repaired using spare parts from the original manufacturer.

(d) The purveyor shall ensure that AVBs meet the definition of approved atmospheric vacuum breakers as described in WAC 246-290-010.

(6) Approved backflow preventer installation.

(a) The purveyor shall ensure that approved backflow preventers are installed in the orientation for which they are approved (if applicable).

(b) The purveyor shall ensure that approved backflow preventers are installed in a manner that:

(i) Facilitates their proper operation, maintenance, inspection, and/or in-line testing (as applicable) using standard installation procedures acceptable to the department such as those in the USC Manual or PNWS-AWWA Manual;

(ii) Ensures that the assembly will not become submerged due to weather-related conditions such as flooding; and

(iii) Ensures compliance with all applicable safety regulations.

(c) The purveyor shall ensure that approved backflow assemblies for premises isolation are installed at a location adjacent to the meter or property line or an alternate location acceptable to the purveyor.

(d) When premises isolation assemblies are installed at an alternate location acceptable to the purveyor, the purveyor shall ensure that there are no connections between the point of delivery from the public water system and the approved backflow assembly, unless the installation of such a connection meets the purveyor's cross-connection control requirements and is specifically approved by the purveyor.

(e) The purveyor shall ensure that approved backflow preventers are installed in accordance with the following time frames:

(i) For new connections made on or after the effective date of these regulations, the following conditions shall be met before service is provided:

(A) The provisions of subsection (3)(d)(ii) of this section; and

(B) Satisfactory completion of a test by a BAT in accordance with subsection (7) of this section.

(ii) For existing connections where the purveyor identifies a high health cross-connection hazard, the provisions of (3)(d)(ii) of this section shall be met:

(A) Within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard; or

(B) In accordance with an alternate schedule acceptable to the purveyor.

(iii) For existing connections where the purveyor identifies a low health cross-connection hazard, the provisions of subsection (3)(d)(ii) of this section shall be met in accordance with a schedule acceptable to the purveyor.

(f) The purveyor shall ensure that bypass piping installed around any approved backflow preventer is equipped with an approved backflow preventer that:

(i) Affords at least the same level of protection as the approved backflow preventer that is being bypassed; and

(ii) Complies with all applicable requirements of this section.

(7) Approved backflow preventer inspection and testing.

(a) The purveyor shall ensure that:

(i) A CCS inspects backflow preventer installations to ensure that protection is provided commensurate with the assessed degree of hazard;

(ii) Either a BAT or CCS inspects:

(A) Air gaps installed in lieu of approved backflow prevention assemblies for compliance with the approved air gap definition; and

(B) Backflow prevention assemblies for correct installation and approval status.

(iii) A BAT tests approved backflow prevention assemblies for proper operation.

(b) The purveyor shall ensure that inspections and/or tests of approved air gaps and approved backflow assemblies are conducted:

(i) At the time of installation;

(ii) Annually after installation, or more frequently, if required by the purveyor for connections serving premises or systems that pose a high health cross-connection hazard or for assemblies that repeatedly fail;

(iii) After a backflow incident; and

(iv) After an assembly is repaired, reinstalled, or relocated or an air gap is replumbed.

(c) The purveyor shall ensure that inspections of AVBs installed on irrigation systems are conducted:

(i) At the time of installation;

(ii) After a backflow incident; and

(iii) After repair, reinstallation, or relocation.

(d) The purveyor shall ensure that approved backflow prevention assemblies are tested using procedures acceptable to the department, such as those specified in the most recently published edition of the USC Manual. When circumstances, such as, but not limited to, configuration or location of the assembly, preclude the use of USC test procedures, the purveyor may allow, on a case-by-case basis, the use of alternate (non-USC) test procedures acceptable to the department.

(e) The purveyor shall ensure that results of backflow prevention assembly inspections and tests are documented and reported in a manner acceptable to the purveyor.

(f) The purveyor shall ensure that an approved backflow prevention assembly or AVB, whenever found to be improperly installed, defective, not commensurate with the degree of hazard, or failing a test (if applicable) is properly reinstalled, repaired, overhauled, or replaced.

(g) The purveyor shall ensure that an approved air gap, whenever found to be altered or improperly installed, is properly replumbed or, if commensurate with the degree of hazard, is replaced by an approved RPBA.

(8) Recordkeeping and reporting.

(a) Purveyors shall keep cross-connection control records for the following time frames:

(i) Records pertaining to the master list of service connections and/or consumer's premises required in subsection (3)(j)(i) of this section shall be kept as long as the premises pose a cross-connection hazard to the purveyor's distribution system;

(ii) Records regarding inventory information required in subsection (3)(j)(ii) of this section shall be kept for five years or for the life of the approved backflow preventer whichever is shorter; and

(iii) Records regarding backflow incidents and annual summary reports required in subsection (3)(j)(iii) of this section shall be kept for five years.

(b) Purveyors may maintain cross-connection control records in original form or transfer data to tabular summaries.

(c) Purveyors may maintain records or data in any media, such as paper, film, or electronic format.

(d) The purveyor shall complete the cross-connection control program summary report annually. Report forms and guidance on completing the report are available from the department.

(e) The purveyor shall make all records and reports required in subsection (3)(j) of this section available to the department or its representative upon request.

(f) The purveyor shall notify the department, local administrative authority, and local health jurisdiction as soon as possible, but no later than the end of the next business day, when a backflow incident is known by the purveyor to have:

(i) Contaminated the public water system; or

(ii) Occurred within the premises of a consumer served by the purveyor.

(g) The purveyor shall:

(i) Document details of backflow incidents on a form acceptable to the department such as the backflow incident report form included in the most recent edition of the PNWS-AWWA Manual; and

(ii) Include all backflow incident report(s) in the annual cross-connection program summary report referenced in (d) of this subsection, unless otherwise requested by the department.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-601 Purpose of surface water treatment. (1) Part 6 of chapter 246-290 WAC establishes filtration and disinfection as treatment technique requirements for water systems using surface or GWI sources. The Part 6 treatment technique requirements are established in lieu of maximum contaminant levels (MCLs) for the following contaminants:

(a) *Giardia lamblia*;

(b) Viruses;

(c) Heterotrophic plate count bacteria;

(d) *Legionella*; ~~((and))~~

(e) *Cryptosporidium* for systems serving at least ten thousand people; and

(f) Turbidity.

(2) For water systems using unfiltered surface sources, in whole or part, and that have been required to install, but have yet to complete the installation and operation of, filtration facilities, the turbidity levels at entry points to distribution and sampling/analytical requirements shall be in accordance with 40 CFR 141.13 and 40 CFR 141.22, respectively.

AMENDATORY SECTION (Amending WSR 99-07-021 and 99-10-076, filed 3/9/99 and 5/4/99, effective 4/9/99 and 6/4/99)

WAC 246-290-630 General requirements. (1) The purveyor shall ensure that treatment is provided for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of chapter 246-290 WAC.

(2) The purveyor shall install and properly operate water treatment processes to ensure at least:

(a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; ~~(and)~~

(b) 99.99 percent (4 log) removal and/or inactivation of viruses; and

(c) 99 percent (2 log) removal of *Cryptosporidium* oocysts if required to filter.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first consumer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts, *Cryptosporidium* oocysts, and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of chapter 246-290 WAC meet the requirements under chapter 70.119 RCW and chapter 246-292 WAC.

(6) The purveyor of a **Group A community** system serving water from a surface or GWI source to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively;

(b) The criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692; or

(c) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a **Group A noncommunity** system serving water from a surface or GWI source, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(8) The purveyor of a **Group A** system first serving water from a surface or GWI source to the public after December 31, 1990, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(9) The purveyor of a system required to install filtration may choose to provide a limited alternative to filtration or

abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved source. Purveyors that develop alternate ground water sources or purchase water from a department-approved public water system using a ground water source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) A purveyor that chooses to provide a limited alternative to filtration shall submit an application to the department that contains the information necessary to determine whether the source can meet the criteria.

(11) If a limited alternative to filtration is provided, then the purveyor shall install and properly operate treatment processes to ensure greater removal and/or inactivation efficiencies of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern (including *Cryptosporidium* oocysts) than would be achieved by the combination of filtration and chlorine disinfection.

(12) Systems that were required to develop a disinfection profile under 40 CFR 141.172 shall provide that profile and a calculated disinfection benchmark, as described in 40 CFR 141.172 (c)(2) and (3), along with other project information specified in WAC 246-290-110, when proposing any change to the disinfection treatment system. The proposal for change shall include an analysis of how the proposed change will affect the current level of disinfection. The profile must also be available for inspection during routine sanitary surveys conducted under WAC 246-290-416.

(13) A system using conventional, direct, or in-line filtration that must arrange for the conduct of a comprehensive performance evaluation (CPE), in accordance with 40 CFR 141.175 (b)(4), may be required to arrange for comprehensive technical assistance (CTA). The department will determine the need for CTA on a case-by-case basis.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-634 Follow-up to treatment technique violations. When a treatment technique violation occurs, the purveyor:

(1) Shall report to the department in accordance with:

(a) WAC 246-290-666 for purveyors providing filtration or required to filter;

(b) WAC 246-290-674 for purveyors installing filtration; or

(c) WAC 246-290-696 for purveyors meeting the criteria to remain unfiltered or providing a limited alternative to filtration;

(2) Shall notify the public in accordance with ((WAC 246-290-495)) **Part 7, Subpart A of this chapter;**

(3) Shall determine the cause of the violation;

(4) Shall take action as directed by the department; and

(5) May be subject to enforcement under WAC 246-290-050.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-638 Analytical requirements. (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified shall mean:

(a) A person certified under chapter 246-292 WAC;

(b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department; or

(c) A state or local health agency professional experienced in conducting these measurements.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods((-)), or other EPA approved methods."

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

(a) Collected and transported in accordance with department-approved methods; and

(b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct ~~((such))~~ the analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

(i) Bench model turbidimeter; and

(ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

(i) Designed to meet the criteria in "standard methods," EPA Method 180.1, or Great Lakes Instruments Method 2; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

(i) Calibrate turbidity equipment based upon a primary standard in the expected range of measurements; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using a properly calibrated bench model turbidimeter.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours from the combined filter effluent and individual filters while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment on-line within five working days of failure.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-654 Treatment criteria for filtered systems. (1) The purveyor shall operate filters ~~((such))~~ so

that maximum flow rates do not exceed those specified in Table 10. The purveyor may operate filters at higher flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2 log) removal of *Giardia lamblia* cysts and 99 percent (2 log) removal of *Cryptosporidium* oocysts and meets the turbidity performance requirements of Table 11.

**Table 10
FILTRATION OPERATION CRITERIA**

FILTRATION TECHNOLOGY/MEDIA	MAXIMUM FILTRATION RATE (gpm/ft((3)) ²)
Conventional, Direct and In-Line	
Gravity Filters with Single Media	3
Gravity Filters with Deep Bed, Dual or Mixed Media	6
Pressure Filters with Single Media	2
Pressure Filters with Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Diatomaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal by one of the following methods:

(a) Turbidity reduction method ~~((where source and filtered water turbidity measurements are made in accordance with WAC 246-290-664 (2) and (3) respectively:~~

~~((i) When source turbidity is greater than or equal to 2.5 NTU, the purveyor shall achieve the turbidity performance requirements specified in WAC 246-290-660(1); or~~

~~((ii) When source turbidity is less than 2.5 NTU, the purveyor shall achieve:))~~

(i) The purveyor shall make source and filtered water turbidity measurements in accordance with WAC 246-290-664 (2) and (3) respectively.

(ii) The purveyor shall achieve:

(A) The turbidity performance requirements specified in WAC 246-290-660(1) and at least an eighty percent reduction in source turbidity based on an average of the daily turbidity reductions measured in a calendar month; or

(B) An average daily filtered water turbidity less than or equal to 0.1 NTU.

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of particles in the size range of five to fifteen microns (*Giardia lamblia* cyst-sized particles) and three to five microns (*Cryptosporidium* oocyst-sized particles), as applicable:

(A) 2.5 log reduction in *Giardia lamblia* cyst-sized particles and a 2 log reduction in *Cryptosporidium* particles for systems using conventional filtration; or

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(B) 2.0 log reduction for systems using direct or in-line filtration.

(c) Microscopic particulate analysis method. The purveyor shall:

- (i) Use a protocol acceptable to the department; and
- (ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cysts and (A) *Cryptosporidium oocysts* or *Giardia lamblia* cyst and *Cryptosporidium oocyst* surrogate indicators as applicable:

(A) 2.5 log reduction in *Giardia lamblia* cysts or surrogates and a 2 log reduction in *Cryptosporidium oocyst* or surrogates for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ensure continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing:

(i) How water delivered to the public will be continuously and adequately disinfected; and

(ii) The elements of an emergency notification plan to be implemented whenever the residual disinfectant concentration at entry to distribution falls below 0.2 mg/L for more than one hour.

(c) Implement (such) the plan during an emergency affecting disinfection.

(5) Operations program.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations program and make it available to the department for review upon request.

(b) The program shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC 246-290-105).

(c) The program shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations program.

(e) The operations program shall include, but not be limited to, a description of:

(i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);

(ii) Procedures used to determine chemical dose rates;

(iii) How and when each unit process is operated;

(iv) Unit process equipment maintenance program;

(v) Treatment plant performance monitoring program;

(vi) Laboratory procedures;

(vii) Records;

(viii) Reliability features; and

(ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations program is:

(i) Readily available at the water treatment facility for use by operators and for department inspection;

(ii) Consistent with department guidelines for operations procedures such as those described in department guidance on surface water treatment and water system planning; and

(iii) Updated as needed to reflect current water treatment facility operations.

(6) Pressure filters. Purveyors using pressure filters shall:

(a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;

(b) Maintain, and make available for department review, a written record of pressure filter inspections; and

(c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-660 Filtration. (1) Turbidity performance requirements.

(a) The purveyor shall ensure that the turbidity level of representative filtered water samples:

(i) Complies with the performance standards in Table 11; and

(ii) Never exceeds 5.0 NTU for any system using slow sand, diatomaceous earth, or for any system serving less than ten thousand people and using conventional, direct, or in-line filtration.

(iii) Never exceeds 1.0 NTU for any system serving at least ten thousand people and using conventional, direct, or in-line filtration.

(iv) Never exceeds the maximum allowable turbidity determined by the department on a case-by-case basis for any system using an alternate filtration technology approved under WAC 246-290-676 (2)(b).

Table 11

TURBIDITY PERFORMANCE REQUIREMENTS

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month	
	Systems serving < 10,000 people	Systems serving > 10,000 people
Conventional, Direct and In-line	0.50	0.30
Slow Sand	1.0	1.0
Diatomaceous Earth	1.0	1.0
Alternate Technology	As determined by the department through case-by-case approval of technology, in accordance with WAC 246-290-676 (2)(b).	

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0

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NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will not endanger the health of consumers served by the system. As a condition of being allowed to produce filtered water with a turbidity exceeding 1.0 NTU, the purveyor may be required to monitor one or more parameters in addition to the parameters specified under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(2) *Giardia lamblia*, *Cryptosporidium*, and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

- (i) Existing filtration facilities based on periodic evaluations of performance and operation; and
 - (ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.
- (b) Conventional, direct, and in-line filtration.
- (i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

Filtration Technology	((Percent Removal Credit (log)	
	<u>Giardia</u>	<u>Virus</u>
Conventional	99.7 (2.5)	99 (2.0)
Direct and in-line	99 (2.0)	90 (1.0))

Percent Removal Credit (log)

Filtration Technology	<u>Giardia</u>		<u>Virus</u>		<u>Cryptosporidium</u>	
	<u>Percent</u>	<u>log</u>	<u>Percent</u>	<u>log</u>	<u>Percent</u>	<u>log</u>
Conventional	99.7	2.5	99	2.0	99	2.0
Direct and in-line	99	2.0	90	1.0	99	2.0

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

(A) Turbidity performance requirements under subsection (1) of this section; and

(B) Operations requirements of WAC 246-290-654.

(iii) The department may grant a higher level of *Giardia lamblia*, *Cryptosporidium*, and virus removal credit than listed under (b)(i) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(iv) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(v) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration that:

(A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section; or

(B) Fails to meet the operating requirements under WAC 246-290-654.

(c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2 log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 99 percent (2 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2 log) *Giardia lamblia* cyst and *Cryptosporidium* oocyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the

minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternate filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst, *Cryptosporidium* oocyst, and virus removal credit for systems using alternate filtration technology based on results of product testing acceptable to the department.

(f) The purveyor granted no *Giardia lamblia* cyst removal credit and no *Cryptosporidium* oocyst removal credit shall:

(i) Provide treatment in accordance with WAC 246-290-662 (2) (d); and

(ii) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:

(A) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and

(B) Identify the proposed schedule for implementation.

(iii) Be considered in violation of the treatment technique specified in WAC 246-290-632 (2)(a)(i) and shall take follow-up action specified in WAC 246-290-634.

(3) Disinfection by-product precursor removal requirements.

(a) Conventional systems using sedimentation shall meet the treatment technique requirements for control of disinfection by-product precursors specified in 40 CFR 141.135.

(i) Applicability of this requirement shall be determined in accordance with 40 CFR 141.135(a).

(ii) Enhanced coagulation shall be provided in accordance with 40 CFR 141.135(b), if applicable.

(iii) Compliance with the treatment technique requirements for control of disinfection by-product precursors shall be determined in accordance with 40 CFR 141.135(c).

(b) For the purposes of compliance with (a) of this subsection, sedimentation shall be considered applicable when:

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(i) Surface overflow rates and other design parameters are in conformance with traditionally accepted industry standards and textbook values, such as those prescribed in nationally accepted standards, including the most recent version of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*; and

(ii) The system has received pathogen removal credit for the sedimentation basin.

(4) Filter backwash recycling requirements.

(a) By no later than December 8, 2003, purveyors using conventional, direct, or in-line filtration must report to the department, in writing, whether they recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant.

(i) Purveyors that do recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must also report the following information:

(A) A plant schematic showing the origin of all flows that are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance (i.e., pipe, open channel) used to transport them, and the location where they are reintroduced back into the treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and the approved operating capacity for the plant.

(b) By no later than June 8, 2004, purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within the treatment plant shall:

(i) Return the recycled flow prior to, or concurrent with the location where primary coagulant is introduced into the flow stream.

(ii) By no later than June 8, 2006, complete any capital improvements (physical modifications requiring engineering planning, design, and construction) necessary to meet the requirements of (b)(i) of this subsection.

(iii) On a case-by-case basis, the department may approve an alternate location for the return of recycle flows.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-662 Disinfection for filtered systems.

(1) General requirements.

(a) The purveyor shall provide continuous disinfection to ensure that filtration and disinfection together achieve, at all times the system serves water to the public, at least the following:

(i) 99.9 percent (3 log) inactivation and removal of *Giardia lamblia* cysts; and

(ii) 99.99 percent (4 log) inactivation and/or removal of viruses.

(b) Where sources receive sewage discharges and/or agricultural runoff, purveyors may be required to provide greater levels of removal and inactivation of *Giardia lamblia*

cysts and viruses to protect the health of consumers served by the system.

(c) Regardless of the removal credit granted for filtration, purveyors shall, at a minimum, provide continuous disinfection to achieve at least 68 percent (0.5 log) inactivation of *Giardia lamblia* cysts and 99 percent (2 log) inactivation of viruses.

(2) Establishing the level of inactivation.

(a) The department shall establish the level of disinfection (log inactivation) to be provided by the purveyor.

(b) The required level of inactivation shall be based on source quality and expected levels of *Giardia lamblia* cyst and virus removal achieved by the system's filtration process.

(c) Based on periodic reviews, the department may adjust, as necessary, the level of disinfection the purveyor shall provide to protect the health of consumers served by the system.

(d) Systems granted no *Giardia lamblia* cyst removal credit(-) and no *Cryptosporidium* oocyst removal credit shall:

(i) Unless directed otherwise by the department, ~~((the purveyor of a system granted no *Giardia lamblia* cyst removal credit shall))~~ provide interim disinfection to:

(A) ~~((Fe))~~ Ensure compliance with the monthly coliform MCL under WAC 246-290-310;

(B) Achieve at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts; and

(C) Maintain a detectable residual disinfectant concentration, or an HPC level less than 500 organisms/ml, within the distribution system in accordance with subsection (6) of this section.

(ii) ~~((The purveyor shall))~~ Comply with the interim disinfection requirements until the system can demonstrate to the department's satisfaction that it complies with the operating requirements and turbidity performance requirements under WAC 246-290-654 and 246-290-660(1), respectively.

(3) Determining the level of inactivation.

(a) Unless the department has approved a reduced CT monitoring schedule for the system, each day the system serves water to the public, the purveyor, using procedures and CT values acceptable to the department such as those presented in department guidance of surface water treatment, shall determine:

(i) CTcalc values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department.

(b) The department may allow a purveyor to determine the level of inactivation using lower CT values than those specified in (a) of this subsection, provided the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved.

(4) Determining compliance with the required level of inactivation.

(a) A purveyor shall be considered in compliance with the inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

(b) Failure to provide the required level of inactivation on more than one day in any calendar month shall be considered a treatment technique violation.

(5) Residual disinfectant concentration entering the distribution system.

(a) The purveyor shall ensure that all water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than four hours on any day shall be considered a treatment technique violation.

(6) Residual disinfectant concentration within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least ninety-five percent of the samples taken each calendar month.

(b) Water in the distribution system with an HPC less than or equal to 500 organisms/ml is considered to have a detectable residual disinfectant concentration for the purposes of compliance with WAC 246-290-662 (6)(a).

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-664 Monitoring for filtered systems.

(1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of disinfectant application and before coagulant chemical addition; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to ten percent of the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater up to a maximum of one sample per day.

(2) Source turbidity monitoring.

(a) The purveyor using conventional, direct, or in-line filtration shall measure source turbidity at least once per day on a representative sample collected before disinfection and coagulant addition.

(b) Grab sampling or continuous turbidity monitoring and recording may be used to meet the requirement specified in (a) of this subsection.

(c) Purveyors using continuous turbidity monitoring shall record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule.

(d) Purveyors using an approved alternate filtration technology may be required to monitor source water turbidity at least once per day on a representative sample as determined by the department.

(3) Filtered water turbidity monitoring.

(a) The purveyor using direct, conventional, or in-line filtration shall:

(i) Continuously monitor turbidity on representative samples from each individual filter unit and ~~((of))~~ from the system's combined filter effluent, prior to clearwell storage;

(ii) For systems serving at least ten thousand people, record continuous turbidity measurements from each individual filter unit at equal intervals(,) of at least every fifteen minutes, and for all systems, from the combined filter effluent at equal intervals of at least every four hours, in accordance with a department-approved sampling schedule; and

(iii) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(b) The purveyor using slow sand or diatomaceous earth filtration shall:

(i) Continuously monitor turbidity on representative samples from each individual filter unit and from the system's combined filter effluent, prior to clearwell storage;

(ii) Record continuous turbidity measurements from the combined filter effluent at equal intervals of at least every four hours in accordance with a department-approved sampling schedule; and

(iii) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(c) Purveyors using an alternate filtration technology approved under WAC 246-290-676 shall provide monitoring in accordance with the technology-specific approval conditions determined by the department.

(d) Purveyors using slow sand filtration or an alternate filtration technology may reduce filtered water turbidity monitoring to one grab sample per day with departmental approval. Reduced turbidity monitoring shall be allowed only where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers served by the water system.

(4) Monitoring the level of inactivation and removal.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation and removal of *Giardia lamblia* cysts ~~((and))~~, viruses, and *Cryptosporidium* oocysts achieved.

(b) The purveyor shall determine the total level of inactivation and removal based on:

(i) *Giardia lamblia* cyst, *Cryptosporidium* oocyst, and virus removal credit granted by the department for filtration; and

(ii) Level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(c) At least once per day, purveyors shall monitor the following to determine the level of inactivation achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(d) Each day during peak hourly flow (based on historical information), the purveyor shall:

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(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point shall be located before or at the first consumer.

(e) The department may reduce CT monitoring requirements for purveyors that demonstrate to the department's satisfaction that the required levels of inactivation are consistently exceeded. Reduced CT monitoring shall only be allowed where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers.

(5) Monitoring the residual disinfectant concentration entering the distribution system.

(a) Systems serving more than thirty-three hundred people per month.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less people per month.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) Purveyors of **community** systems choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the grab samples at peak hourly flow; and

(C) The remaining samples evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) Purveyors of **noncommunity** systems choosing to take grab samples shall collect samples for disinfectant residual concentration entering the distribution system as directed by the department.

(iv) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, purveyors shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring residual disinfectant concentrations within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration at representative points within the distribution system on a daily basis or as otherwise approved by the department.

(b) At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(3) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-666 Reporting for filtered systems. (1)

The purveyor shall notify the department, as soon as possible, but no later than ~~((the end of the next business day, when))~~ twenty-four hours after the purveyor learns of the following events:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of the combined filter effluent exceeds 5.0 NTU at any time for any system using slow sand, diatomaceous earth, or for any system serving less than ten thousand people and using conventional, direct, or in-line filtration;

(c) The turbidity of the combined filter effluent exceeds 1.0 NTU at any time for a system serving at least ten thousand people and using conventional, direct, or in-line filtration;

(d) The turbidity of the combined filter effluent exceeds the maximum specified level for an alternative filtration technology approved by the department;

~~((e))~~ (e) The residual disinfection concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within four hours; or

~~((f))~~ (f) An event occurs that may affect the ability of the water treatment facility to produce drinking water that complies with this chapter including, but not limited to:

- (i) Spills of hazardous materials in the watershed; and
- (ii) Treatment process failures.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-664 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

- (a) Water treatment facility operations information;
- (b) Turbidity monitoring results, including:

(i) Source monitoring, if required under WAC 246-290-664(2);

(ii) Combined filter effluent. Continuous measurements shall be reported at equal intervals, at least every four hours, in accordance with a department-approved schedule;

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(iii) Individual filter turbidity monitoring results. Systems serving at least ten thousand people and using conventional, direct, or in-line filtration shall report and take follow-up action as prescribed in 40 CFR 141.175(b). Required follow-up action may include development of a filter profile, a filter self-assessment, as described in 40 CFR 141.175 (b)(4), or the completion of a comprehensive performance evaluation (CPE).

(c) Disinfection monitoring information including:

- (i) Level of inactivation achieved;
- (ii) Residual disinfectant concentrations entering the distribution system; and
- (iii) Residual disinfectant concentrations within the distribution system.
- (d) Total level of removal and inactivation; and
- (e) A summary of water quality complaints received from consumers served by the water system.

(4) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-672 Interim treatment requirements.

(1) Purveyors of existing unfiltered systems installing filtration shall provide interim disinfection treatment to:

- (a) Ensure compliance with the monthly coliform MCL under WAC 246-290-310;
- (b) Achieve inactivation levels of *Giardia lamblia* cysts on a daily basis each month the system serves water to the public as directed by the department; and
- (c) Maintain a detectable residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, or combined chlorine in 95 percent or more of the samples taken each calendar month. Water in the distribution system with an HPC level less than or equal to 500 organisms/ml is considered to have a detectable residual disinfectant concentration for the purposes of compliance with this subsection.

(2) Failure to provide the required level of inactivation in subsection (1)(b) of this section on more than one day in any calendar month shall be considered a treatment technique violation.

(3) The department may require the purveyor to provide higher levels of treatment than specified in subsection (1)(b) of this section when necessary to protect the health of consumers served by the public water system.

(4) Interim treatment requirements shall be met in accordance with a schedule acceptable to the department.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-674 Interim monitoring and reporting.

(1) Monitoring. Unless directed otherwise by the department, the purveyor of an existing unfiltered system installing filtration shall:

- (a) Conduct interim monitoring in accordance with 40 CFR 141.22;

(b) Measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat sample is collected in accordance with WAC 246-290-300(3) or 246-290-320(2); and

(c) Measure residual disinfection concentrations at entry to the distribution system on a daily basis, or as directed by the department.

(2) Reporting.

(a) The purveyor installing filtration shall report to the department as soon as possible, but no later than ~~((the end of the next business day, when))~~ twenty-four hours after the purveyor learns of any of the following events:

- (i) A waterborne disease outbreak potentially attributable to the water system occurs;
- (ii) The turbidity of water delivered to the public exceeds 5.0 NTU; or
- (iii) The interim disinfection requirements under WAC 246-290-672 are not met.

(b) The purveyor shall report results of monitoring to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(c) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

- (i) Water quality information, including results of monitoring in accordance with WAC 246-290-300 and 246-290-320;
- (ii) Disinfection monitoring information;
- (iii) A summary of water quality complaints received from consumers served by the system.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-676 Filtration technology and design criteria. (1) General.

(a) The purveyor proposing to construct new water treatment facilities or to make additions to existing water treatment facilities for surface and GWI sources shall ensure that the facilities comply with the treatment, design, and reliability requirements of Part 6 of chapter 246-290 WAC.

(b) The purveyor shall submit an engineering report to the department describing how the treatment facilities will be designed to comply with the requirements specified in Subparts A, B, and C of Part 6 of chapter 246-290 WAC.

(2) Filtration technology.

(a) The purveyor shall select a filtration technology acceptable to the department using criteria such as those outlined in department guidance on surface water treatment. The following filtration technologies are considered acceptable:

- (i) Conventional;
- (ii) Direct;
- (iii) Diatomaceous earth; and
- (iv) Slow sand.

(b) In addition to the technologies specified in subsection (1) of this section, alternate filtration technologies may be acceptable, if the purveyor demonstrates to the department's satisfaction all of the following:

(i) Through acceptable third party testing, that system components do not leach or otherwise add substances to the finished water that would violate drinking water standards, or otherwise pose a threat to public health;

(ii) The technology's effectiveness in achieving at least 99 percent (2 log) removal of *Giardia lamblia* cysts or cyst surrogate particles, and at least 99 percent (2 log) removal of *Cryptosporidium* oocysts or oocyst surrogate particles. The purveyor shall further demonstrate the technology's removal capability through research conducted:

(A) By a party acceptable to the department; and

(B) In accordance with protocol and standards acceptable to the department.

(iii) Through on-site pilot plant studies or other means, that the filtration technology:

(A) In combination with disinfection treatment consistently achieves 99.9 percent (3 log) removal and inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) removal and inactivation of viruses; and

(B) Meets the applicable turbidity performance requirements as determined by the department for the specific treatment process being considered, but in no case to exceed 1.0 NTU for the finished water.

(3) Pilot studies.

(a) The purveyor shall ensure pilot studies are conducted for all proposed filtration facilities, except where waived based on engineering justification acceptable to the department.

(b) The purveyor shall obtain department approval for the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken.

(c) The pilot study plan shall identify at a minimum:

(i) Pilot filter design;

(ii) Water quality and operational parameters to be monitored;

(iii) Type of data to be collected, frequency of data collection, and length of pilot study; and

(iv) Pilot plant operator qualifications.

(d) The purveyor shall ensure that the pilot study is:

(i) Conducted to simulate proposed full-scale design conditions;

(ii) Conducted over a time period that will demonstrate the effectiveness and reliability of the proposed treatment system during changes in seasonal and climatic conditions; and

(iii) Designed and operated in accordance with good engineering practices and that ANSI/NSF standards 60 and 61 are considered.

(e) When the pilot study is complete, the purveyor shall submit a project report to the department for approval in accordance with WAC 246-290-110.

(4) Design criteria.

(a) The purveyor shall ensure that water treatment facilities for surface and GWI sources are designed and constructed in accordance with good engineering practices documented in references such as those identified in WAC 246-290-200.

(b) Filtration facilities.

(i) The purveyor shall ensure that all new filtration facilities and improvements to any existing filtration facilities (excluding disinfection) are designed to achieve at least((A)) 99 percent (2 log) removal of *Giardia lamblia* cysts((;)), and

((B)) 90 percent (1 log) removal of viruses.

(ii) The purveyor proposing to use an alternate filtration technology that does not meet the requirements of (b)(i)(B) of this subsection shall demonstrate to the department's satisfaction that the potential for viral contamination of the source is low. The purveyor shall base the demonstration on results of a watershed evaluation acceptable to the department.

((iii)) 99 percent (2 log) removal of *Cryptosporidium* oocysts; and

(ii) The purveyor shall ensure that all new filtration facilities contain provisions for filtering to waste with appropriate measures for backflow prevention.

(c) The purveyor shall ensure that disinfection systems for new filtration facilities or improvements to existing disinfection facilities are designed to meet the requirements of WAC 246-290-662.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-690 Criteria to remain unfiltered. (1) For a system not using the "limited alternative to filtration" option to remain unfiltered, the purveyor using a surface water or GWI source shall meet the source water quality and site-specific conditions under this section, as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(2) Source water quality conditions necessary to remain unfiltered.

(a) Coliform limits.

(i) The purveyor shall ensure that representative source water samples taken before the first point of disinfection have a fecal coliform density less than or equal to 20/100 ml in ninety percent or more of all samples taken during the six previous calendar months the system served water to the public. Samples collected on days when source water turbidity exceeds 1.0 NTU shall be included when determining compliance with this requirement.

(ii) The purveyor shall submit a written report to the department if no source fecal coliform data has been submitted for days when source turbidity exceeded 1.0 NTU. The report shall document why sample results are not available and shall be submitted with the routine monitoring reports for the month in which the sample results are not available.

(b) Turbidity limits.

(i) The purveyor shall ensure that the turbidity level in representative source water samples taken before primary disinfection does not exceed 5.0 NTU.

(ii) A system failing to meet the turbidity requirements in (b)(i) of this subsection may remain unfiltered, if:

(A) The purveyor demonstrates to the department's satisfaction that the most recent turbidity event was caused by unusual and unpredictable circumstances; and

(B) Including the most recent turbidity event, there have not been more than:

(I) Two turbidity events in the twelve previous calendar months the system served water to the public; or

(II) Five turbidity events in the one-hundred-twenty previous calendar months the system served water to the public.

(iii) The purveyor of a system experiencing a turbidity event shall submit a written report to the department documenting why the turbidity event(s) occurred. The purveyor shall submit the report with the routine monitoring reports for the month in which the turbidity event(s) occurred.

(iv) The purveyor of a system with alternate, department-approved sources or sufficient treated water storage may avoid a turbidity event by implementing operational adjustments to prevent water with a turbidity exceeding 5.0 NTU from being delivered to consumers.

(v) When an alternate source or treated water storage is used during periods when the turbidity of the surface or GWI source exceeds 5.0 NTU, the purveyor shall not put the surface or GWI source back on-line, until the source water turbidity is 5.0 NTU or less.

(3) Site-specific conditions to remain unfiltered.

(a) Level of inactivation.

(i) The purveyor shall ensure that the *Giardia lamblia* cyst and virus inactivation levels required under WAC 246-290-692(1) are met in at least eleven of the twelve previous calendar months that the system served water to the public.

(ii) A system failing to meet the inactivation requirements during two of the twelve previous calendar months that the system served water to the public may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that at least one of the failures was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(b) Redundant disinfection components or automatic shut-off.

The purveyor shall ensure that the requirement for redundant disinfection system components or automatic shut-off of water to the distribution system under WAC 246-290-692(3) is met at all times the system serves water to the public.

(c) Disinfectant residual entering the distribution system.

(i) The purveyor shall ensure that the requirement for having a residual entering the distribution system under WAC 246-290-692(4) is met at all times the system serves water to the public.

(ii) A system failing to meet the disinfection requirement under (c)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(d) Disinfectant residuals within the distribution system.

(i) The purveyor shall ensure that the requirement for maintaining a residual within the distribution system under WAC 246-290-692(5) is met on an ongoing basis.

(ii) A system failing to meet the disinfection requirements under (d)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by something other than a deficiency in source water treatment.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(e) Watershed control.

(i) The purveyor shall develop and implement a department-approved watershed control program.

(ii) The purveyor shall monitor, limit, and control all facilities and activities in the watershed affecting source quality to preclude degradation of the physical, chemical, microbiological (including viral contamination and contamination by *Cryptosporidium oocysts*), and radiological quality of the source. The purveyor shall demonstrate, through ownership and/or written agreements acceptable to the department, control of all human activities that may adversely impact source quality.

(iii) At a minimum, the purveyor's watershed control program shall:

(A) Characterize the watershed hydrology and land ownership;

(B) Identify watershed characteristics and activities that may adversely affect source water quality; and

(C) Monitor the occurrence of activities that may adversely affect source water quality.

(iv) If the department determines significant changes have occurred in the watershed, the purveyor shall submit, within ninety days of notification, an updated watershed control program to the department for review and approval.

(v) The department may require an unfiltered system to conduct additional monitoring to demonstrate the adequacy of the watershed control program.

(vi) A purveyor shall be considered out of compliance when failing to:

(A) Have a department-approved watershed control program;

(B) Implement the watershed control program to the satisfaction of the department; or

(C) Conduct additional monitoring as directed by the department.

(f) On-site inspections.

(i) The department shall conduct on-site inspections to assess watershed control and disinfection treatment.

(ii) The department shall conduct annual inspections unless more frequent inspections are deemed necessary to protect the health of consumers served by the system.

(iii) For a system to remain unfiltered, the on-site inspection shall indicate to the department's satisfaction that the watershed control program and disinfection treatment comply with (e) of this subsection and WAC 246-290-692, respectively.

(iv) The purveyor with unsatisfactory on-site inspection results shall take action as directed by the department in accordance with a department-established schedule.

(g) Waterborne disease outbreak.

(i) To remain unfiltered, a system shall not have been identified by the department as the cause of a waterborne disease outbreak attributable to a failure in treatment of the surface or GWI source.

(ii) The purveyor of a system identified by the department as the cause of a waterborne disease outbreak may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that system facilities and/or operations have been sufficiently modified to prevent another waterborne disease outbreak.

(h) Total coliform MCL.

(i) For a system to remain unfiltered, the purveyor shall ensure that the MCL for total coliform under WAC 246-290-310 is met in at least eleven of the twelve previous calendar months the system served water to the public.

(ii) A system failing to meet the criteria in (i) of this subsection, may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the total coliform MCL violations were not caused by a deficiency in source water treatment.

(iii) The department shall determine the adequacy of source water treatment based on results of total coliform monitoring at the entry to the distribution system in accordance with WAC 246-290-694(3).

(i) (~~(THM MCL and monitoring)~~) Disinfectant residuals MRDL and disinfection by-products MCLs - Monitoring and compliance.

For a system to remain unfiltered, the purveyor shall comply with the (~~(THM)~~) monitoring and MCL requirements under WAC 246-290-300(7) and 246-290-310 (5) and (6), respectively.

(j) Laboratory services.

(i) For a system to remain unfiltered, the purveyor shall retain the services of the public health laboratory or another laboratory certified by the department to analyze samples for total and fecal coliform. Laboratory services shall be available on an as needed basis, seven days a week, including holidays. The purveyor shall identify in the annual comprehensive report required under WAC 246-290-696 the certified laboratory providing these services.

(ii) The department may waive this requirement, if the purveyor demonstrates to the department's satisfaction that an alternate, department-approved source is used when the turbidity of the surface or GWI source exceeds 1.0 NTU.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-691 Criteria for unfiltered systems with a "limited alternative to filtration" to remain unfiltered. (1) For a system providing a limited alternative to filtration, the purveyor using a surface water or GWI source shall meet the source quality and site-specific conditions under this section.

(2) Source water turbidity requirements.

(a) The purveyor shall ensure that the turbidity level in representative source water samples taken before primary disinfection does not exceed 5.0 NTU.

(b) A system with more than two turbidity events in the twelve previous calendar months the water was served to the public or more than five turbidity events in the one hundred twenty previous calendar months the water was served to the public shall expand the scope of its next annual comprehensive report required under WAC 246-290-696(6) to include:

(i) A description of the events;

(ii) A summary of previous turbidity events;

(iii) A proposed plan of corrective action; and

(iv) A schedule for implementing the action plan.

(3) Site-specific requirements.

(a) Level of inactivation.

(i) The purveyor shall ensure that the removal and/or inactivation levels required under WAC 246-290-630(11) are met in at least eleven of the twelve previous calendar months that the system served water to the public.

(ii) A system failing to meet the inactivation requirements in (a)(i) of this subsection in two or more months of the previous twelve calendar months the system served water to the public shall expand the scope of its annual comprehensive report required under WAC 246-290-696(6) to include:

(A) A description of the failure(s);

(B) A summary of previous inactivation failures;

(C) A proposed plan of corrective action; and

(D) A schedule for implementing the action plan.

(b) Watershed control.

(i) The watershed must not be allowed to be inhabited, except for those designated individuals and for those periods of time each year that would be directly associated with the protection of the watershed.

(ii) The purveyor shall develop and implement a department-approved watershed control program.

(iii) The purveyor shall monitor, limit, and control all facilities and activities in the watershed affecting source quality to preclude degradation of the physical, chemical, microbiological (including viral and Cryptosporidium oocysts contamination), and radiological quality of the source. The purveyor shall demonstrate, through ownership and/or written agreements acceptable to the department, control of all human activities that may adversely impact source quality.

(iv) At a minimum, the purveyor's watershed control program shall:

(A) Characterize the watershed hydrology and land ownership;

(B) Identify watershed characteristics and activities that may adversely affect source water quality; and

(C) Monitor the occurrence of activities that may adversely affect source water quality.

(v) If the department determines significant changes have occurred in the watershed, the purveyor shall submit, within ninety days of notification, an updated watershed control program to the department for review and approval.

(vi) The purveyor may be required to conduct additional monitoring to demonstrate the adequacy of the watershed control program.

(vii) A purveyor shall be considered out of compliance when failing to:

(A) Have a department-approved watershed control program;

(B) Implement the watershed control program to the satisfaction of the department;

(C) Conduct additional monitoring as directed by the department; or

(D) Prevent the human inhabitation of the watershed, except during the periods of time when conducting watershed protection activities as provided in (b)(i) of this subsection.

(c) On-site inspections.

(i) The purveyor shall submit to on-site inspections by the department to assess watershed control and disinfection treatment.

(ii) The purveyor shall submit to annual inspections by the department unless more frequent inspections are deemed necessary to protect the health of consumers served by the system.

(iii) The purveyor with unsatisfactory on-site inspection results shall take action as directed by the department in accordance with a department-established schedule.

(d) Waterborne disease outbreak.

(i) The system shall not be identified by the department as the cause of a waterborne disease outbreak attributable to a failure in treatment of the surface or GWI source.

(ii) A system identified by the department as the cause of a waterborne disease in (d)(i) of this subsection shall expand the scope of its annual comprehensive report required under WAC 246-290-696(6) to include:

(A) A description of the outbreak;

(B) A summary of previous waterborne disease outbreaks attributed to the system;

(C) A proposed plan of corrective action; and

(D) A schedule for implementing the action plan.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-692 Disinfection for unfiltered systems. (1) General requirements.

(a) The purveyor without a limited alternative to filtration shall provide continuous disinfection treatment to ensure at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) inactivation of viruses at all times the system serves water to the public.

(b) The purveyor with a limited alternative to filtration shall meet the treatment requirements in WAC 246-290-630(11) at all times the system serves water to the public.

(c) The purveyor may be required to provide greater levels of inactivation of *Giardia lamblia* cysts, other pathogenic microorganisms of public health concern, and viruses to protect the health of consumers.

(d) Failure to meet the inactivation level requirements of WAC 246-290-690 (3)(a) or 246-290-691 (3)(a) shall be considered a violation.

(2) Determining the level of inactivation.

(a) Each day the system without a limited alternative to filtration serves water to the public, the purveyor, using pro-

cedures and $CT_{99.9}$ values specified in 40 CFR 141.74, Vol. 54, No. 124, (published June 29, 1989, and copies of which are available from the department), shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department. For purposes of determining compliance with the inactivation requirements specified in subsection (1) of this section, no credit shall be granted for disinfection applied to a source water with a turbidity greater than 5.0 NTU.

(b) Each day the system with a limited alternative to filtration serves water to the public, the purveyor, using appropriate guidance, shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of health concern including *Cryptosporidium oocysts* that would be greater than what would be expected from the combination of filtration plus chlorine disinfection.

(c) The purveyor shall be considered in compliance with the daily inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

(d) The purveyor of a system using a disinfectant or combination of disinfectants may use CT values lower than those specified in (a) of this subsection, if the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts, viruses, and, if providing a limited alternative to filtration, any other pathogenic organisms of public health concern including *Cryptosporidium oocysts*, can be achieved using the lower CT values.

(e) The purveyor of a system using preformed chloramines or adding ammonia to the water before chlorine shall demonstrate to the department's satisfaction that the system achieves at least 99.99 percent (4 log) inactivation of viruses.

(3) The purveyor using either unfiltered or "limited alternative to filtration" treated sources shall ensure that disinfection facilities provide either:

(a) Redundant components, including an auxiliary power supply with automatic start-up and alarm, to ensure continuous disinfection. Redundancy shall ensure that both the minimum inactivation requirements and the requirement for a 0.2 mg/L residual disinfectant concentration at entry to the distribution system are met at all times water is delivered to the distribution system; or

(b) Automatic shut-off of delivery of water to the distribution system when the residual disinfectant concentration in the water is less than 0.2 mg/L. Automatic shut-off shall be allowed only in systems where the purveyor demonstrates to the department's satisfaction that automatic shutoff will not endanger health or interfere with fire protection.

(4) Disinfectant residual entering the distribution system.

(a) The purveyor shall ensure that water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than four hours on any day shall be considered a treatment technique violation.

(5) Disinfectant residuals within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least ninety-five percent of the samples taken each calendar month.

(b) The purveyor of a system that purchases completely treated surface or GWI water as determined by the department shall comply with the requirements specified in (a) of this subsection.

(c) Water in the distribution system with an HPC level less than or equal to 500 organisms/ml is considered to have a detectable residual disinfectant concentration.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-694 Monitoring for unfiltered systems. (1) Source coliform monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are representative and:

(i) Collected before the first point of disinfectant application; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) The purveyor shall ensure source samples are collected for fecal coliform analysis each week the system serves water to the public based on the following schedule:

Population Served	Minimum Number/week*
25 - 500	1
501 - 3,300	2
3,301 - 10,000	3
10,001 - 25,000	4
>25,000	5

*Must be taken on separate days.

(c) Each day the system serves water to the public and the turbidity of the source water exceeds 1.0 NTU, the purveyor shall ensure one representative source water sample is collected before the first point of disinfectant application and analyzed for fecal coliform density. This sample shall count toward the weekly source coliform sampling requirement.

(d) A purveyor shall not be considered in violation of (c) of this subsection, if the purveyor demonstrates to the department's satisfaction that, for valid logistical reasons outside the purveyor's control, the additional fecal coliform sample could not be analyzed within a time frame acceptable to the department.

(2) Source coliform monitoring for systems with a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of primary disinfection; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to ten percent the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater, up to a maximum of one sample per day.

(3) Coliform monitoring at entry to distribution for systems without a limited alternative to filtration.

(a) The purveyor shall collect and have analyzed one coliform sample at the entry point to the distribution system each day that a routine or repeat coliform sample is collected within the distribution system under WAC 246-290-300(3) or 246-290-320(2), respectively.

(b) The purveyor shall use the results of the coliform monitoring at entry to distribution along with inactivation ratio monitoring results to demonstrate the adequacy of source treatment.

(4) Source turbidity monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative source water samples before the first point of primary disinfectant application; and

(ii) In accordance with the analytical techniques under WAC 246-290-638.

(b) If source water turbidity is not the same as the turbidity of water delivered to consumers, the purveyor shall continuously monitor and record turbidity of water delivered.

(5) Source turbidity monitoring for systems with a limited alternative to filtration. The purveyor shall:

(a) Continuously monitor turbidity on representative source samples before the first point of primary disinfection application;

(b) Record continuous turbidity measurements at equal intervals, of at least four hours, in accordance with a department-approved sampling schedule; and

(c) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(6) Monitoring the level of inactivation.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts, viruses, and, if providing a limited alternative to filtration, any other pathogenic organisms of health concern including *Cryptosporidium* oocysts, achieved through disinfection.

(b) At least once per day, the purveyor shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

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(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(c) Each day during peak hourly flow, the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point must be before or at the first consumer.

(7) Monitoring the residual disinfectant concentration entering the distribution system for either unfiltered systems, or systems using a limited alternative to filtration.

(a) Systems serving more than thirty-three hundred people.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less people.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) A purveyor choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the grab samples at peak hourly flow based on historical flows for the system; and

(C) The remaining sample or samples at intervals evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, the purveyor shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(8) Monitoring residual disinfectant concentration within the distribution system for either unfiltration systems, or systems using a limited alternative to filtration.

(a) The purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(3) or 246-290-320(2) or once per day, whichever is greater.

(b) The purveyor of a system that purchases completely treated surface or GWI water as determined by the depart-

ment shall comply with the requirements of (a) of this subsection or as otherwise directed by the department under WAC 246-290-300 (2)(c). At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(3) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

WAC 246-290-696 Reporting for unfiltered systems.

(1) The purveyor shall report to the department as soon as possible, but no later than ~~((the end of the next business day, when))~~ twenty-four hours after the purveyor learns of any of the following events:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of water delivered to the public exceeds 5.0 NTU;

(c) The minimum level of inactivation required by the department is not met;

(d) The residual disinfectant concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within four hours; or

(e) The surface or GWI source is taken off-line due to an emergency.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-694 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water quality information, including the results of both:

- (i) Source coliform monitoring; and
- (ii) Source turbidity monitoring.

(b) Disinfection monitoring information, including:

- (i) Level of inactivation achieved;
- (ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(c) A summary of water quality complaints received from consumers served by the water system.

(4) The purveyor of a system that purchases completely treated water shall:

(a) Report results of distribution system residual disinfectant concentration monitoring to the department using department-approved forms or format; and

(b) Submit forms to the department in accordance with subsection (2) of this section or as otherwise directed by the department.

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(5) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

(6) Beginning in 1992, by October 10th of each year, the purveyor shall submit to the department an annual comprehensive report that summarizes the:

(a) Effectiveness of the watershed control program and identifies, at a minimum, the following:

(i) Activities in the watershed that are adversely affecting source water quality;

(ii) Changes in the watershed that have occurred within the previous year that could adversely affect source water quality;

(iii) Activities expected to occur in the watershed in the future and how the activities will be monitored and controlled;

(iv) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(v) Special concerns about the watershed and how the concerns are being addressed;

(b) System's compliance with the criteria to remain unfiltered under WAC 246-290-690, or, when applicable, the criteria required if the system provides a limited alternative to filtration under WAC 246-290-691; and

(c) Significant changes in system design and/or operation that have occurred within the previous year that impact the ability of the system to comply with the criteria to remain unfiltered, or, if applicable, the ability of the system to provide a limited alternative to filtration in accordance with WAC 246-290-692.

(7) The purveyor of a system attempting to remain unfiltered or to remain with a limited alternative to filtration shall submit a *Filtration Decision Report* at the request of the department. The report shall:

(a) Provide the information by which the department may determine whether a system continues to meet the criteria to remain unfiltered or, if applicable, the criteria allowing the provision of a limited alternative to filtration; and

(b) Be submitted on a schedule as specified by the department.

SUBPART A - PUBLIC NOTIFICATION AND CONSUMER INFORMATION

NEW SECTION

WAC 246-290-71001 Public notification. (1) The purveyor shall notify the water system users and the owner or operator of any consecutive water system served in accordance with 40 CFR 141.201 through 208. Notice is to be provided when the system violates a National Primary Drinking Water Regulation and when any of the situations listed in Table 1 of 40 CFR 141.201 occur, except for (3)(b). Public notifications for violations and other situations are categorized into Tiers in accordance with the following:

(a) Tier 1 as described in Table 1 of 40 CFR 141.202(a);

(b) Tier 2 as described in Table 1 of 40 CFR 141.203(a);

or

(c) Tier 3 as described in Table 1 of 40 CFR 141.204(a).

(2) The purveyor shall initiate consultation with the department as soon as possible, but no later than twenty-four hours after they learn their system has a Tier 1 violation or situation in order to determine if additional public notice is required. The purveyor shall comply with any additional public notification requirements established as a result of the consultation.

(3) The purveyor shall notify the water system users when the system:

(a) Is issued a departmental order;

(b) Fails to comply with a departmental order; or

(c) Is issued a category red operating permit.

NEW SECTION

WAC 246-290-71002 Public notice content. (1) Public notices required under WAC 246-290-71001(1) shall contain the elements and standard language required under 40 CFR 141.205 (a), (b), and (d) and be presented in accordance with 40 CFR 141.205 (c), except that notification of the availability of unregulated contaminant results and notification of an exceedance of the secondary MCL for fluoride shall be in accordance with WAC 246-290-71005.

(2) Public notices required under WAC 246-290-71001(3)(a) and (c) for the issuance of a departmental order or category red operating permit shall include:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with WAC 246-290-71004(2);

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

(f) The purveyor's name and telephone number; and

(g) When appropriate, notices shall be bilingual or multilingual.

Note: The purveyor may provide additional information to further explain the situation.

NEW SECTION

WAC 246-290-71003 Public notification distribution.

(1) Purveyors must provide public notice as required under WAC 246-290-71001(1) according to Tier designation generally described in 40 CFR 141.201. The form, manner, timing and frequency for each Tier of public notice, as defined in Table 2 of 40 CFR 141.201 shall be in accordance with:

(a) 40 CFR 141.202 for Tier 1 public notice.

(b) 40 CFR 141.203 for Tier 2 public notice.

(c) 40 CFR 141.204 for Tier 3 public notice.

(2) In addition, notice to new billing units and consumers must be given in accordance with 40 CFR 141.206.

(3) Purveyors of community, NTNC and TNC systems shall provide notice as described in this subsection, or as described in a departmental order within three months of receipt of a departmental order, or a category red operating

permit. The purveyor shall provide the department with a copy of the notice at the time the purveyor notifies the public.

(a) Purveyors of community and NTNC systems shall provide newspaper notice to water system users.

(i) "Newspaper notice," as used above, means publication in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the area. The purveyor may substitute a community or homeowner's association newsletter or similar periodical publication if the newspaper reaches all affected consumers within the specified time.

(ii) The purveyor shall substitute a posted notice in the absence of a newspaper of general circulation or homeowner's association newsletter or similar periodical publication. The purveyor shall post the notice within the time frame specified in this subsection.

(b) Purveyors of TNC systems shall post a notice or notify consumers by other methods authorized by the department for receipt of a red operating permit.

(c) The purveyor shall place posted notices in conspicuous locations and present the notices in a manner making them easy to read. Notices shall remain posted until the violation is corrected.

(d) The purveyor of a community or NTNC water system shall give a copy of the most recent public notice for all outstanding violations to all new billing units or new hookups before or at the time water service begins.

NEW SECTION

WAC 246-290-71004 Public notification mandatory language. (1) Public notice required under WAC 246-290-71001(1) shall contain any specific health effects language set forth in WAC 246-290-72012 in accordance with 40 CFR 141.205 (d)(1) and other standard language in accordance with 40 CFR 141.205 (d)(2) and (3), except that notification of the availability of unregulated contaminant results and notification of the exceedance of the secondary MCL for fluoride shall be in accordance with WAC 246-290-71005.

(2) The purveyor shall provide specific mandatory language, contained in department guidance, in its notification when the purveyor is issued a category red operating permit.

NEW SECTION

WAC 246-290-71005 Special public notification requirements. (1) The purveyor of community or NTNC water systems required to monitor under WAC 246-290-300(8) shall notify the water system users of the availability of the results of monitoring for unregulated contaminants no later than twelve months after the monitoring results are known. The form and manner of the public notice to the water system users shall be in accordance with 40 CFR 141.204 (c), (d)(1), and (d)(3). The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

(2) The purveyor of a community water system that experiences a secondary MCL violation for fluoride shall provide notice, in accordance with the form, manner, timing and content requirements of 40 CFR 141.208.

NEW SECTION

WAC 246-290-71006 Consumer information. The purveyor shall provide consumer information to the water system users within twenty-one days of receipt of confirmation sample results when the department determines that a substance not included in this chapter is confirmed at a level greater than a SAL.

(1) Consumer information shall include:

(a) Name and level of chemical detected;

(b) Location where the chemical was detected;

(c) Any health effects that the chemical could cause at its present concentration;

(d) Plans for follow-up activities; and

(e) The purveyor's name and telephone number.

(2) Consumer information shall be distributed by any of the following methods:

(a) Notice placed in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the affected area;

(b) Direct mail to consumers;

(c) Posting for at least one week if a NTNC system; or

(d) Any other method approved by the department.

NEW SECTION

WAC 246-290-71007 Public notification special provisions. (1) When circumstances dictate, the purveyor shall give a broader or more immediate notice to protect public health. The department may require the purveyor's notification by whatever means necessary.

(2) When the state board of health grants a public water system a waiver, the purveyor shall notify consumers and new billing units or new customers before water service begins. The purveyor shall provide a notice annually and send a copy to the department.

(3) The department may give notice to the water system users and the owner or operator of any consecutive water system served as required by this section on behalf of the water purveyor. However, the purveyor remains responsible for ensuring Part 7, Subpart A requirements are met.

AMENDATORY SECTION (Amending WSR 00-15-080, filed 7/19/00, effective 8/19/00)

WAC 246-290-72001 Purpose and applicability of the consumer confidence report requirements. WAC 246-290-72001 through 246-290-72012 establishes minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) Notwithstanding the provisions of WAC 246-290-020, this section applies only to community water systems.

(2) For the purpose of WAC 246-290-72001 through 246-290-72012:

(a) "Customers" means billing units or service connections to which water is delivered by a community water system.

(b) "Detected" means at or above the levels prescribed by WAC 246-290-300(4) for inorganic contaminants, at or above the levels prescribed by WAC 246-290-300(~~(7)~~)(8) for organic contaminants, and at or above the levels prescribed by 40 CFR 141.25(c) for radioactive contaminants.

AMENDATORY SECTION (Amending WSR 00-15-080, filed 7/19/00, effective 8/19/00)

WAC 246-290-72005 Report contents—Information on detected contaminants. (1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, action level, maximum residual disinfectant level or treatment technique (regulated contaminants);

(b) Contaminants for which monitoring is required by WAC 246-290-300(~~(8)~~)(9); and

(c) Disinfection by-products for which monitoring is required by WAC 246-290-300(~~(6)~~)(7) and 40 CFR 141.142 or microbial contaminants for which monitoring is required by WAC 246-290-300(3) and 40 CFR 141.143, except as provided under WAC 246-290-72006(1), and which are detected in the finished water.

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with the Environmental Protection Agency and state monitoring and analytical requirements during the previous calendar year except that:

(a) Where a system is allowed to monitor for regulated contaminants less than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

(b) Results of monitoring in compliance with 40 CFR 141.142 and 40 CFR 141.143 need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(4) For detected regulated contaminants listed in WAC 246-290-72012, the table(s) must contain:

(a) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72012);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in WAC 246-290-72004;

(d) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with a National Primary Drinking Water Regulation and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: The highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: The highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: The average and range of detection expressed in the same units as the MCL.

(iv) Note to WAC 246-290-72005 (4)(d): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72012;

(e) For turbidity.

(i) When it is reported (~~(pursuant to)~~) under chapter 246-290 WAC Part 6, Subpart C: The highest average monthly value.

(ii) When it is reported (~~(pursuant to)~~) under the requirements of chapter 246-290 WAC Part 6, Subpart D: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported (~~(pursuant to)~~) under chapter 246-290 WAC Part 6, Subpart B: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in chapter 246-290 WAC Part 6, Subpart B for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(f) For lead and copper: The 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(g) For total coliform:

(i) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(ii) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;

(h) For fecal coliform: The total number of positive samples; and

(i) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72012 which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the

table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: The length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of WAC 246-290-72012.

(7) For detected unregulated contaminants for which monitoring is required, the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

AMENDATORY SECTION (Amending WSR 00-15-080, filed 7/19/00, effective 8/19/00)

WAC 246-290-72007 Report contents—Compliance with National Primary Drinking Water Regulations. In addition to the requirements of WAC 246-290-72005(6), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(1) Monitoring and reporting of compliance data;

(2) Filtration and disinfection prescribed by chapter 246-290 WAC, Part 6. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of ~~((such))~~ the equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(3) Lead and copper control requirements prescribed by WAC 246-290-025, specifically CFR 141.80 through 141.91: For systems which fail to take one or more actions prescribed by WAC 246-290-025, specifically CFR 141.80 through 141.84, the report must include the applicable language of WAC 246-290-72012 for lead, copper, or both.

(4) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by 40 CFR, Subpart K. For systems which violate the requirements of 40 CFR, Subpart K, the report must include the relevant language from WAC 246-290-72012.

(5) Recordkeeping of compliance data.

(6) Special monitoring requirements prescribed by WAC 246-290-300~~((§))~~(9) (unregulated contaminants) and 246-290-310(3) (sodium); and

(7) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

AMENDATORY SECTION (Amending WSR 00-15-080, filed 7/19/00, effective 8/19/00)

WAC 246-290-72010 Report contents—Required additional health information. All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. Environmental Protection Agency/Centers for Disease Control guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(1) Beginning in the report due by July 1, 2002, a system which detects arsenic ((~~at~~)) levels above ((~~25 micrograms per liter, but below the MCL~~)) 0.005 mg/L and up to and including 0.01 mg/L:

(a) Must include in its report a short informational statement about arsenic, using language such as: ~~((EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally occurring mineral known to cause cancer in humans at high concentrations.))~~ While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the cost of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems.

(b) May write its own educational statement, but only in consultation with the department.

(2) A system which detects nitrate at levels above 5 mg/l, but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue-baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant, you should ask for advice from your health care provider.

(b) May write its own educational statement, but only in consultation with the department.

(3) Systems which detect lead above the action level in more than five percent, and up to and including ten percent, of homes sampled:

(a) Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your

home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for thirty seconds to two minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

(b) May write its own educational statement, but only in consultation with the department.

(4) Community water systems that detect TTHM above 0.080 mg/l, but below the MCL in WAC 246-290-310(4), as

an annual average, monitored and calculated under the provisions of WAC 246-290-300(6), must include health effects language prescribed by WAC 246-290-72012.

(5) Beginning in the report due by July 1, 2002, and ending January 22, 2006, a community water system that detects arsenic above 0.01 mg/L and up to and including 0.05 mg/L must include the arsenic health effects language prescribed in WAC 246-290-72012.

AMENDATORY SECTION (Amending WSR 00-15-080, filed 7/19/00, effective 8/19/00)

WAC 246-290-72012 Regulated contaminants.

Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Microbiological Contaminants						
Total Coliform Bacteria	MCL: (systems that collect ≥ 40 samples/ month) 5% of monthly samples are positive; (systems that collect < 40 samples/ month) 1 positive monthly sample		MCL: (systems that collect ≥ 40 samples/ month) 5% of monthly samples are positive; (systems that collect < 40 samples/ month) 1 positive monthly sample	0	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
Fecal coliform and <i>E. coli</i>	0		0	0	Human and animal fecal waste	Fecal coliforms and <i>E. coli</i> are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, <u>some of the elderly</u> , and people with severely-compromised immune systems.
Total organic carbon (ppm)	TT	-	TT	n/a	Naturally present in the environment	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection by-products. These by-products include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these by-products <u>in excess of the MCL</u> may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Turbidity (NTU)	TT.	-	TT	n/a	Soil runoff	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
Radioactive Contaminants						
Beta/photon emitters (mrem/yr) <i>*Effective 12/08/03</i>	4 mrem/yr	-	4	n/a 0	Decay of natural and man-made deposits	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Alpha emitters (pCi/l) <i>*Effective 12/08/03</i>	15 pCi/l	-	15	n/a 0	Erosion of natural deposits	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Combined radium (pCi/l) <i>*Effective 12/08/03</i>	5 pCi/l	-	5	n/a 0	Erosion of natural deposits	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Uranium (pCi/l) <i>*Effective 12/08/03</i>	30 micro g/l	-	30	0	<u>Erosion of natural deposits</u>	<u>Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.</u>
Inorganic Contaminants						
Antimony (ppb)	.006	1000	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
Arsenic (ppb) <i>*Effective 1/23/06</i>	.05 <u>0.01</u>	1000 <u>1000</u>	50 <u>10</u>	n/a 0	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
Asbestos (MFL)	7 MFL	-	7	7	Decay of asbestos cement water mains; Erosion of natural deposits	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Barium (ppm)	2	-	2	2	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
Beryllium (ppb)	.004	1000	4	4	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
Cadmium (ppb)	.005	1000	5	5	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
Chromium (ppb)	.1	1000	100	100	Discharge from steel and pulp mills; Erosion of natural deposits	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
Copper (ppm)	AL = 1.3	-	AL = 1.3	1.3	Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
Cyanide (ppb)	.2	1000	200	200	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
Fluoride (ppm)	4	-	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or ((greater)) more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

PERMANENT

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Lead (ppb)	AL = .015	1000	AL = 15	0	Corrosion of household plumbing systems; Erosion of natural deposits	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.
Mercury [inorganic] (ppb)	.002	1000	2	2	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
Nitrate (ppm)	10	-	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Nitrite (ppm)	1	-	1	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Selenium (ppb)	.05	1000	50	50	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
Thallium (ppb)	.002	1000	2	0.5	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
Synthetic Organic Contaminants including Pesticides and Herbicides						
2,4-D (ppb)	.07	1000	70	70	Runoff from herbicide used on row crops	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
2,4,5-TP [Silvex](ppb)	.05	1000	50	50	Residue of banned herbicide	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.

Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Acrylamide	TT	-	TT	0	Added to water during sewage/ wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
Alachlor (ppb)	.002	1000	2	0	Runoff from herbicide used on row crops	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
Atrazine (ppb)	.003	1000	3	3	Runoff from herbicide used on row crops	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.
Benzo(a)pyrene [PAH] (nanograms/l)	.0002	1,000,000	200	0	Leaching from linings of water storage tanks and distribution lines	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
Carbofuran (ppb)	.04	1000	40	40	Leaching of soil fumigant used on rice and alfalfa	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
Chlordane (ppb)	.002	1000	2	0	Residue of banned termiticide	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
Dalapon (ppb)	.2	1000	200	200	Runoff from herbicide used on rights of way	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
Di(2-ethylhexyl) adipate (ppb)	.4	1000	400	400	Discharge from chemical factories	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.
Di(2-ethylhexyl) phthalate (ppb)	.006	1000	6	0	Discharge from rubber and chemical factories	Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Dibromochloropropane (ppt)	.0002	1,000,000	200	0	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.
Dinoseb (ppb)	.007	1000	7	7	Runoff from herbicide used on soybeans and vegetables	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
Diquat (ppb)	.02	1000	20	20	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
Dioxin [2,3,7,8-TCDD] (ppq)	.00000003	1,000,000,000	30	0	Emissions from waste incineration and other combustion; Discharge from chemical factories	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
Endothall (ppb)	.1	1000	100	100	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
Endrin (ppb)	.002	1000	2	2	Residue of banned insecticide	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
Epichlorohydrin	TT	-	TT	0	Discharge from industrial chemical factories; An impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
Ethylene dibromide (ppt)	.00005	1,000,000	50	0	Discharge from petroleum refineries	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
Glyphosate (ppb)	.7	1000	700	700	Runoff from herbicide use	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
Heptachlor (ppt)	.0004	1,000,000	400	0	Residue of banned pesticide	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Heptachlor epoxide (ppt)	.0002	1,000,000	200	0	Breakdown of heptachlor	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
Hexachlorobenzene (ppb)	.001	1000	1	0	Discharge from metal refineries and agricultural chemical factories	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
Hexachlorocyclo-pentadiene (ppb)	.05	1000	50	50	Discharge from chemical factories	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
Lindane (ppt)	.0002	1,000,000	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
Methoxychlor (ppb)	.04	1000	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
Oxamyl [Vydate] (ppb)	.2	1000	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
PCBs [Polychlorinated biphenyls] (ppt)	.0005	1,000,000	500	0	Runoff from landfills; Discharge of waste chemicals	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
Pentachlorophenol (ppb)	.001	1000	1	0	Discharge from wood preserving factories	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
Picloram (ppb)	.5	1000	500	500	Herbicide runoff	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
Simazine (ppb)	.004	1000	4	4	Herbicide runoff	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Toxaphene (ppb)	.003	1000	3	0	Runoff/leaching from insecticide used on cotton and cattle	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
Volatile Organic Contaminants						
Benzene (ppb)	.005	1000	5	0	Discharge from factories; Leaching from gas storage tanks and landfills	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
Bromate (ppb)	.010	1000	10	0	By-product of drinking water chlorination	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Carbon tetrachloride (ppb)	.005	1000	5	0	Discharge from chemical plants and other industrial activities	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
Chloramines (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who (contact) use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who (contact) use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite (ppm)	1	-	1	0.8	By-product of drinking water chlorination	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Chlorine dioxide (ppb)	MRDL = .8	1000	MRDL = 800	MRDLG = 800	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Chlorobenzene (ppb)	.1	1000	100	100	Discharge from chemical and agricultural chemical factories	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
o-Dichlorobenzene (ppb)	.6	1000	600	600	Discharge from industrial chemical factories	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
p-Dichlorobenzene (ppb)	.075	1000	75	75	Discharge from industrial chemical factories	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
1,2-Dichloroethane (ppb)	.005	1000	5	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
1,1-Dichloroethylene (ppb)	.007	1000	7	7	Discharge from industrial chemical factories	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
cis-1,2-Dichloroethylene (ppb)	.07	1000	70	70	Discharge from industrial chemical factories	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
trans-1,2-Dichloroethylene (ppb)	.1	1000	100	100	Discharge from industrial chemical factories	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
Dichloromethane (ppb)	.005	1000	5	0	Discharge from pharmaceutical and chemical factories	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
1,2-Dichloropropane (ppb)	.005	1000	5	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Ethylbenzene (ppb)	.7	1000	700	700	Discharge from petroleum refineries	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
Haloacetic Acids (HAA) (ppb)	.060	1000	60	n/a	By-product of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
Styrene (ppb)	.1	1000	100	100	Discharge from rubber and plastic factories; Leaching from landfills	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
Tetrachloroethylene (ppb)	.005	1000	5	0	Discharge from factories and dry cleaners	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
1,2,4-Trichlorobenzene (ppb)	.07	1000	70	70	Discharge from textile-finishing factories	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
1,1,1-Trichloroethane (ppb)	.2	1000	200	200	Discharge from metal degreasing sites and other factories	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
1,1,2-Trichloroethane (ppb)	.005	1000	5	3	Discharge from industrial chemical factories	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
Trichloroethylene (ppb)	.005	1000	5	0	Discharge from metal degreasing sites and other factories	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
TTHMs [Total trihalomethanes] (ppb)	0.10/.080	1000	100/80	n/a	By-product of drinking water chlorination	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.

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Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Toluene (ppm)	1	-	1	1	Discharge from petroleum factories	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
Vinyl Chloride (ppb)	.002	1000	2	0	<u>Leaching from PVC piping</u> ; Discharge from plastics factories	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
Xylenes (ppm)	10	-	10	10	Discharge from petroleum factories; Discharge from chemical factories	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

Key

- AL = Action Level
- MCL = Maximum Contaminant Level
- MCLG = Maximum Contaminant Level Goal
- MFL = million fibers per liter
- MRDL = Maximum Residual Disinfectant Level
- MRDLG = Maximum Residual Disinfectant Level Goal
- mrem/year = millirems per year (a measure of radiation ((absorbed)) absorbed by the body)
- N/A = Not Applicable
- NTU = Nephelometric Turbidity Units (a measure of water clarity)
- pCi/l = picocuries per liter (a measure of radioactivity)
- ppm = parts per million, or milligrams per liter (mg/l)
- ppb = parts per billion, or micrograms per liter (µg/l)
- ppt = parts per trillion, or nanograms per liter
- ppq = parts per quadrillion, or picograms per liter
- TT = Treatment Technique

PERMANENT

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-290-495 Public notification.

**WSR 03-08-040
PERMANENT RULES**

UNIVERSITY OF WASHINGTON

[Filed March 27, 2003, 1:44 p.m., effective April 1, 2004]

Date of Adoption: March 21, 2003.

Purpose: To amend the academic calendar for the University of Washington, specifically with regard to the beginning and ending dates for autumn quarter and the beginning date for winter quarter.

Citation of Existing Rules Affected by this Order: Amending WAC 478-132-030.

Statutory Authority for Adoption: RCW 28B.20.130.

Adopted under notice filed as WSR 03-02-023 on December 23, 2003.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Effective Date of Rule: April 1, 2004.

March 25, 2003

Rebecca Goodwin Deardorff, Director
Administrative Procedures Office

AMENDATORY SECTION (Amending WSR 00-04-038, filed 1/25/00, effective 2/25/00)

WAC 478-132-030 University calendar. The calendar at the university consists of four quarters, which normally begin and end as follows:

(1) The autumn quarter shall begin on ~~((September 25 when it falls on a Monday, otherwise it shall begin on the first Monday following September 25,))~~ the last Wednesday in September and end on the twelfth ~~((Thursday))~~ Friday thereafter.

(2) The winter quarter shall begin on the first Monday after January 1 and end on the eleventh Friday thereafter. When January 1 falls on Sunday, the winter quarter shall begin on Tuesday January 3; when January 1 falls on Monday, the winter quarter shall begin on Wednesday January ~~((2))~~ 3.

(3) The spring quarter shall begin on the second Monday after the close of winter quarter and end on the eleventh Friday thereafter. The June commencement shall be the Saturday immediately following the last day of spring quarter.

(4) The summer quarter shall begin on the second Monday following the June commencement and end on the ninth Friday thereafter.

(5) Certain academic programs may begin or end on schedules different from those in subsections (1) through (4) of this section with the approval of the provost. In such cases, it will be the responsibility of the appropriate dean to provide advance notice to the affected students.

WSR 03-08-043

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 27, 2003, 4:17 p.m.]

Date of Adoption: March 27, 2003.

Purpose: To amend chapter 308-20 WAC, Cosmetologists, barbers, manicurists, and estheticians. The department has reviewed the rule noted and recommends amending the grading on the performance exam from a 76% passing grade on each section to an overall minimum passing grade of 75% with no section being scored lower than 40%.

Citation of Existing Rules Affected by this Order: Amending WAC 308-20-120 Written and performance examinations.

Statutory Authority for Adoption: RCW 18.16.030 and 43.24.023.

Adopted under notice filed as WSR 03-05-058 on February 14, 2003.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

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

March 27, 2003

Trudie Touchette

Acting Administrator

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-120 Written and performance examinations. (1) When an applicant for examination as a cosmetologist, barber, manicurist, esthetician or instructor completes the course required in RCW 18.16.100 or meets the requirement to take the examinations described in RCW 18.16.130, the department shall administer or approve the administration of a written and performance license examination. The department may approve written or performance examinations given by department-approved examination providers.

(2) The written and performance examinations for cosmetologist, barber, manicurist and esthetician shall ~~((be constructed to))~~ reasonably measure the applicant's knowledge of safe and sanitary practice. The performance examinations may be divided into skill sections. The overall minimum passing ~~((score))~~ grade for performance examinations shall be ~~((seventy-six))~~ seventy-five percent ~~((of each examination section or unit))~~ with no section being scored lower than forty percent. If an individual scores lower than forty percent in any one section, the entire performance examination must be retaken. The minimum passing ~~((score))~~ grade for the written examinations shall be seventy-six percent of the total examination questions.

(3) The written and performance examinations for instructors shall be constructed to measure the applicant's knowledge of lesson planning and teaching techniques. The overall minimum passing ~~((score))~~ grade for the performance examination shall be eighty percent ~~((of each examination section or unit))~~. The minimum passing ~~((score))~~ grade for the written examination shall be eighty percent of the total examination questions.

~~((4) Performance examinations shall be divided into skills section or units.))~~

PERMANENT

WSR 03-08-050

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 28, 2003, 2:25 p.m.]

Date of Adoption: March 25, 2003.

Purpose: To clarify statutory requirements under RCW 42.17.680.

Citation of Existing Rules Affected by this Order: New WAC 390-17-110.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 03-04-094 on February 4, 2003.

Changes Other than Editing from Proposed to Adopted Version: The commission adopted new language in subsection (2)(a) clarifying that an employer withholding payroll deductions for contributions to a candidate or political committee and the recipient committee may agree on which of them shall send the notification.

The new rule, adopted by the Public Disclosure Commission on March 25, 2003, states that employees from whom wages and salary are withheld under RCW 42.17.680 will be notified annually of the provisions in subsection (2) and that the employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries will ensure that employees are notified of the right to revoke, at any time, the request to have contributions withheld.

The proposal also provides for a contact name and address where revocation requests can be sent, outlines examples of what would constitute "written notification" and provides guidance on the use of newsletters or similar publications and the retention of records.

The commission adopted amended language at the March 25, 2003, public hearing allowing the employer and the recipient (candidate, political committee or sponsor of the political committee) to agree on who shall send the annual notice to employees. The adopted language was a change from the notice submitted to the code reviser on February 4, 2003, and designed to explicitly state in rule what had been seen as inherent in the earlier language: That the employer or withholder of funds must ensure the revocation notice is provided to employees, but that notice may in fact be provided by the recipient political committee or its sponsor.

The new language is found under subsection (2)(a) of new rule WAC 390-17-110 and reads as follows: "The employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries and the candidate, political committee, or sponsor of the political committee may agree on which of them shall send the notification."

The general subject matter of the adopted rule remains the same as the proposed rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

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

March 28, 2003

Vicki Rippie

Executive Director

NEW SECTION

WAC 390-17-110 Employee notification of withholding provisions. (1)(a) By June 30, 2003, and at least annually by June 30 thereafter, employees from whom funds are being withheld for contributions to a candidate or political committee under RCW 42.17.680 shall be notified, in writing, of the nondiscriminatory provisions of RCW 42.17.680(2). Employee notification shall include the following language:

"No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for:

- (i) The failure to contribute to;
- (ii) The failure in any way to support or oppose; or
- (iii) In any way supporting or opposing a candidate, ballot proposition, political party, or political committee."

(b) The written notification shall be provided by the employer or labor organization. The employer or labor organization may agree on which entity shall send the notification.

(2)(a) Pursuant to RCW 42.17.680(3), by June 30, 2003, and at least annually by June 30 thereafter, each employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries shall ensure written notification is directly provided to the employees from whom funds are being withheld for contributions to a candidate or political committee stating that the employee authorization for withholding of wages or salary for such contributions may be revoked at any time. The employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries and the candidate, political committee, or sponsor of the political committee may agree on which of them shall send the notification.

(b) The written notification shall identify where an employee can submit the revocation, which shall be either:

- (i) The name and address of employer's contact; or
- (ii) The name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries.

(c) The employee withholding authorization is revoked as of:

- (i) The date specified in the revocation; or
- (ii) If no date is specified, as of the date the written notification is received by the employer or other person or entity

responsible for the disbursement of funds in payment of wages or salaries pursuant to RCW 42.17.680.

(3) "Written notification" means notice provided by mail, e-mail, newsletter, payroll insert or other similar direct communication in writing that is addressed to the employee. Posting information on websites, bulletin boards and other passive communication vehicles shall not constitute notification under RCW 42.17.680. If the written notification appears in a newsletter or similar publication, the notice shall be prominently displayed or announced on the first page of the written communication.

(4) Each employer or other person who provides notice pursuant to subsection (1) or (2) of this section shall maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.

WSR 03-08-052

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 28, 2003, 2:28 p.m.]

Date of Adoption: March 25, 2003.

Purpose: To clarify statutory requirements under RCW 42.17.680.

Citation of Existing Rules Affected by this Order: Amending WAC 390-17-100.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 03-01-088 on December 16, 2002.

Changes Other than Editing from Proposed to Adopted Version: The commission adopted new language in subsection (2) that identifies what is required in payroll deduction forms generically rather than specific employer or labor organization forms.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

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

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

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

March 28, 2003

Vicki Rippie

Executive Director

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93, effective 8/30/93)

WAC 390-17-100 Contribution withholding authorizations. (1) ~~((For purposes of RCW 42.17.680(3), all political contribution withholding authorizations existing on or before January 1, 1993, will expire no later than December 31, 1993. Beginning January 1, 1994,))~~ Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington

(a) For the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17.040, ~~((42.17.050, 42.17.060 or 42.17.090 (1)(k)))~~ 42.17.050, 42.17.065, 42.17.080 or 42.17.090, or

(b) For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required for (a) and (b) to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) ~~((Employers may either use))~~ Forms used for payroll deduction may either conform to the suggested format below or ((their own form)) in a different format if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name ~~((city and state))~~ of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

~~((The date on which the authorized withholdings or diversions are to be effective;))~~

~~((f))~~ A statement specifying that the authorization ((is not valid for more than 12 months after the effective date)) may be revoked at any time and such revocation shall be in writing;

~~((g))~~ (f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee;" or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17.680(2);

~~((h))~~ (g) The individual's signature; and

~~((i))~~ (h) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above. ~~((The forms may accommodate annual re-authorization by providing space for the employee's signature and the date of re-authorization is signed, up to three re-authorizations.))~~

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a non-resident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without ((annual,)) written permission from that individual. Completion of this form entitles the entity specified to make such a withholding ((for no more than 12 consecutive months)). This authorization form remains in effect until revoked in writing by the employee.

I, _____, authorize _____, authorize
First Name Middle Initial Last Name Name of Employer or Other Person
_____ to withhold \$ _____ per/pay period/week/month/year/
Amount Circle One

from my earnings in order to make political contributions to _____
Name(, City and State) of _____

political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____ ((This authorization is

valid for no more than twelve consecutive months. It is effective on _____
Month/Day/Year

and expires on _____
Month/Day/Year))

Signature: _____ Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

WSR 03-08-053
PERMANENT RULES
WASHINGTON STATE PATROL
[Filed March 28, 2003, 3:20 p.m.]

Date of Adoption: March 25, 2003.

Purpose: To expand the definition of a convicted felon in the WAC from those adults and juveniles convicted of a sex offense or a violent offense to those adults and juveniles convicted of any felony as well as the three misdemeanor offenses of stalking, harassment and communicating with a minor for immoral purposes.

Citation of Existing Rules Affected by this Order: Amending chapter 446-75 WAC.

Statutory Authority for Adoption: RCW 43.43.759.

Adopted under notice filed as WSR 03-04-070 on February 3, 2003.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

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

Effective Date of Rule: Thirty-one days after filing.
March 28, 2003
Ronald W. Serpas
Chief

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-010 Definitions. (1) "DNA" wherever used in this chapter shall mean deoxyribonucleic acid.

(2) "Convicted felon" wherever used in this chapter shall mean ((every individual convicted on or after July 1, 1990 in a Washington superior court of a felony defined as a sex offense under RCW 9.94A.030 (29)(a) or a violent offense as defined in RCW 9.94A.030(32))):

(a) Every individual convicted after July 1, 1990, of a felony defined as a sex or violent offense under RCW 9.94A.030;

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(b) Every individual convicted on or before July 1, 1990, of a felony defined as a sex or violent offense under RCW 9.94A.030, who is still incarcerated on or after July 25, 1999;

(c) Every juvenile adjudicated guilty after July 1, 1994, of a felony defined as a sex or violent offense under RCW 9.94A.030 or an equivalent juvenile offense;

(d) Every juvenile adjudicated guilty on or before July 1, 1994, of a felony defined as a sex or violent offense under RCW 9.94A.030 or an equivalent juvenile offense, who is still incarcerated on or after July 25, 1999;

(e) Every adult or juvenile convicted of a felony, stalking under RCW 9A.46.100, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, on or after July 1, 2002;

(f) Every adult or juvenile convicted of a felony, stalking under RCW 9A.46.100, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, before July 1, 2002, who is still incarcerated on or after July 1, 2002.

(3) "DNA identification" wherever used in this chapter shall mean the identification of a particular individual from the chemical structure of the DNA contained in cells of the human body.

(4) "Biological sample" wherever used in this chapter means a buccal swab (a swabbing of the inside of the mouth between the cheek and gum). The Washington state patrol crime laboratory division will supply a buccal swab collection kit to any agency responsible for collecting convicted felon samples for DNA typing. If there is a reason that a buccal swab cannot be obtained, a bloodstain collected by a finger stick may be taken from the individual.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-020 Purpose. The purpose of this chapter is to provide procedures for the operation of DNA identification systems as required by RCW 43.43.752 through 43.43.758, and to prohibit the improper use of DNA identification data as required by RCW 43.43.759.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-030 Purposes of DNA identification. ~~((1))~~ DNA identification systems as authorized by chapter 43.43 RCW shall be used only for ~~((two))~~ three purposes:
~~((a))~~ (1) Identification of possible suspects in criminal investigations ~~((, and (b)))~~;
 (2) Convicted felon identification databanking; ~~and~~
 (3) Identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the Federal Bureau of Investigation combined DNA index system.

~~((2))~~ DNA identifications made in response to a criminal investigation shall not be entered into any permanent or temporary databank. Such results shall be returned to the requesting agency.)

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-060 Collection of ~~((blood))~~ biological sample for DNA databank—Procedures—Time frame.

(1) The collection, preservation, and shipment of blood samples obtained from convicted felons pursuant to RCW 43.43.754 for the convicted felon databank program shall be in conformance with the "Protocol for the Collection of ~~((Blood))~~ Biological Sample for the Convicted Felon DNA Program" as prepared by the Washington state patrol crime laboratory division. Copies of the current protocol may be obtained from the Washington State Patrol Crime Laboratory Division, Olympia, WA.

~~(a) ((If the convicted felon is sentenced to one year or less in jail, the blood sample will be drawn by the county no later than 60 days from the date of conviction or prior to release, whichever comes first. If the convicted felon will spend no time in jail due to time already served, probation or other sentencing by the court, the blood shall be drawn prior to release.~~

~~(b) If the convicted felon is sentenced to more than one year in jail the sample will be drawn within 120 days after transfer to the state correctional institution by the department of corrections.)~~ If the convicted felon does not serve a term of confinement in a facility operated by the department of corrections or the department of social and health services, and does serve a term of confinement in a city or county jail facility, officials at the city or county jail facility shall be responsible for obtaining the biological sample either as part of the intake process if the person is convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002, but prior to the person's release, if the person was incarcerated before July 1, 2002.

(b) If the convicted felon serves a term of confinement in a facility operated by the department of corrections or the department of social and health services, officials at the facility shall be responsible for obtaining the biological sample either as part of the intake process if the person is convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002, but prior to the person's release, if the person was incarcerated before July 1, 2002.

(c) If the convicted felon is sentenced on or after July 1, 2002, and does not serve a term of confinement in a city, county or state facility, the local police department or sheriff's office shall be responsible for obtaining the biological sample after sentencing.

(2) Results from DNA identifications made from blood samples obtained from convicted felons under RCW 43.43.754 shall be submitted to the chief of the Washington state patrol and entered into the Washington state patrol DNA databank. Such results shall reside in the databank until expungement pursuant to WAC 446-75-070.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-070 Expungement of DNA data. (1) A person desiring the destruction of his DNA identification data from a DNA databank shall make his request therefor on a

form furnished by the chief of the Washington state patrol. The request shall be mailed or delivered to the Washington State Patrol Crime Laboratory Division, Olympia, WA.

(2) The request shall be completed, signed by the person whose record is sought to be expunged. The signature shall be notarized. It shall include the address of the applicant, the printed name and the address of the witness to the applicant's signature and such other information requested on the application as identifies the applicant and the offense for which the request of expungement is made.

(3) The request shall include proof that the person making the request for expungement is the same person whose DNA data is sought to be expunged. Such proof shall include a sworn statement of identity. When requested by the patrol, fingerprints and a blood sample shall also be required from the applicant.

(4) The request shall include proof that the person making the request has no record as a convicted felon under RCW 43.43.754 or has other lawful grounds for expungement. Such proof shall include a sworn statement from the applicant, and not-guilty or released without conviction documentation from such criminal charges. Where the finding or release is based on an order of a court, the applicant shall furnish a certified true copy of the court order.

(5) The Washington state patrol crime laboratory has discretion to deny the request for expungement.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

WAC 446-75-080 DNA identification data—Prohibitions. The use of any data obtained from DNA identification procedures is prohibited for any research or other purpose not related to a criminal investigation, to identification of human remains or missing persons, or to improving the operation of the system established by the Washington state patrol and authorized by RCW 43.43.752 through 43.43.759.

WSR 03-08-055

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 31, 2003, 9:34 a.m.]

Date of Adoption: March 25, 2003.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-250, 308-56A-265, 308-56A-270, and 308-56A-275.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 03-03-095 on January 17, 2003.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

March 25, 2003

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 99-08-065, filed 4/5/99, effective 5/6/99)

WAC 308-56A-250 Signature of registered owner on application—Exceptions. (1) **When is the signature of a registered owner(s) required?** Each registered owner is required to sign the application for certificate of ownership **except when:**

(a) The application is for the sole purpose of removing a secured party of record from the certificate of ownership;

(b) Authorized supportive documentation is used in lieu of the signature or signatures;

(c) The legal owner applies for a duplicate ((title)) certificate of ownership;

(d) There is a statutorily authorized lien filed by a government agency against the vehicle;

(e) An existing legal owner's perfected security interest is transferred to another party and the new secured party is perfecting its security interest.

(2) ~~((If there are multiple registered owners on an application for certificate of ownership, when is only one registered owner's signature required?))~~ **When is one signature acceptable on an application for certificate of ownership with multiple registered owners?** Only one registered owner's signature is required when:

(a) The last certificate of ownership was issued in another jurisdiction; and

(b) The last certificate of ownership shows multiple registered owners; and

(c) Ownership is not changing.

AMENDATORY SECTION (Amending WSR 99-08-065, filed 4/5/99, effective 5/6/99)

WAC 308-56A-265 Releasing interest. (1) **How does ~~((an))~~ a registered or legal owner release interest in a vehicle? ((A vehicle owner(s) or secured party who intends))** To release interest in a vehicle ~~((shall))~~ **a registered or legal owner must:**

(a) Sign the release of interest section provided on the certificate of ownership; or

(b) ~~((Sign))~~ **Provide** a release of interest document or form approved by the department.

(2) ~~((What forms may secured parties use in lieu of subsection (1)(a) and (b) of this section when their intent is to release interest? Secured parties who intend to release their interest in a vehicle may provide one of the following if accompanied by the most recently issued certificate of ownership:~~

~~(a) Their properly completed official lien release form; or~~

~~(b) A release of interest on its official letterhead, if the secured party is a business entity.~~

~~(3) How is the release of interest submitted on an electronically generated Washington certificate of ownership? If the Washington certificate of ownership is a paperless title, the secured party may release its interest electronically or by signing an affidavit in lieu of title.~~

~~(4) When) Do signatures releasing interest need to be notarized or certified? ~~((An owner's release of interest on department approved documents other than the certificate of ownership)) If the signatures releasing interest are not provided on the certificate of ownership, all signatures must be notarized or certified in accordance with WAC 308-56A-275.~~~~

~~((5) Are there situations when signatures would not need to be notarized or certified in order to release interest? Yes, the following are situations where notarized or certified is not required:~~

~~(a) A signature releasing interest on the certificate of ownership issued by the department or another jurisdiction;~~

~~(b) A signature releasing interest on an affidavit in lieu of title printed at a Washington paperless title institution's location;~~

~~(c) When there is a secured party and:~~

~~(i) The secured party is a business; and~~

~~(ii) Release of interest in a vehicle is in accordance with subsection (2)(a) or (b) of this section; and~~

~~(iii) The current certificate of ownership is submitted with the separate release of interest and an application for a new certificate of ownership;~~

~~(d) A release of interest or bill of sale from the registered owner when the vehicle is from a jurisdiction which does not title this type of vehicle;~~

~~(e) A release of interest or a bill of sale from a wrecker or insurance company.~~

~~(6)) (3) When are notarized or certified signatures not required on a release of interest? Signatures releasing interest do not need to be notarized or certified when:~~

~~(a) A signature releasing interest is provided on the certificate of ownership issued by the department or another jurisdiction;~~

~~(b) An approved affidavit in lieu of title printed by a lending institution that is authorized by the department to participate in the electronic title program is provided;~~

~~(c) A secured party is releasing interest; and~~

~~(i) The secured party is a business; and~~

~~(ii) Provide a release of interest document or form approved by the department; and~~

~~(iii) Is submitted with the current certificate of ownership;~~

(d) A release of interest or bill of sale from the registered owner when the vehicle is from a jurisdiction which does not title this type of vehicle;

(e) A release of interest or bill of sale from a wrecker or insurance company.

(4) When is a **release of interest not required from a registered owner** ~~((s release of interest not required))~~? A release of interest from the registered owner is not required when ~~((a))~~:

(a) The registered owner is identified as a lessee or sublessee on an ownership document.

~~((7))~~ (b) The vehicle is awarded to a different owner by legal action.

(5) What **other documentation may be used** ~~((in lieu of))~~ as a release of interest? Documents that may be used ~~((in lieu of))~~ as a release of interest include, but are not limited to ~~((a certified or notarized))~~:

(a) Bill of sale;

(b) Affidavit in lieu of title with the release of interest portion properly completed;

(c) ~~((Release of interest form;~~

~~(d) Letter of release;~~

~~(e)) Letter of release;~~

(d) Affidavit of repossession;

(e) Affidavit of sale on an abandoned vehicle report;

~~(f) ~~((Abandoned vehicle report;~~~~

~~(g)) Chattel or landlord lien form;~~

~~((h)) (g) Certificate of junk vehicle form; or~~

~~((i)) (h) Other documentation approved by the department.~~

These items may be subject to notary requirements.

AMENDATORY SECTION (Amending WSR 02-01-123, filed 12/19/01, effective 1/19/02)

WAC 308-56A-270 Forms of signature. (1) What **forms of signature** ~~((format is))~~ are acceptable to the department? The department will accept:

(a) The signature of an individual in the same form as the name appears on the application or on the certificate of ownership.

(b) The signature containing initials corresponding to the first letter of the given name(s).

(c) The signature containing a given name(s) corresponding to the initials.

(d) Common nicknames such as Bob for Robert, Jim for James, Betty for Elizabeth, etc.

(e) The signature, any memorandum, ~~((name))~~ signature stamp, mark or sign made with the intent to authenticate ~~((and))~~ an application for certificate of ownership or registration of any person provided in RCW 9A.04.110(23).

(2) What form of signature is required for business owned vehicles? Signatures for business owned vehicles must include:

(a) The name of the business or a commonly accepted abbreviation for the business;

(b) The signature of the person ~~((designated))~~ authorized to sign on behalf of the business as stated in subsection (1) of this section; and

(c) The title or position of that person.

AMENDATORY SECTION (Amending WSR 99-08-065, filed 4/5/99, effective 5/6/99)

WAC 308-56A-275 Certification of signature. Who may certify signatures?

(1) Signatures (~~(shall)~~) must be notarized by a notary public or certified by an agent(~~(s-and)~~) or subagent(~~(s)~~) appointed by the director to conduct vehicle title and registration activities on behalf of the department. The certification must include the signature and the county, office, and operator numbers of the person certifying the signature. Signatures may also be certified by one of the following:

(a) Employees authorized by the director to certify signatures. These employees are:

- (i) Deputy director; and
- (ii) Assistant director for vehicle services; and
- (iii) Administrator and managers of the division primarily responsible for vehicle title and registration; and
- (iv) Persons assigned to liaison duties between the department and its agents and subagents; and
- (v) Persons assigned the responsibility of accepting title and registration applications at the department's offices; and
- (vi) Persons assigned the responsibility for investigating vehicle dealer activities; and

(b) Persons authorized by a Washington licensed vehicle dealer, if the vehicle is sold by that dealer. The certification must include the dealer number, signature, and title(~~(s)~~) of the person certifying the signature.

(2) The person certifying the signatures shall require proof of identification. Approved identification (~~(is)~~) includes:

- (a) Drivers license; or
- (b) Any nationally or regionally recognized government issued photo identification card; or
- (c) Any two of the following:
 - (i) A nationally or regionally recognized credit card (signed);
 - (ii) (~~A signed ID card issued by a city, county, state or federal government agency;~~)
 - (~~iii~~)) Any certificate or other document issued by a government agency for the purpose of establishing identity; or
 - (d) Other documentation satisfactory to the (~~(person certifying the signature))~~ department.

WSR 03-08-067
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed March 31, 2003, 3:57 p.m.]

Date of Adoption: March 25, 2003.

Purpose: The Medical Assistance Administration is repealing WAC 388-515-1530 Coordinated community AIDS services alternatives (CASA) program, because it is no longer needed. The same services offered under this program

are available through the community options program entry system (COPEs) program (chapter 388-515 WAC).

Citation of Existing Rules Affected by this Order: Repealing WAC 388-515-1530.

Statutory Authority for Adoption: RCW 74.08.090, 34.05.353 (2)(c).

Adopted under notice filed as WSR 03-02-060 on December 27, 2002.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

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

March 25, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-515-1530	Coordinated community AIDS services alternatives (CASA) program.
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WSR 03-08-072
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION
 [Filed April 1, 2003, 11:15 a.m.]

Date of Adoption: March 20, 2003.

Purpose: The purpose of this rule is to raise the ferry tolls and modify preferential loading within the specified WACs. The revisions follow the annual review of the Washington state ferry's farebox revenue needs.

Citation of Existing Rules Affected by this Order: Amending state ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-700.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Adopted under notice filed as WSR 03-04-102 on February 4, 2003.

Changes Other than Editing from Proposed to Adopted Version: Lower Lopez Island oversized rates to ultimate tariff route equity alignment; establish a westbound transfer fare

for oversized vehicles traveling to the San Juan Islands; establish a 10% frequent commercial discount for May 2003 - May 2004; and change commercial reservation fee to a flat fee with no per trip fee.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

April 1, 2003

Aubrey Davis, Chair

Transportation Commission

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

WAC 468-300-010 Ferry passenger tolls.

((Effective 03:00 a.m. May 12, 2002))

((ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent-User Coupon-Book 20 Rides ¹	Monthly Pass ⁵	Quarterly- Pass ⁵	Annual Pass ⁵	Bicycle- Surecharge ^{2,6}
Via Passenger-Only Ferry *Seattle-Vashon	7.10	3.50	5.60	58.25	93.20	279.60	1,118.40	1.00
Via Passenger-Only Ferry Seattle to Bremerton	6.10	3.00	4.60	38.25 ⁷	93.20	279.60	1,118.40	1.00
Via Passenger-Only Ferry- Bremerton to Seattle	1.00	0.50	1.00	N/A	93.20	279.60	1,118.40	N/C
Via Auto-Ferry *Fauntleroy-Southworth	4.00	2.00	2.80	30.00	48.00	144.00	576.00	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island- *Edmonds-Kingston	5.10	2.50	3.60	38.25	61.20	183.60	734.40	1.00
Port Townsend-Keystone	2.00	1.00	1.40	30.00	48.00	144.00	576.00	0.50
*Fauntleroy-Vashon *Southworth-Vashon- *Pt. Defiance-Tablagueah	3.30	1.60	2.40	24.75	39.60	118.80	475.20	1.00
*Mukilteo-Clinton	3.10	1.50	2.20	23.25	37.20	111.60	446.40	1.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor—Sun- day-Tuesday	6.80	3.40	4.80	56.00	N/A	N/A	N/A	4.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor— Wednesday-Saturday	8.00	4.00	5.60	56.00	N/A	N/A	N/A	4.00
Between Lopez, Shaw, Oreas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
International Travel								
Anacortes to Sidney and -Sidney to all destinations	12.40	6.20	8.70	N/A	N/A	N/A	N/A	6.00
From Lopez, Shaw ¹ , Oreas and Friday Harbor to Sidney [@]	4.50	2.25	3.25	N/A	N/A	N/A	N/A	2.00
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round trip) ³	16.90	8.45	11.95	N/A	N/A	N/A	N/A	8.00))

PERMANENT

EFFECTIVE 03:00 A.M. MAY 4, 2003

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User	Monthly Pass ²	Quarterly Pass ³	Annual Pass ²	Bicycle Surcharge ^{2,6}
				Coupon Book 20 Rides ¹				
<u>Via Passenger-Only Ferry</u> <u>*Seattle-Vashon</u>	7.40	3.70	6.40	63.20	101.20	303.60	1,214.40	1.00
<u>Via Passenger-Only Ferry</u> <u>Seattle to Bremerton</u>	6.40	3.20	5.40	43.20 ⁷	101.20	303.60	1,214.40	1.00
<u>Via Passenger-Only Ferry</u> <u>Bremerton to Seattle</u>	1.00	0.50	1.00	N/A	101.20	303.60	1,214.40	N/C
<u>Via Auto Ferry</u> <u>*Fauntleroy-Southworth</u>	4.20	2.10	3.40	33.60	53.80	161.40	645.60	1.00
<u>*Seattle-Bremerton</u> <u>*Seattle-Bainbridge Island</u> <u>*Edmonds-Kingston</u>	5.40	2.70	4.40	43.20	69.20	207.60	830.40	1.00
<u>Port Townsend-Keystone</u> <u>*Fauntleroy-Vashon</u> <u>*Southworth-Vashon</u>	2.10	1.05	1.70	33.60	53.80	161.40	645.60	0.50
<u>*Pt. Defiance-Tahlequah</u> <u>*Mukilteo-Clinton</u>	3.50	1.70	2.80	28.00	44.80	134.40	537.60	1.00
<u>*Mukilteo-Clinton</u>	3.20	1.60	2.60	25.60	41.00	123.00	492.00	1.00
<u>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sun- day-Tuesday</u>	8.00	4.00	6.40	57.20	N/A	N/A	N/A	2.00 ⁸
<u>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday</u>	8.80	4.40	7.10	57.20	N/A	N/A	N/A	2.00 ⁸
<u>Between Lopez, Shaw, Orcas and Friday Harbor⁴</u>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<u>International Travel</u>								
<u>Anacortes to Sidney and Sidney to all destinations</u>	13.10	6.50	10.50	N/A	N/A	N/A	N/A	4.00 ⁹
<u>From Lopez, Shaw¹, Orcas and Friday Harbor to Sidney@</u>	4.75	2.25	4.00	N/A	N/A	N/A	N/A	1.00 ¹⁰
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)³</u>	17.85	8.75	14.50	N/A	N/A	N/A	N/A	5.00 ¹¹

EFFECTIVE 03:00 A.M. MAY 2, 2004

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User	Monthly Pass ²	Quarterly Pass ³	Annual Pass ²	Bicycle Surcharge ^{2,6}
				Coupon Book 20 Rides ¹				
<u>Via Passenger-Only Ferry</u> <u>*Seattle-Vashon</u>	7.70	3.80	6.60	65.60	105.00	315.00	1,260.00	1.00
<u>Via Passenger-Only Ferry</u> <u>Seattle to Bremerton</u>	6.70	3.30	5.60	45.60 ⁷	105.00	315.00	1,260.00	1.00
<u>Via Passenger-Only Ferry</u> <u>Bremerton to Seattle</u>	1.00	0.50	1.00	N/A	105.00	315.00	1,260.00	N/C
<u>Via Auto Ferry</u> <u>*Fauntleroy-Southworth</u>	4.40	2.20	3.60	35.20	56.40	169.20	676.80	1.00
<u>*Seattle-Bremerton</u> <u>*Seattle-Bainbridge Island</u> <u>*Edmonds-Kingston</u>	5.70	2.80	4.60	45.60	73.00	219.00	876.00	1.00
<u>Port Townsend-Keystone</u> <u>*Fauntleroy-Vashon</u> <u>*Southworth-Vashon</u>	2.20	1.10	1.80	35.20	56.40	169.20	676.80	0.50
<u>*Pt. Defiance-Tahlequah</u> <u>*Mukilteo-Clinton</u>	3.70	1.80	3.00	29.60	47.40	142.20	568.80	1.00
<u>*Mukilteo-Clinton</u>	3.40	1.70	2.80	27.20	43.60	130.80	523.20	1.00

PERMANENT

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User	Monthly Pass ²	Quarterly Pass ²	Annual Pass ²	Bicycle Surcharge ^{2,6}
				Coupon Book 20 Rides ¹				
<u>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday</u>	8.60	4.30	6.90	61.80	N/A	N/A	N/A	2.00 ⁸
<u>*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday</u>	9.50	4.70	7.60	61.80	N/A	N/A	N/A	2.00 ⁸
<u>Between Lopez, Shaw, Orcas and Friday Harbor⁴</u>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<u>International Travel</u>								
<u>Anacortes to Sidney and Sidney to all destinations</u>	13.80	6.90	11.10	N/A	N/A	N/A	N/A	4.00 ²
<u>From Lopez, Shaw¹, Orcas and Friday Harbor to Sidney@</u>	5.00	2.50	4.00	N/A	N/A	N/A	N/A	1.00 ¹⁰
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)³</u>	18.80	9.40	15.10	N/A	N/A	N/A	N/A	5.00 ¹¹

© These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a ((25)) 20% discount. The quarterly pass is based on 48 days of travel with a ((25)) 20% discount and the annual pass is based on 192 days with a ((25)) 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a ((25)) 20% discount. Passes may be available in monthly, quarterly or annual denominations.

⁶BICYCLE PASS - A bicycle pass is available on all routes except Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

⁷SEATTLE TO BREMERTON PASSENGER ONLY - Riders on Seattle to Bremerton passenger only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled).

⁸BICYCLE SURCHARGE - This becomes \$4.00 during peak season (first Sunday in May until second Sunday in October).

⁹BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

¹⁰BICYCLE SURCHARGE - This becomes \$2.00 during peak season.

¹¹BICYCLE SURCHARGE - This becomes \$8.00 during peak season.

CHILDREN/YOUTH - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through eighteen years of age will be charged the youth fare, which will be ((70)) 80% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount ((not to exceed 50 percent of full fare)) in order to enhance total revenue and effective only at designated times on designated routes ((not to exceed 100 days per year on any one route)).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount not to exceed fifty percent of full fare.

PERMANENT

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the ((second)) first Sunday of May following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied to passengers from the ((second)) first Sunday in May to the second Sunday in October, except those using frequent user tickets, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

(Effective 03:00 a.m. May 12, 2002)

(ROUTES	Vehicle Under 20' Incl. Driver One-Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over-Height Charge ¹	Frequent User Coupon-book 20-Rides ²	Motoreycles Incl. Driver Stowage ¹ One-Way@	Motorecycle-w/Sr Citizen or Disabled Driver Stowage ¹ One-Way@	Motorecycle Oversize-Charge ¹	Motorecycle Frequent User Ticket-book 20-Rides ² @
Fauntleroy-Southworth Port Townsend/Keystone	7.00	6.00	7.00	112.00	3.00	2.00	1.00	48.00
Seattle-Bainbridge Island Seattle-Bremerton-Edmonds-Kingston	9.00	7.70	9.00	144.00	3.90	2.60	1.35	62.40
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tablequah	11.75	10.05	11.75	94.00	5.00	3.30	1.70	40.00
Mukilteo-Clinton	5.50	4.70	5.50	88.00	2.40	1.60	0.80	38.40
10-Rides 5-Round Trips								
*Anacortes to Lopez-Sunday-Tuesday	17.00	13.60	17.00	80.00	8.90	5.50	2.10	83.20
*Lopez-Wednesday-Saturday	20.00	16.00	20.00	80.00	10.40	6.40	2.40	83.20
*Shaw, Orcas-Sunday-Tuesday	20.00	16.60	20.00	94.00	9.50	6.10	2.70	88.80
*Shaw, Orcas-Wednesday-Saturday	23.50	19.50	23.50	94.00	11.10	7.10	3.10	88.80
*Friday Harbor-Sunday-Tuesday	22.50	19.10	22.50	106.00	10.00	6.60	3.20	93.60
*Friday Harbor-Wednesday-Saturday	26.50	22.50	26.50	106.00	11.70	7.70	3.70	93.60
Between Lopez, Shaw, Orcas and Friday Harbor ³	10.25	10.25	10.25	41.00	3.25	3.25	3.25	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	33.50	27.30	33.50	N/A	16.70	10.50	4.30	N/A
Travelers with advanced reservations (\$15-fee)								
Anacortes to Sidney and Sidney to all destinations ⁶	18.50	12.30	33.50	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	9.75	7.50	9.75	N/A	5.50	3.25	1.25	N/A

PERMANENT

<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' Citizen or Disabled Driver⁴</u>	<u>Vehicle Under 20' Over Height Charge¹</u>	<u>Frequent User Coupon book 20 Rides²</u>	<u>Motorcycles Incl. Driver Stowage¹ One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage¹ One Way@</u>	<u>Motorcycle Oversize Charge¹</u>	<u>Motorcycle Frequent User Ticket book 20 Rides²@</u>
<u>((ROUTES</u>							
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁷</u>							
2.75	0.50	9.75	N/A	N/A	N/A	N/A	N/A
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)⁵</u>							
43.25	34.80	43.25	N/A	22.45	14.00	5.55	N/A))

EFFECTIVE 03:00 A.M. MAY 4, 2003

<u>Vehicle Under 20' Incl. Driver One Way</u>	<u>Vehicle Under 20' Citizen or Disabled Driver⁴</u>	<u>Vehicle Under 20' Over Height Charge¹</u>	<u>Frequent User Coupon book 20 Rides²</u>	<u>Motorcycle² Incl. Driver Stowage¹ One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage¹ One Way@</u>	<u>Motorcycle Oversize Charge¹</u>	<u>Motorcycle Frequent User Ticket book 20 Rides²@</u>
<u>ROUTES</u>							
<u>Fauntleroy-Southworth</u>							
<u>Port Townsend/Keystone</u>	<u>7.50</u>	<u>6.45</u>	<u>7.50</u>	<u>120.00</u>	<u>3.20</u>	<u>2.15</u>	<u>1.10</u>
<u>Seattle-Bainbridge Island</u>							
<u>Seattle-Bremerton Edmonds-Kingston</u>							
<u>9.50</u>	<u>8.15</u>	<u>9.50</u>	<u>152.00</u>	<u>4.10</u>	<u>2.75</u>	<u>1.40</u>	<u>65.60</u>
<u>*Fauntleroy-Vashon</u>							
<u>*Southworth-Vashon</u>							
<u>*Pt. Defiance-Tahlequah</u>	<u>12.25</u>	<u>10.45</u>	<u>12.25</u>	<u>98.00</u>	<u>5.30</u>	<u>3.50</u>	<u>1.80</u>
<u>Mukilteo-Clinton</u>	<u>5.75</u>	<u>4.95</u>	<u>5.75</u>	<u>92.00</u>	<u>2.50</u>	<u>1.70</u>	<u>0.90</u>
<u>10 Rides - 5 Round Trips</u>							
<u>*Anacortes to Lopez - Sunday-Tuesday</u>							
<u>20.00</u>	<u>16.00</u>	<u>20.00</u>	<u>82.50</u>	<u>10.60</u>	<u>6.60</u>	<u>2.60</u>	<u>87.80</u>
<u>*Lopez - Wednesday-Saturday</u>							
<u>22.00</u>	<u>17.60</u>	<u>22.00</u>	<u>82.50</u>	<u>11.70</u>	<u>7.30</u>	<u>2.90</u>	<u>87.80</u>
<u>*Shaw, Orcas - Sunday-Tuesday</u>							
<u>23.50</u>	<u>19.50</u>	<u>23.50</u>	<u>97.50</u>	<u>11.30</u>	<u>7.30</u>	<u>3.30</u>	<u>93.80</u>
<u>*Shaw, Orcas - Wednesday-Saturday</u>							
<u>26.00</u>	<u>21.60</u>	<u>26.00</u>	<u>97.50</u>	<u>12.50</u>	<u>8.10</u>	<u>3.70</u>	<u>93.80</u>
<u>*Friday Harbor - Sunday-Tuesday</u>							
<u>26.50</u>	<u>22.50</u>	<u>26.50</u>	<u>109.75</u>	<u>11.90</u>	<u>7.90</u>	<u>3.90</u>	<u>99.00</u>
<u>*Friday Harbor - Wednesday-Saturday</u>							
<u>29.25</u>	<u>24.85</u>	<u>29.25</u>	<u>109.75</u>	<u>13.20</u>	<u>8.80</u>	<u>4.40</u>	<u>99.00</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor³</u>							
<u>11.25</u>	<u>11.25</u>	<u>11.25</u>	<u>45.00</u>	<u>3.50</u>	<u>3.50</u>	<u>3.50</u>	<u>N/A</u>
<u>International Travel</u>							
<u>Anacortes to Sidney and Sidney to all destinations</u>							
<u>35.25</u>	<u>28.65</u>	<u>35.25</u>	<u>N/A</u>	<u>17.60</u>	<u>11.00</u>	<u>4.50</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$15 fee)</u>							
<u>Anacortes to Sidney and Sidney to all destinations⁶</u>							
<u>20.25</u>	<u>13.65</u>	<u>35.25</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>							
<u>10.25</u>	<u>7.75</u>	<u>10.25</u>	<u>N/A</u>	<u>6.25</u>	<u>3.75</u>	<u>1.50</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁷</u>							
<u>3.25</u>	<u>0.75</u>	<u>10.25</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

PERMANENT

ROUTES	Vehicle Under 20'	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Coupon book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ¹ One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way@	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
	Incl. Driver One Way							
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	45.50	36.40	45.50	N/A	23.85	14.75	6.00	N/A

EFFECTIVE 03:00 A.M. MAY 2, 2004

ROUTES	Vehicle Under 20'	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Coupon book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ¹ One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way@	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
	Incl. Driver One Way							
Fauntleroy-Southworth								
Port Townsend/Keystone	7.75	6.65	7.75	124.00	3.40	2.30	1.20	54.40
Seattle-Bainbridge Island								
Seattle-Bremerton Edmonds-Kingston	10.00	8.55	10.00	160.00	4.30	2.85	1.45	68.80
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	13.00	11.10	13.00	104.00	5.60	3.70	1.90	44.80
Mukilteo-Clinton	6.00	5.15	6.00	96.00	2.60	1.75	0.90	41.60
10 Rides - 5 Round Trips								
*Anacortes to Lopez - Sunday-Tuesday	20.75	16.45	20.75	86.25	11.10	6.80	2.50	92.30
*Lopez - Wednesday-Saturday	23.00	18.20	23.00	86.25	12.30	7.50	2.80	92.30
*Shaw, Orcas - Sunday-Tuesday	25.00	20.70	25.00	104.25	12.00	7.70	3.40	99.80
*Shaw, Orcas - Wednesday-Saturday	27.75	22.95	27.75	104.25	13.30	8.50	3.80	99.80
*Friday Harbor - Sunday-Tuesday	29.25	24.95	29.25	121.00	12.80	8.50	4.20	106.50
*Friday Harbor - Wednesday-Saturday	32.25	27.45	32.25	121.00	14.20	9.40	4.70	106.50
Between Lopez, Shaw, Orcas and Friday Harbor ³	12.50	12.50	12.50	50.00	3.75	3.75	3.75	N/A
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	37.25	30.35	37.25	N/A	18.50	11.60	4.70	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	22.25	15.35	37.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	11.00	8.50	11.00	N/A	6.75	4.25	1.75	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	4.00	1.50	11.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	48.25	38.85	48.25	N/A	25.25	15.85	6.45	N/A

PERMANENT

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overheight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is

certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the ~~((second))~~ first Sunday in May to the second Sunday in October except those using frequent user coupons. ~~((A 22% surcharge shall be applied on vehicle fares for the Sidney B.C. route.))~~ A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using frequent user coupons.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the ~~((secretary of transportation))~~ WSF CEO for a specified discount ~~((not to exceed 50 percent of full fare))~~ in order to enhance total revenue and effective only at designated times on designated routes ~~((not to exceed 100 days per year on any one route))~~.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the ~~((second))~~ first Sunday of May following the date of purchase after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

WAC 468-300-040 Oversize vehicle ferry tolls.

(Effective 03:00 a.m. May 12, 2002)

((Oversize Vehicle Ferry Tolls[†]
Overall Unit Length - Including Driver

ROUTES	20'	20'						70'	Cost-Per-Ft- Over-80' @
	Under	Over	30'	40'	50'	60'	To and include		
	7'6"	7'6"	Under	To-Under	To-Under	To-Under	To-Under	80'	
	High	High	40'	50'	60'	70'	80'		
Fauntleroy-Southworth									
Port Townsend/Keystone	10.50	21.00	28.00	35.00	42.00	49.00	56.00	0.70	

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((Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft. Over 80' @
	To Under 30' Under 7'6" High	To Under 30' Over 7'6" High						
Seattle-Bainbridge Island- Seattle/Bremerton Edmonds-Kingston	13.50	27.00	36.00	45.00	54.00	63.00	72.00	0.90
*Fautleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	16.50	35.25	47.00	58.75	70.50	82.25	94.00	1.10
Mukilteo-Clinton	8.25	16.50	22.00	27.50	33.00	38.50	44.00	0.55
*Anacortes-to-Lopez ² *Shaw, Oreas *Friday Harbor-Sunday-Tuesday	30.00	60.00	80.00	100.00	120.00	140.00	160.00	2.00
*Anacortes-to-Lopez ² *Shaw, Oreas *Friday Harbor- Wednesday-Saturday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.35
Between Lopez, Shaw, Oreas and Friday Harbor ²	15.50	30.75	41.00	51.25	61.50	71.75	82.00	N/A
International Travel Anacortes-to-Sidney -and-Sidney-to-all-destinations	50.25	100.50	134.00	167.50	201.00	234.50	268.00	3.35
Travelers with advanced reservations (\$15 fee) Anacortes-to-Sidney and -Sidney-to-all-destinations ⁵	35.25	85.50	119.00	152.50	186.00	219.50	253.00	3.35
Lopez, Shaw, Oreas -and-Friday-Harbor-to-Sidney	14.75	29.25	39.00	48.75	58.50	68.25	78.00	1.00
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Oreas and Friday Harbor-to-Sidney ⁶	7.75	22.25	32.00	41.75	51.50	61.25	71.00	1.00
Lopez, Shaw, Oreas and Friday Harbor-to-Sidney (round-trip) ⁴	65.00	129.75	173.00	216.25	259.50	302.75	346.00	4.35))

EFFECTIVE 03:00 A.M. MAY 4, 2003

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft. Over 80' @
	To Under 30' Under 7'6" High	To Under 30' Over 7'6" High						
Fautleroy-Southworth Port Townsend/Keystone	11.25	22.50	30.00	37.50	45.00	52.50	60.00	0.80
Seattle-Bainbridge Island Seattle/Bremerton Edmonds-Kingston	14.25	28.50	38.00	47.50	57.00	66.50	76.00	1.00
*Fautleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	18.50	36.75	49.00	61.25	73.50	85.75	98.00	1.30
Mukilteo-Clinton	8.75	17.25	23.00	28.75	34.50	40.25	46.00	0.60
*Anacortes to Lopez - Sunday-Tuesday ²	30.00	60.00	80.00	100.00	120.00	140.00	160.00	2.00

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft.
	To	To						
	Under	Under						
	30'	30'						
	Under	Over	To	To Under	To Under	To under	To and	Cost Per Ft.
	7'6"	7'6"	Under	50'	60'	70'	include	Over 80'
	High	High	40'				80'	@
*Anacortes to Shaw, Orcas - Sunday-Tuesday ²	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.40
*Anacortes to Friday Harbor - Sunday-Tuesday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.40
*Anacortes to Lopez - Wednesday-Saturday ²	33.00	66.00	88.00	110.00	132.00	154.00	176.00	2.20
*Anacortes to Shaw, Orcas - Wednesday-Saturday ²	39.00	78.00	104.00	130.00	156.00	182.00	208.00	2.60
*Anacortes to Friday Harbor - Wednesday-Saturday	39.00	78.00	104.00	130.00	156.00	182.00	208.00	2.60
Between Lopez, Shaw, Orcas and Friday Harbor ³	17.00	33.75	45.00	56.25	67.50	78.75	90.00	N/A
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	53.00	105.75	141.00	176.25	211.50	246.75	282.00	3.60
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations ⁵	38.00	90.75	126.00	161.25	196.50	231.75	267.00	3.60
Lopez, Shaw, Orcas and Friday Harbor to Sidney								
Travelers with advanced reservations (\$7 fee) from								
Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁶	8.50	23.75	34.00	44.25	54.50	64.75	75.00	1.10
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	68.50	136.50	182.00	227.50	273.00	318.50	364.00	4.70

EFFECTIVE 03:00 A.M. MAY 2, 2004

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft.
	To	To						
	Under	Under						
	30'	30'						
	Under	Over	To	To Under	To Under	To under	To and	Cost Per Ft.
	7'6"	7'6"	Under	50'	60'	70'	include	Over 80'
	High	High	40'				80'	@
Fauntleroy-Southworth Port Townsend/Keystone	11.75	23.25	31.00	38.75	46.50	54.25	62.00	0.80
Seattle-Bainbridge Island Seattle/Bremerton								
Edmonds-Kingston	15.00	30.00	40.00	50.00	60.00	70.00	80.00	1.00
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	19.50	39.00	52.00	65.00	78.00	91.00	104.00	1.30
Mukilteo-Clinton	9.00	18.00	24.00	30.00	36.00	42.00	48.00	0.60
*Anacortes to Lopez - Sunday-Tuesday ²	31.25	62.25	83.00	103.75	124.50	145.25	166.00	2.10
*Anacortes to Shaw, Orcas - Sunday-Tuesday ²	37.50	75.00	100.00	125.00	150.00	175.00	200.00	2.50

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Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	70'	Cost Per Ft.
	To	To							
	Under	Under	To	To Under	To Under	To Under	To and	include	Over 80'
	30'	30'	Under	50'	60'	70'	80'		@
	Under	Over	40'	50'	60'	70'	80'		
	7'6"	7'6"	Under	50'	60'	70'	80'		
	High	High	40'	50'	60'	70'	80'		
<u>*Anacortes to Friday Harbor - Sunday-Tuesday</u>	39.00	78.00	104.00	130.00	156.00	182.00	208.00		2.60
<u>*Anacortes to Lopez - Wednesday-Saturday²</u>	34.50	69.00	92.00	115.00	138.00	161.00	184.00		2.30
<u>*Anacortes to Shaw, Orcas - Wednesday-Saturday²</u>	41.75	83.25	111.00	138.75	166.50	194.25	222.00		2.80
<u>*Anacortes to Friday Harbor - Wednesday-Saturday</u>	43.25	86.25	115.00	143.75	172.50	201.25	230.00		2.90
<u>Between Lopez, Shaw, Orcas and Friday Harbor³</u>	18.75	37.50	50.00	62.50	75.00	87.50	100.00		N/A
<u>International Travel</u>									
<u>Anacortes to Sidney and Sidney to all destinations</u>	56.00	111.75	149.00	186.25	223.50	260.75	298.00		3.80
<u>Travelers with advanced reservations (\$15 fee)</u>									
<u>Anacortes to Sidney and Sidney to all destinations⁴</u>	41.00	96.75	134.00	171.25	208.50	245.75	283.00		3.80
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	16.50	33.00	44.00	55.00	66.00	77.00	88.00		1.10
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney⁴</u>	9.50	26.00	37.00	48.00	59.00	70.00	81.00		1.10
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)⁴</u>	72.50	144.75	193.00	241.25	289.50	337.75	386.00		4.90

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

~~(²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.)~~

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: May 4, 2003 - May 1, 2004, \$20.00 base season, \$27.50 peak season; May 2, 2004 - April 30, 2005, \$28.75 base season, \$38.75 peak season.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be

obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

~~((COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a \$50.00 participation fee (per schedule season) plus \$1.00 per reserved one-way trip will be charged. Fees will be collected when reservations are confirmed.))~~

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, and Friday Harbor (~~and international travel~~). The senior citizen discount shall apply to the driver of an

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oversize vehicle. ~~((A 22% surcharge shall be applied on fares for the Sidney-B.C. route.))~~ A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

((DISCOUNT FROM REGULAR TOLL

~~Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 15% discount from the regular ferry tolls.))~~

DISCOUNT FROM REGULAR TOLL - Effective May 4, 2003, through May 4, 2004, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. This discount is discontinued effective May 5, 2004.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ~~((2001))~~ 2002, through June 30, ~~((2002))~~ 2003:

<u>((Vessel Class</u>	<u>Deck Crew On Overtime</u>	<u>Deck Crew On Straight Time</u>
Jumbo Mark II	\$ 1,165.37	\$ 967.22
Jumbo	1,124.43	940.48
Super	1,077.82	900.55
Evergreen	810.31	663.60
Issaquah	857.56	710.85
Steel	677.05	560.90
Rhododendron	639.05	522.90
Hiyu	448.04	383.79
Passenger Only	548.85	465.88
Passenger Only - Fast Ferry	647.37	561.78))

<u>Vessel Class</u>	<u>Deck Crew On Overtime</u>	<u>Deck Crew On Straight Time</u>
Jumbo Mark II	\$ 1,077.29	\$ 895.07
Jumbo	1,037.39	868.24
Super	999.22	835.96
Evergreen	775.62	640.56
Issaquah	810.73	675.67
Steel	649.13	542.27
Rhododendron	622.13	515.27
Hiyu	439.40	380.09
Passenger Only	521.78	445.57
Passenger Only - Fast Ferry	595.00	516.34

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by ~~((fifty percent))~~ an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

PERMANENT

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

AMENDATORY SECTION (Amending WSR 99-07-059, filed 3/17/99, effective 4/17/99)

WAC 468-300-700 Preferential loading. In order to protect public health, safety and commerce; to encourage more efficient use of the ferry system; and to reduce dependency on single occupant private automobiles:

(1) Preferential loading privileges on vessels operated by Washington state ferries (WSF), exempting vehicles from the standard first-come first-served rule, shall be granted in the order set forth below:

(a) An emergency medical vehicle, medical unit, aid unit, or ambulance dispatched to and returning from an emergency or nonemergency call while in service. Up to one additional vehicle may accompany a qualifying emergency medical vehicle or authorized med-evac when going to, but not when returning from, an emergency.

(b) A public police or fire vehicle only when responding to an emergency call, but not when returning from either an emergency or a nonemergency call. However, these vehicles will receive priority loading when they are returning from either an emergency or nonemergency call to Vashon Island or the San Juan Islands.

(c) A public utility or public utility support vehicle only when responding to an emergency call, but not when returning from either an emergency or a nonemergency call.

(d) Where a vehicle occupant states that an extended wait would cause detrimental health risks to a vehicle occupant, that vehicle will be allowed preferential loading whenever the afflicted occupant has provided a medical form certified by a physician that such preferential loading is required.

However, when that vehicle occupant has not submitted the proper medical form, preferential loading will be permissible based upon appropriate terminal staff determination.

(e) Preferential loading may be granted for vehicles carrying passengers needing to attend to a family member subject to risk of physical threat/harm or medical emergencies which requires the customer's timely access to the vessel's destination.

(f) A visibly marked school vehicle owned, operated, or sponsored by a school** when operating on regular schedules preapproved by the WSF or when advance notice is provided to each affected WSF terminal (**as defined in RCW 28A.150.010 (K-12), RCW 28A.150.020 (public schools), RCW 28A.195.010 (K-12 private schools), and RCW 28B.195.070 (secondary schools)).

(g) A visibly marked, preapproved or regularly scheduled publicly or privately owned public transportation vehicle** operating under a Washington state utilities and transportation commission certificate for public convenience and necessity (**as defined in RCW 81.68.010 (regular route/fixed termini), RCW 81.70.010 (charter and excursion)).

(h) A visibly marked nonprofit or publicly supported transportation vehicle** having provided each affected WSF terminal with advance notice and displaying a WSF permit making it readily identifiable as a public transportation vehicle (**as defined in chapter 81.66 RCW (private, nonprofit special needs)).

(i) A visibly marked and randomly scheduled private for profit transportation vehicle** operating under a Washington state utilities and transportation commission certificate for public convenience and necessity traveling on routes where WSF is the only major access for land-based traffic only when that private for profit transportation vehicle has provided each affected WSF terminal with a preapproved schedule and/or advance notice of its proposed sailing(s), (**as defined in chapter 81.68 RCW (regular route/fixed termini), chapter 81.70 RCW (charter and excursion), chapter 81.66 RCW (private nonprofit special needs), chapter 46.72 RCW (private, for hire)).

(j) A ride-sharing vehicle for persons with special transportation needs** transporting a minimum of three elderly and/or disabled riders or two elderly and/or disabled riders and an attendant displaying WSF ride-share registration program permit only when the operator of that vehicle has provided each affected WSF terminal with advance notice of its proposed sailing(s) (**as defined in RCW 46.74.010 (ride sharing for persons with special transportation needs)).

(k) A visibly marked, public ride-share vehicle** owned by a transit agency and leased out to members of the public through the transit agency's registration program only when the operator of that vehicle has provided each affected WSF terminal with advance notice of its proposed sailing(s) (**as defined in RCW 46.74.010 (commuter ride sharing)).

(l) A privately owned commuter ride-share vehicle** that visibly displays WSF approved identification markings readily identifiable by the public. There must be a minimum of three occupants in any such vehicle to receive preferential loading. Any such ride-share vehicle must be registered and in good standing in the WSF ride-share registration program (**as defined by RCW 46.74.010 (commuter ride sharing)).

(m) Specific to the Anacortes-San Juan Islands routes, a vehicle carrying livestock and traveling on routes where Washington state ferries is the only major access for land-based traffic, where such livestock (i) is raised for commercial purposes and is recognized by the department of agriculture, county agriculture soil and conservation service, as raised on a farm; or (ii) is traveling to participate in a 4H event sanctioned by a county extension agent.

(n) Specific to the Seattle-Bainbridge and Edmonds-Kingston ferry routes, where a vehicle occupant claims that an extended wait would cause detrimental health risks to their livestock en route to veterinarian services not available in the local community, that vehicle will be allowed preferential loading whenever the vehicle occupant has provided a medical form certified by a veterinarian that such preferential loading is required.

(o) Specific to the Fauntleroy-Vashon, Seattle-Bainbridge, Mukilteo-Clinton, and Anacortes-San Juan ferry routes, any mail delivery vehicle with proper documentation from the U.S. Postal Service showing that such vehicle is in the actual process of delivering mail.

(p) Specific to the Anacortes-San Juan Islands routes, a vehicle 20 ft. and over in length and 10,000 lbs. or greater in weight, provided that the vehicle is carrying or returning from carrying article(s) of commerce for purchase or sale in commercial activity.

(q) Vehicles 20 feet and over in length engaged in the conduct of commerce and/or transportation of passengers where and when WSF management has determined that the sale of vehicle space may promote higher utilization of available route capacity and an increase in revenues.

(r) An oversized or overweight vehicle (20 ft. and over in length, and/or over 8 1/2 ft. in width, and 80,000 lbs. or greater in weight) requiring transport at special times due to tidal conditions, vessel assignments, or availability of space.

((+)) (s) A scheduled bicycle group as determined by WSF only when a representative of that group has provided WSF with advance notice of the proposed travel schedule.

(2) Preferential loading privileges shall be subject to the following conditions:

(a) Privileges shall be granted only where physical facilities are deemed by WSF management to be adequate to allow granting the privilege and achieving an efficient operation.

(b) Subject to specified exceptions, documentation outlining qualifications for preferential loading and details of travel will be required in advance from all agencies, companies, or individuals requesting such privileges.

(c) Privileges may be limited to specified time periods as determined by WSF management.

(d) Privileges may require a minimum frequency of travel, as determined by WSF management.

(e) Privileges may be limited to a specific number of vehicle deck spaces and passenger capacity for any one sailing.

(f) Privileges may require arriving at the ferry terminal at a specified time prior to the scheduled sailing.

(3) To obtain more information about the documentation required and conditions imposed under subsection (2) of this section, call WSF's general information number, (206) 464-6400, or a terminal on a route for which the preferential boarding right is requested.

WSR 03-08-090

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed April 2, 2003, 9:10 a.m., effective May 1, 2003]

Date of Adoption: March 31, 2003.

Purpose: These rules explain how elected and appointed officials may qualify for retirement benefits. The existing rules have not been updated since June 1994. The Department of Retirement Systems (DRS) reviewed them under its ongoing regulatory reform review. The proposed amendments attempt to make the rules more clear and to more clearly reflect current law. The two new WACs put long-standing practice into rule, explaining how DRS computes the threshold salary.

Citation of Existing Rules Affected by this Order:
Amending WAC 415-108-550 and 415-108-560.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.40.023, 41.40.037.

Adopted under notice filed as WSR 03-05-041 on February 12, 2003.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 2, Repealed 0.

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The earlier date was required to help implement statutory retire/rehire changes by explaining how retire/rehire applies to elected officials. In addition, the earlier date meets DRS' business practice needs by making the change effective on the first day of a month.

Effective Date of Rule: May 1, 2003.

March 31, 2003

John Charles

Director

AMENDATORY SECTION (Amending WSR 94-12-014, filed 5/23/94, effective 6/23/94)

WAC 415-108-550 Elected officials—Eligibility and application for retirement service membership. (1) **Definition:** For the purposes of this section and WAC 415-108-570, and pursuant to RCW ((41.40.023,)) 41.40.010 (25)(b), 41.40.010 (9)(a), 41.40.023 and 41.40.035, "elected" officials means individuals elected to any state, local or political subdivision office or individuals appointed to any vacant elective office.

(2) ((Pursuant to)) **Voluntary application for membership:** Under RCW 41.40.023 (3)(a), elected officials are ((exempted)) **exempt** from **mandatory** retirement system membership ((but may)). You have the option to apply for membership during ((the official's)) your current term of elected office. To apply for membership, ((the official shall)) submit a written application directly to the department. ((If)) **When** the department approves ((the)) your application, ((the elected official is)) you will be entitled to establish membership ((and service credit retroactive to)) effective the first day of ((the official's)) your current term of elected service. ((To establish such membership, the official shall)) **Once membership is established, you will be required to pay the ((required)) employee contributions ((for the official's)) from**

the first day of your current term of elected service with interest as determined by the department.

~~(3) ((Upon establishing membership for the official's current term of elected office, the official is entitled to establish membership and service credit))~~ If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to the first day of any previous elected term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, ~~((the official shall))~~ you must apply to the department pursuant to subsection (2) of this section. ~~((If))~~ When the department approves the application, ~~((the official shall))~~ you must:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, ~~((at))~~ in its discretion, pay the required employer contributions plus interest in lieu of ~~((the employee making payment of))~~ your paying this amount.

(4)(a) If you are a retiree and you become an elected official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you chose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) Multiple positions: If ~~((an official is))~~ you are employed in an eligible position at the time of election to office and will hold multiple positions concurrently, ~~((the official))~~ you may:

(a) Apply to the department to participate in membership pursuant to ~~((the official's))~~ your elected position as provided in subsection ~~((3))~~ (2) of this section; or

(b) Choose not to participate pursuant to ~~((the official's))~~ your elected position while continuing membership through the nonelected position.

~~((5))~~ (6) Membership length: Except as provided under RCW 41.40.023 (3)(b), once ~~((an elected official has exercised the option of becoming))~~ you become a member of the retirement system ~~((the official))~~ you shall ~~((be))~~ remain a member until ~~((the official))~~ you separate ~~((s))~~ from all eligible public employment pursuant to RCW 41.40.150. ~~((An official does not separate from public employment when that official's))~~ It is not a separation if:

(a) Your term of office ends and ~~((the official commences))~~ you begin another term of office in the same or a different position for the same employer without a break in service ~~((An official does not separate from service if the official));~~ or

(b) You resign ~~((s))~~ from ~~((the official's))~~ your elected position and ~~((is))~~ you are later reappointed to the same position during the same term.

~~((6))~~ (7) This section codifies the department's long-standing administrative practice in relation to elected officials. The department will apply this section to service by

elected officials which occurred prior to the effective date of this section.

AMENDATORY SECTION (Amending WSR 94-12-014, filed 5/23/94, effective 6/23/94)

WAC 415-108-560 Appointed officials—Eligibility and application for retirement service membership. (1) For the purposes of this section and WAC 415-108-570, ~~((and pursuant to RCW 41.40.023, 41.40.010 (25)(b), 41.40.010 (9)(a) and 41.40.035, "appointed" officials means only those individuals appointed directly by the governor to any position, including but not limited to agency directorships and memberships on a state committee, board or commission))~~ an "appointed" official is a person who meets the criteria in RCW 41.40.010 (25)(b) and is not excluded by the criteria in RCW 41.40.035.

(2) ~~((An individual must be a gubernatorial appointee or be appointed to serve in a position that meets the requirements of RCW 41.40.010 (25)(a) in order to be eligible for membership and service credit.~~

~~(3) Pursuant to))~~ Voluntary application for membership: Under RCW 41.40.023 (3)(a), appointed officials are ~~((exempted))~~ exempt from mandatory retirement system membership ~~((but may)).~~ You have the option to apply for membership during ~~((the official's))~~ your current ~~((appointed))~~ term of ~~((office))~~ appointed service. To apply for membership, ~~((the official shall))~~ submit a written application directly to the department. ~~((If))~~ When the department approves ~~((the))~~ your application ~~((the official is))~~ you will be entitled to establish membership ~~((and service credit retroactive to))~~ effective the first day of ~~((the official's))~~ your current term of appointed service. ~~((To establish such membership, the official shall))~~ Once membership is established, you will be required to pay the ~~((required))~~ employee contributions for ~~((the official's))~~ your current term of appointed service with interest as determined by the department.

~~((4) Upon establishing membership for the official's current term of appointed service, the official is entitled to establish membership))~~ (3) If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to the first day of any previous ~~((elected))~~ appointed term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, ~~((the official shall))~~ you must apply to the department pursuant to subsection (3) of this section. ~~((If))~~ When the department approves the application ~~((the official shall))~~ you must:

(a) Pay the required employee contributions for such previous term or terms of ~~((elected))~~ appointed service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of ~~((elected))~~ appointed service with interest as determined by the department. The employer may, ~~((at))~~ in its discretion, pay the required employer contributions plus interest in lieu of ~~((the employee making payment of))~~ your paying this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If ~~((the~~

official has)) you have not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in ~~((the official's))~~ your current appointed position.

~~((5))~~ (4)(a) If you are a retiree and you become an appointed official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you choose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) **Multiple positions:** ~~If ((an appointed official is))~~ you are employed in an eligible position at the time of appointment to office and will hold the two positions concurrently ~~((the official))~~ you may:

(a) Apply to the department to participate in membership pursuant to ~~((the))~~ your appointed position as provided in subsection ~~((3))~~ (2) of this section; or

(b) Choose not to participate pursuant to ~~((the official's))~~ your appointed position while continuing membership through the nonappointive position.

(6) **Membership length:** ~~Once ((an appointed official has exercised the option of becoming))~~ you become a member of the retirement system ~~((either at the start of the official's initial term or at a successive term, the official))~~ you shall ~~((be))~~ remain a member until ~~((the official))~~ you separate~~((s))~~ from all eligible public employment pursuant to RCW 41.40.150. ~~((An appointed official does not separate from public employment when that official's term of office ends and the official commences))~~ It is not a separation if:

(a) Your term of office ends, and you begin another term of office in the same or a different position for the same employer without a break in service~~((An appointed official does not separate from service if the official));~~ or

(b) You resign((s)) from ((the)) your appointed position and ((is)) you are later reappointed to the position during the same term.

(7) This section codifies the department's long-standing administrative practice in relation to appointed officials. The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

NEW SECTION

WAC 415-108-575 How is the compensation adjustment for elected officials computed? (1) This section provides the department's inflation adjustment under RCW 41.40.023 (3)(b) regarding elected officials.

(2) The department uses the criteria in RCW 41.26.240¹ in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.40.023 (3)(b).

(3) The department adjusts the compensation threshold on April 1st of each year.²

(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.

Footnotes to section:

¹ The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

² In 2001 the threshold was \$19,263. In 2002 the threshold was \$19,948.

NEW SECTION

WAC 415-110-575 How is the compensation adjustment for elected officials computed? (1) This section provides the department's inflation adjustment under RCW 41.35.030 (2)(b) regarding elected officials.

(2) The department uses the criteria in RCW 41.26.240¹ in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.35.030 (2)(b).

(3) The department adjusts the compensation threshold on April 1st of each year.²

(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.

Footnotes to section:

¹ The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

² In 2001 the threshold was \$19,263. In 2002 the threshold was \$19,948.

WSR 03-08-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-55—Filed March 20, 2003, 2:10 p.m., effective March 21, 2003,
 9:00 a.m.]

Date of Adoption: March 20, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000C; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of small mesh nets, short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 19, 2003, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: March 21, 2003, 9:00 a.m.

March 20, 2003

J. P. Koenings

Director

by Larry Peck

[NEW SECTION]

WAC 220-33-01000C Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

2) Season: 9:00 a.m. to 7:00 p.m. March 21, 2003.

3) Gear: 4 1/4 inch maximum mesh. Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Monofilament gill nets are not allowed for the 4 1/4 inch mesh. Gill nets that are fished from sunset to sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms, except under the following exceptions:

An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel must be a minimum of 5 feet in depth and not exceed 10 feet in depth as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 175 fathoms. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, must have two red corks at each end of the net, as well as the red corks under miscellaneous regulations.

Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad.

Sanctuaries: Grays River, Gnat Creek, Elokomina-A, Abernathy Creek, Cowlitz River, Kalama-A, Lewis-A.

A) Miscellaneous Regulations:

1) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish

and wildlife enforcement officers, or other peace officers upon request.

2) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

3) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

4) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

5) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

B) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW-sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2003. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2003.

C) Nothing in this section sets any precedent for any fishery after the 2003 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2003 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2004 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2003. In particular, WDFW may consider an individual's compliance with these rules in determining that

individual's eligibility to participate in any future tangle net fisheries.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[REPEALER]

The following section of the Washington Administrative Code is repealed effective 7:01 p.m. March 21, 2003:

WAC 220-33-01000C Columbia River season below Bonneville.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 03-08-006
EMERGENCY RULES
DEPARTMENT OF
GENERAL ADMINISTRATION**

[Filed March 20, 2003, 6:30 p.m.]

Date of Adoption: March 20, 2003.

Purpose: Provide for the safety and security of inhabitants and visitors of the capitol campus and protect the public property.

Statutory Authority for Adoption: RCW 43.17.060, 43.19.125, 46.08.150.

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

Reasons for this Finding: Provide for the safety and security of the capitol campus.

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

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

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

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

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

Effective Date of Rule: Immediately.

March 20, 2003

R. D. Fukai

Director

NEW SECTION

WAC 236-12-480 Camping on the state capitol grounds is prohibited. Camping means erecting a tent or shelter, or arranging bedding, or parking a vehicle, for purposes of overnight habitation.

WSR 03-08-008**EMERGENCY RULES****DEPARTMENT OF TRANSPORTATION**

[Filed March 21, 2003, 9:30 a.m.]

Date of Adoption: March 20, 2003.

Purpose: Amendment of this WAC will detail department procedures for regulating wireless communication access to limited access state highways.

Citation of Existing Rules Affected by this Order: Amend WAC 468-58-080.

Statutory Authority for Adoption: RCW 47.52.027.

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 current rules do not allow wireless communication property sites direct access onto limited access highways under any circumstances. The adoption of this rule would provide an immediate avenue for the review and assessment of such access applications to facilitate the provision of wireless communication services to the public.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

March 20, 2003
P. J. Hammond
for John Conrad
Assistant Secretary
Engineering and
Regional Operations

AMENDATORY SECTION (Amending Order 109, filed 7/8/87)

WAC 468-58-080 Guides for control of access on crossroads and interchange ramps. (1) Fully controlled highways, including interstate.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a fully controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) There shall be no direct connections from the limited access facility in rural areas to local service or frontage roads except through interchanges.

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(d) Full control of access should be provided along the crossroad from the centerline of a ramp or terminus of a transition taper for a minimum distance of three hundred feet. Upon determination by the department, full control of access may be provided for the first one hundred thirty feet from the centerline of the ramp or terminus of a transition taper and partial control or modified control of access may be provided for the remainder of the distance to the frontage road or local road for a total minimum distance for the two types of control of three hundred feet. Type A, B, C, D ((and)), E, and F road approaches, as defined hereafter under subsection (3) of this section, "general," may be permitted on that portion of the crossroad on which partial or modified control of access is established.

(2) Partially controlled highways.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a partially controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) In both urban and rural areas access control on a partially controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred

thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(c) Access control limits at the crossroads on a partially controlled highway should be established along the crossroad at a grade intersection for a minimum distance of three hundred feet from the centerline of the nearest directional roadway. If a parallel road is located within three hundred fifty feet of said grade intersection, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad. Type D ((and)), E, and F approaches may be permitted closer than one hundred thirty feet from the center of the intersection only when they already exist and cannot reasonably be relocated.

(d) Access control limits at intersections on modified control highways should be established along the cross road for a minimum distance of one hundred thirty feet from the centerline of a two-lane highway or for a minimum of one hundred thirty feet from centerline of the nearest directional roadway of a four-lane highway. Type D ((and)), E, and F approaches should be allowed within this area only when no other reasonable alternative is available.

(3) General.

(a) Access control may be increased or decreased beyond or under the minimum requirements to fit local conditions if so determined by the department.

(b) Type A, B, C, D ((and)), E, and F approaches are defined as follows:

(i) Type A approach. Type A approach is an off and on approach in legal manner, not to exceed thirty feet in width, for sole purpose of serving a single family residence. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(ii) Type B approach. Type B approach is an off and on approach in legal manner, not to exceed fifty feet in width, for use necessary to the normal operation of a farm, but not for retail marketing. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(iii) Type C approach. Type C approach is an off and on approach in legal manner, for special purpose and width to be agreed upon. It may be specified at a point satisfactory to the state at or between designated highway stations.

(iv) Type D approach is an off and on approach in a legal manner not to exceed fifty feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(v) Type E approach is a separated off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(vi) Type F approach is an off and on approach in a legal manner, not to exceed thirty feet in width, for the sole purpose of serving a wireless communication site. It may be specified at a point satisfactory to the state at or between designated highway stations.

The state shall only authorize such approach by the issuance of a nonassignable permit. The permit allows site access for the normal construction, operation and maintenance of the wireless communication site for the permit holder and its contractors but not its subtenants. If a sale or merger occurs that affects an existing wireless communication site, the new wireless communication provider will be authorized to utilize said approach upon the state's receipt of written notice of the sale or merger action. The wireless communication site access permit may be canceled upon written notice for reasons specified in the wireless communication site access permit general provisions. The permit will only be issued if it meets all state criteria, including, but not limited to, design and safety standards.

Only one wireless communication site access user per permit shall be allowed, but more than one permit may be issued for a single Type F approach.

Each permitted access user shall be required to pay to the state five hundred dollars annually in compensation for use of the state-owned access rights, at the time of the issuance of the permit and each year thereafter.

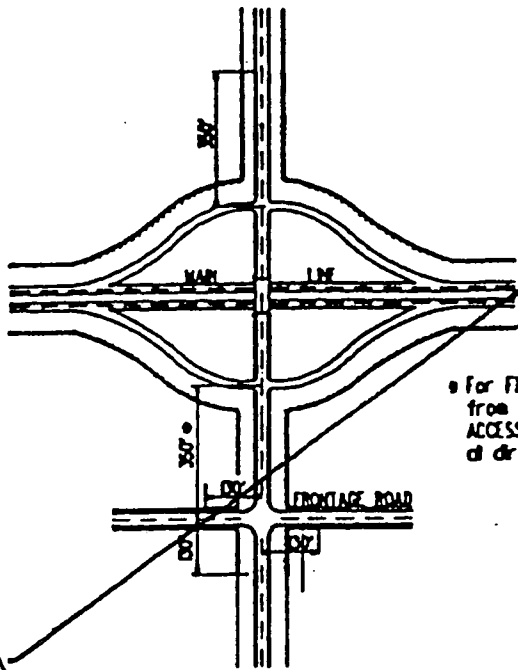
Since the state is the owner of the access, Type F approach permits shall not be issued pursuant to chapter 47.50 RCW and shall not confer a property right upon the permittee(s). An applicant for a Type F approach permit shall pay a nonrefundable access application fee when application is made in the amount of five hundred dollars for investigating, handling and granting the permit.

An application for wireless communication site access permit shall receive a response from the department of transportation within thirty working days from date of receipt of said application.

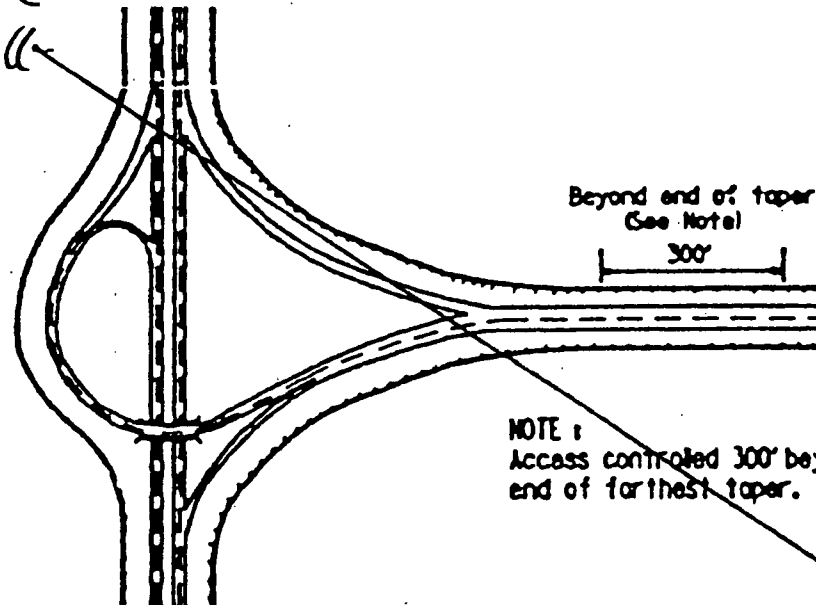
(c) Under no circumstances will a change in location or width of an approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.

(d) Commercial approaches shall not be permitted within the limits of access control except where modified access control has been approved by the department.

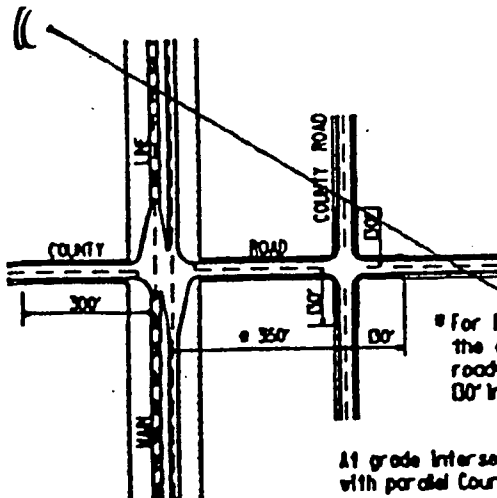
(e) All access control shall be measured from the centerline of the ramps, crossroads or parallel roads or from the terminus of transition tapers. On multiple lane facilities measurement shall be from the centerline of the nearest directional roadway.



• For FRONTAGE ROAD located 350' or less from the centerline of the ramp terminal, ACCESS CONTROL may be extended 50' in all directions.



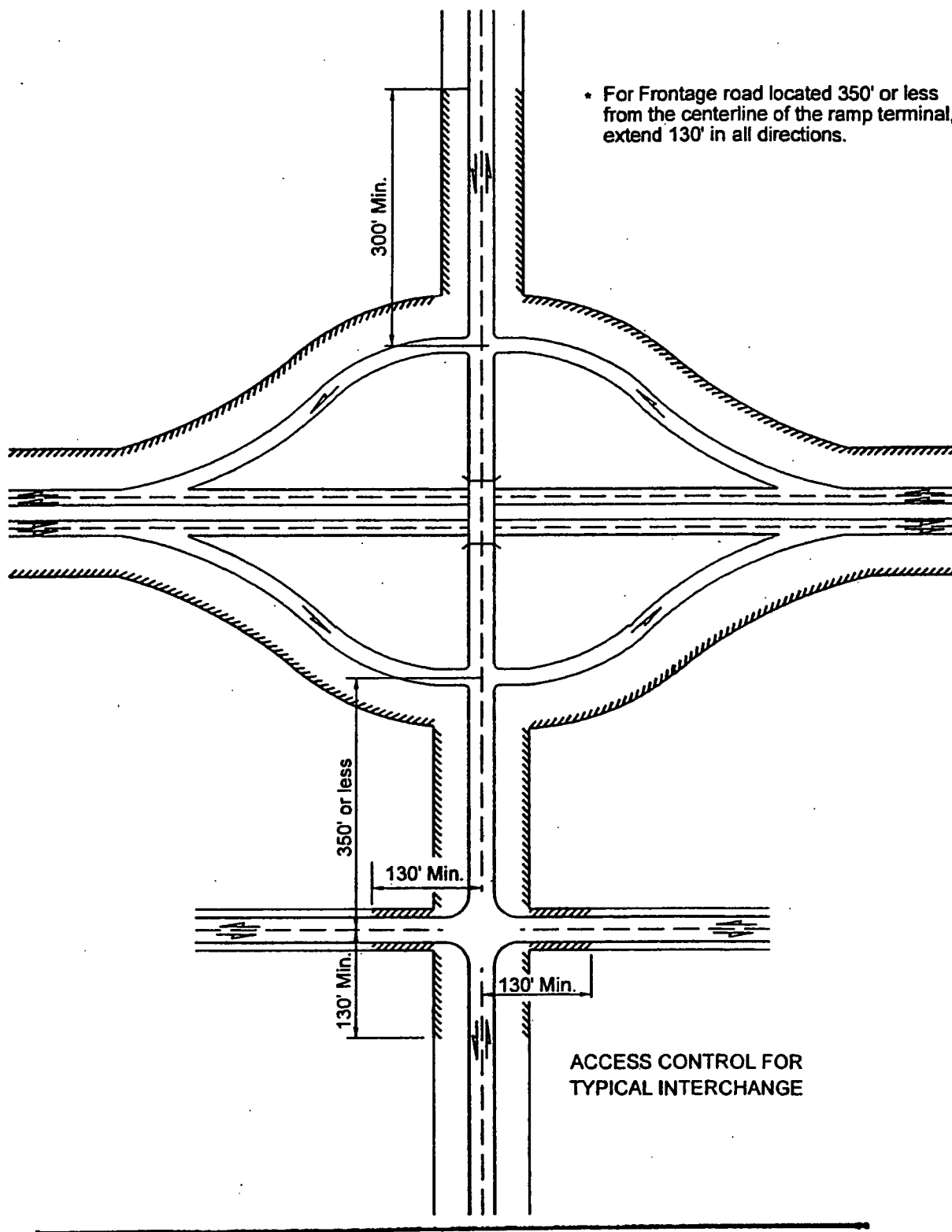
NOTE :
Access controlled 300' beyond end of farthest taper.



• For FRONTAGE ROAD located 350' or less from the centerline of the nearest directional roadway, ACCESS CONTROL may be extended 50' in all directions.

At grade intersection with County Road with parallel County Road.

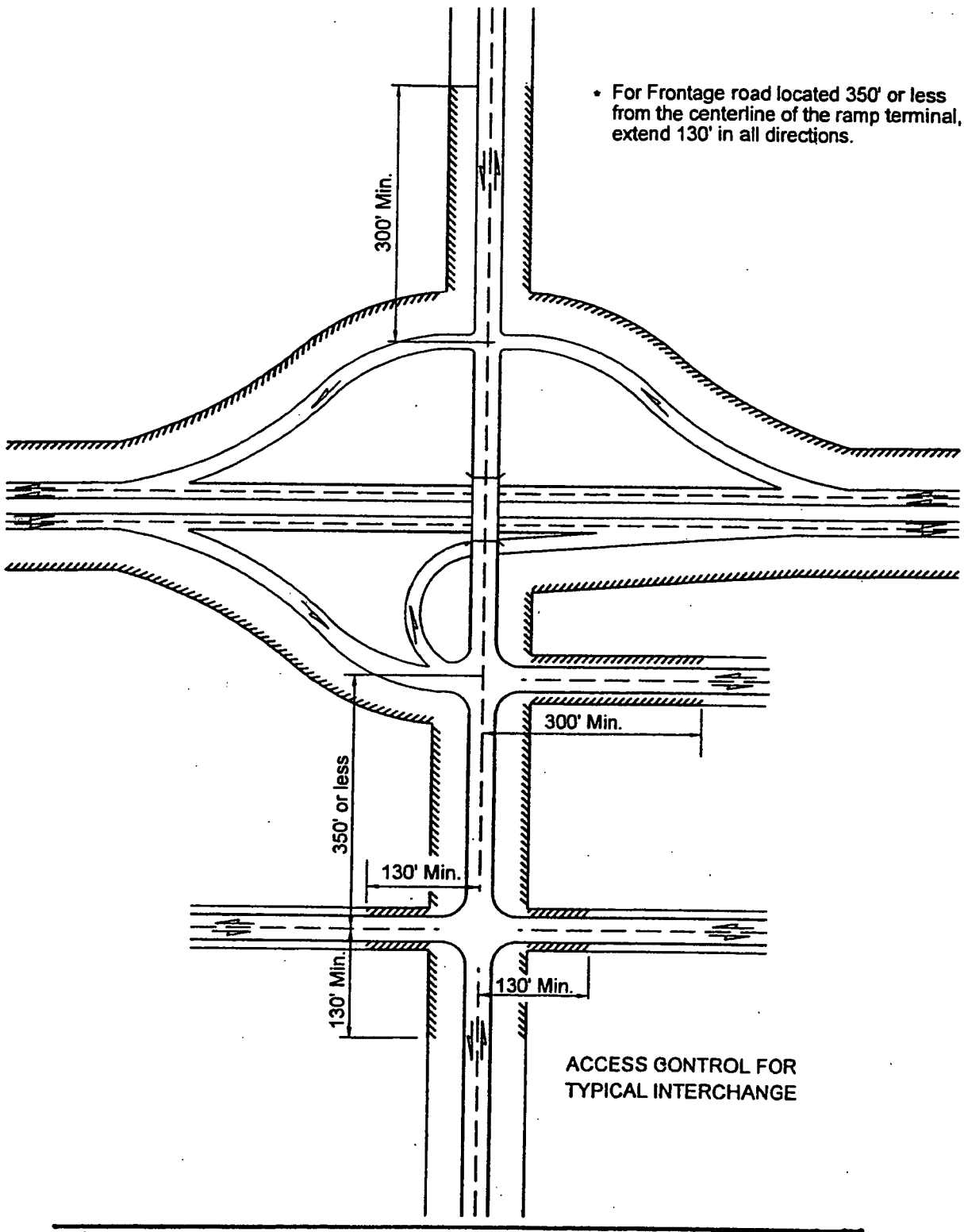
EMERGENCY



• For Frontage road located 350' or less from the centerline of the ramp terminal, extend 130' in all directions.

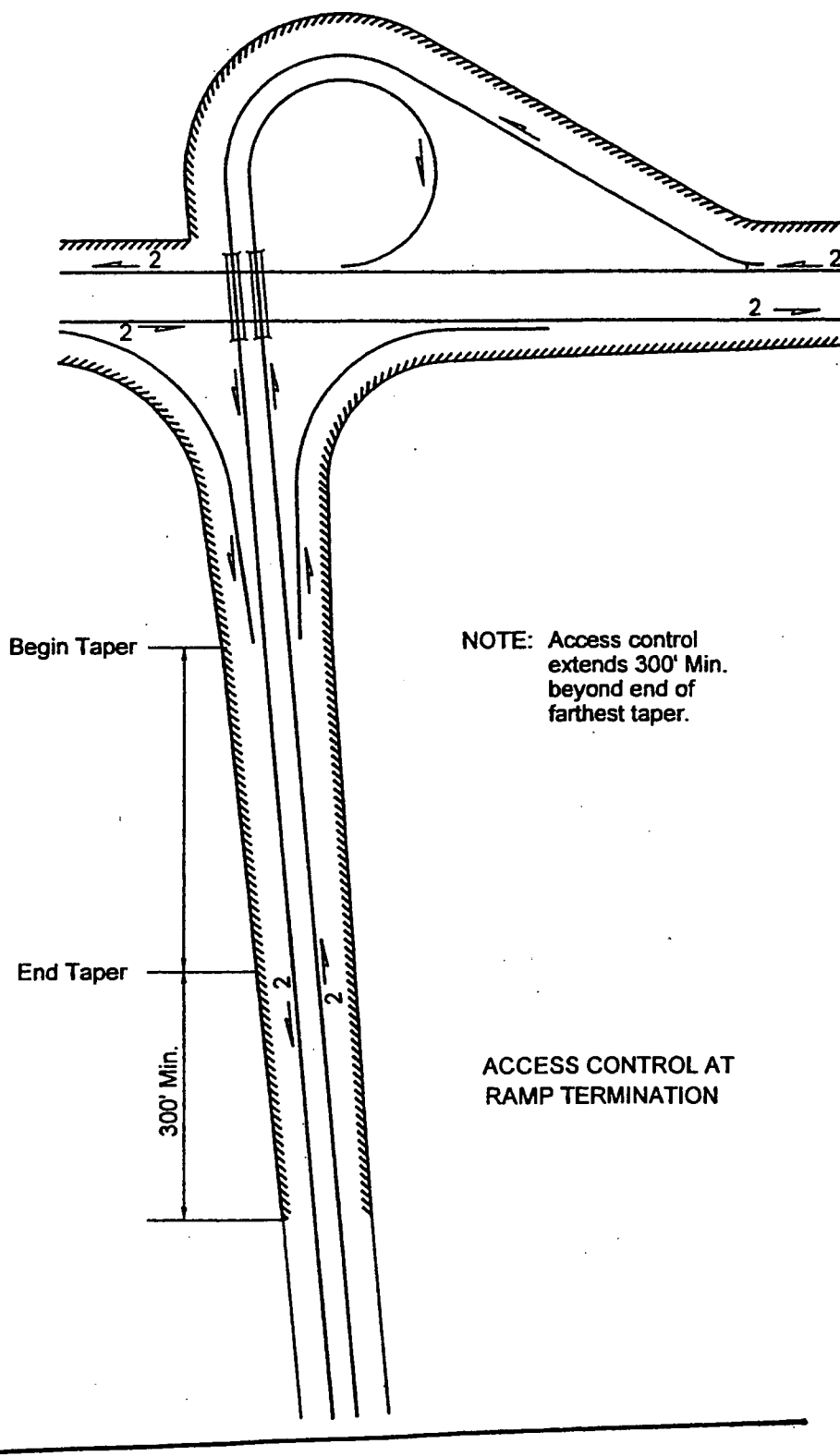
ACCESS CONTROL FOR TYPICAL INTERCHANGE

EMERGENCY

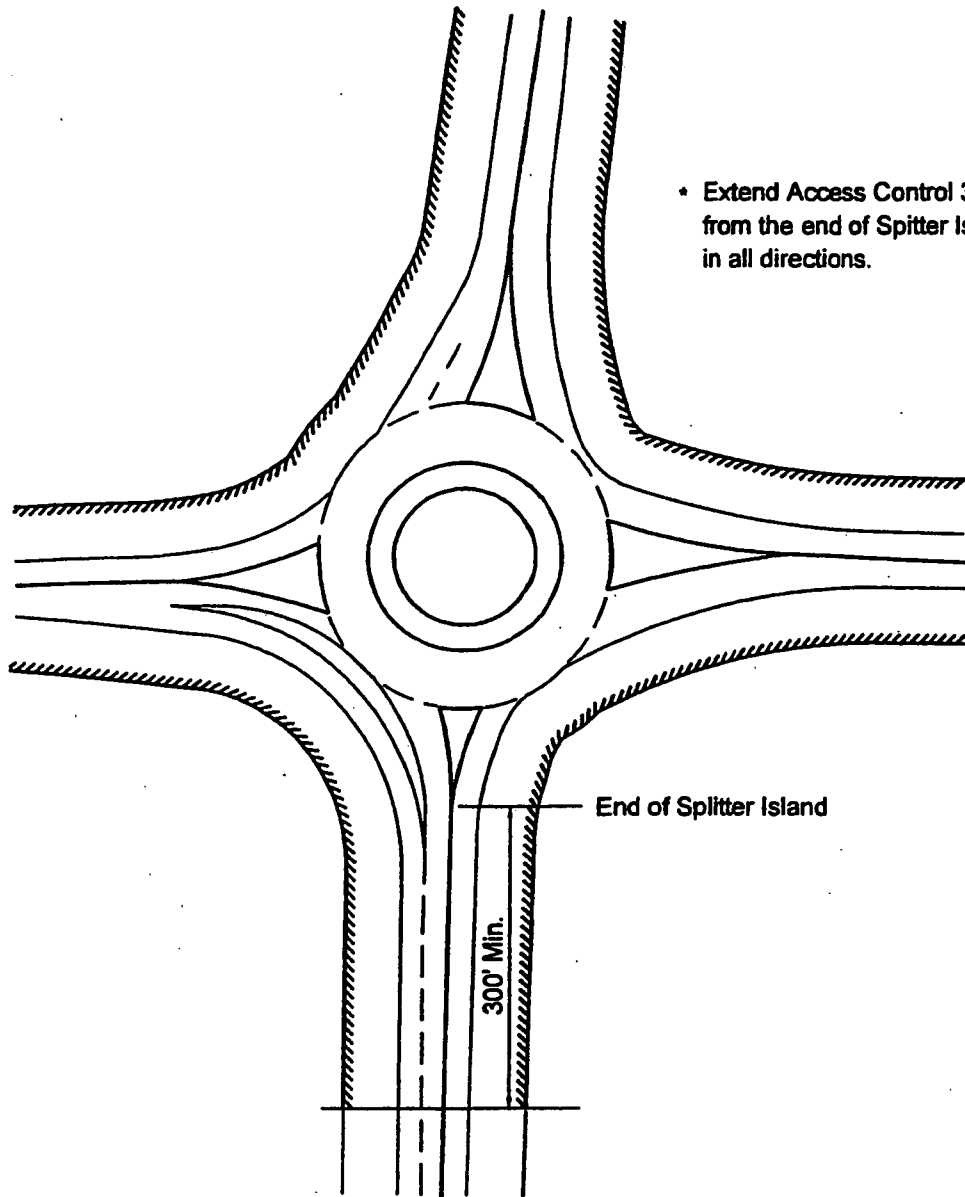


ACCESS CONTROL FOR TYPICAL INTERCHANGE

EMERGENCY



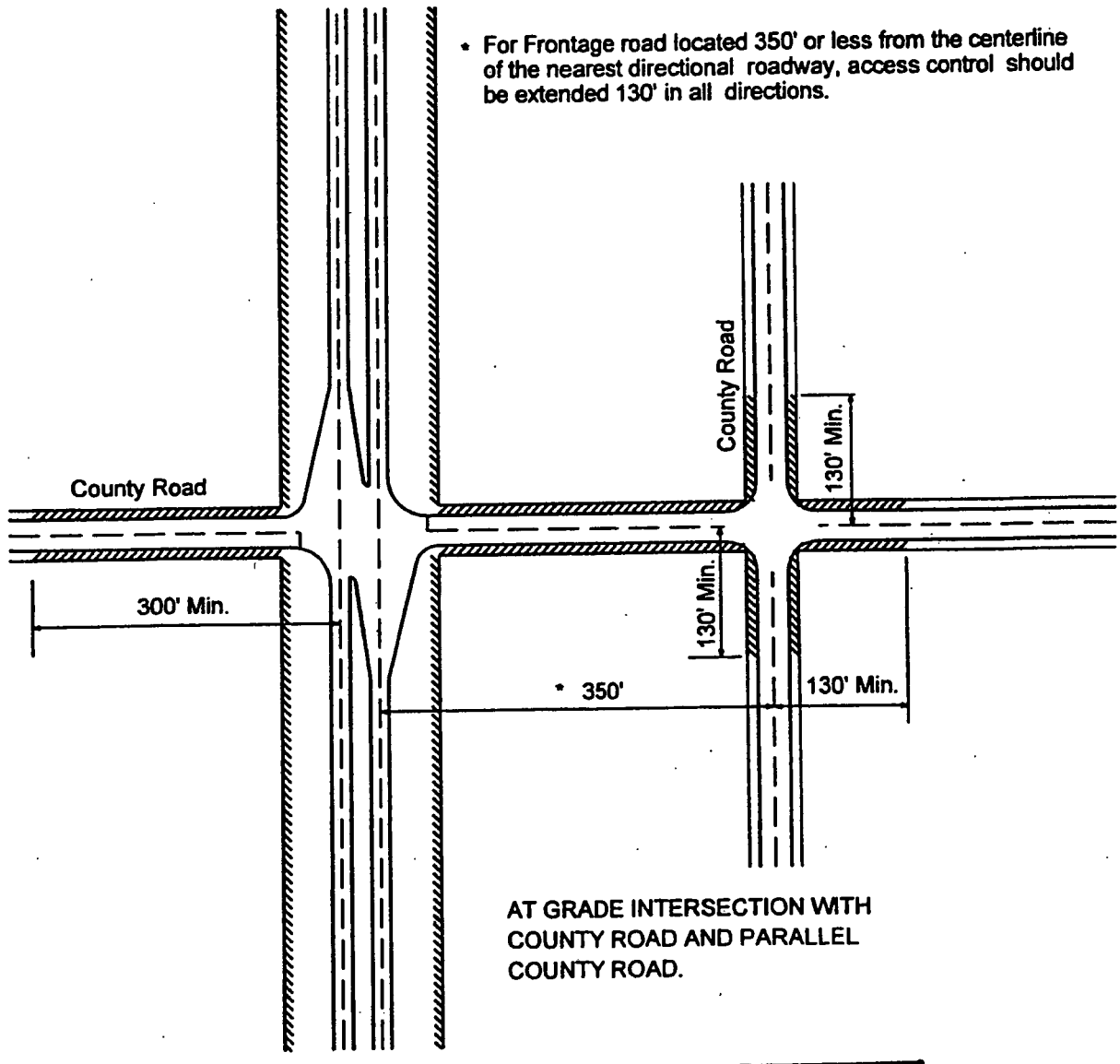
EMERGENCY



ACCESS CONTROL FOR TYPICAL ROUNDABOUT

EMERGENCY

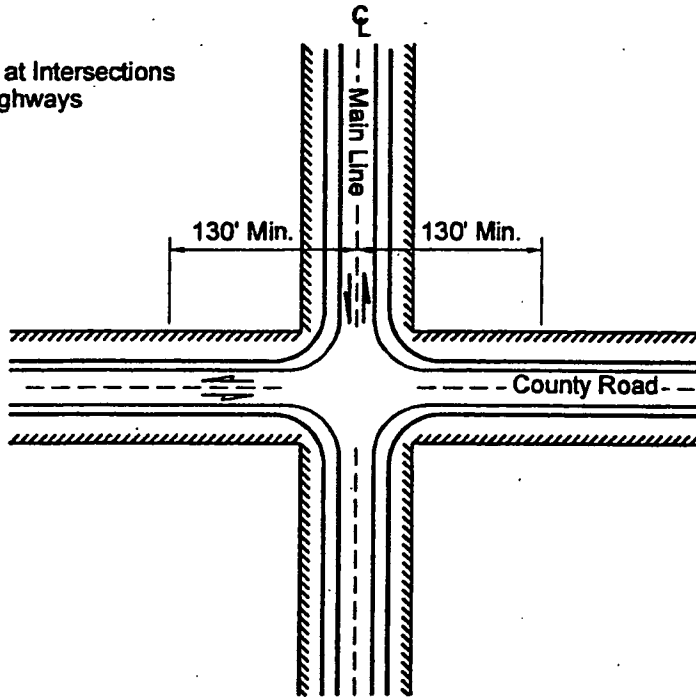
EMERGENCY



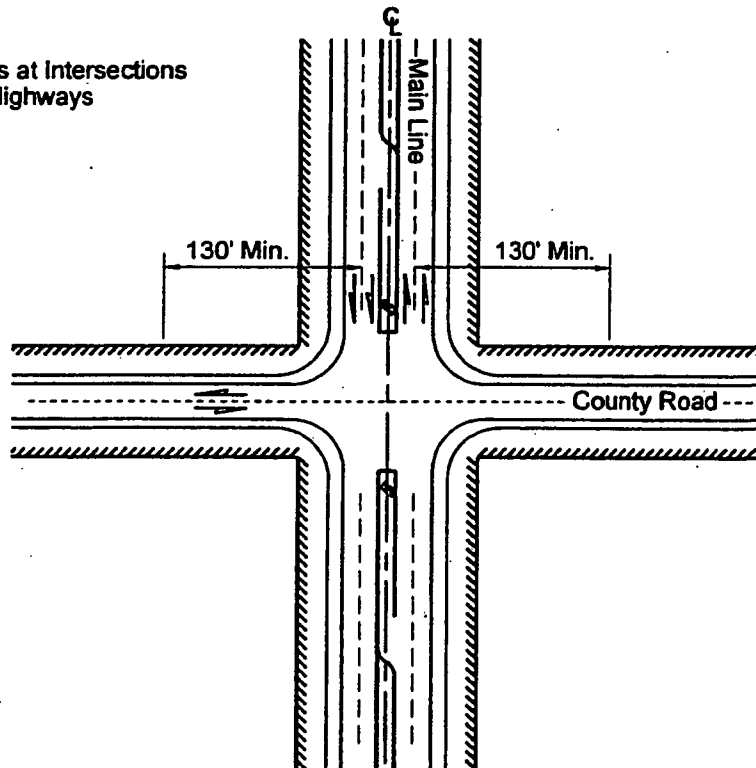
* For Frontage road located 350' or less from the centerline of the nearest directional roadway, access control should be extended 130' in all directions.

AT GRADE INTERSECTION WITH COUNTY ROAD AND PARALLEL COUNTY ROAD.

Access Control Limits at Intersections
Modified Control Highways
Two-Lane



Access Control Limits at Intersections
Modified Control Highways
Multi-Lane



ACCESS CONTROL LIMITS AT INTERSECTIONS

EMERGENCY

**WSR 03-08-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-57—Filed March 28, 2003, 11:35 a.m.]

**WSR 03-08-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-60—Filed March 28, 2003, 1:22 p.m., effective April 7, 2003, 6:00 p.m.]

Date of Adoption: March 28, 2003.

Purpose: Amend subsistence fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-32-055.

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 tribes have adopted a size limit restriction on subsistence caught sturgeon that is consistent with sturgeon management plans in Zone 6 as determined by the Sturgeon Management Task Force. 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 1, Amended 0, Repealed 0.

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

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

Effective Date of Rule: Immediately.

March 28, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-32-05500F Off-reservation Indian subsistence fishing. Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take or possess sturgeon taken for subsistence purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon under the following provisions pursuant to lawfully enacted tribal rules:

1) Sturgeon size limit: only those sturgeon between 4 feet and 5 feet in length may be kept for subsistence purposes.

Date of Adoption: March 28, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-04600U; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Adjustments made to boundaries of noncommercial zones are made to be consistent with state/tribal management plans. The closure of Areas 25A, 25B, 25C, 25D, 25E, 23A, 23B, 23C, 23D, 29 and 26A West is to maintain state commercial quota plans. The closure of Areas 24A, 24B, 24C, 24D, 26A East, 22A, 22B, 21A and 21B is due to high percentages of soft crab. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: April 7, 2003, 6:00 p.m.

March 28, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-04600W Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, it is unlawful to fish for Dungeness Crab for commercial purposes as provided herein:

(a) Effective immediately until further notice, it is unlawful to fish for or possess crab taken for commercial purposes from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 22A, 22B, 21B, 21A, 23A,

EMERGENCY

23B, 25D, 25B, 25C, 26A West, 24A, 24B, 24C, 24D, and 26A East.

(b) Effective 6:00 p.m. April 7, 2003 until further notice, it is unlawful to fish for or possess crab taken for commercial purposes from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25A, 25E, 23D, 23C and 29.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600U Crab fishery—Seasons and areas. (03-43)

WSR 03-08-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-59—Filed March 28, 2003, 1:25 p.m., effective April 7, 2003, 6:00 p.m.]

Date of Adoption: March 28, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000V; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This emergency regulation is necessary to maintain allocation requirements in Marine Areas 4, 5, 6, 8-1, 8-2, 9, and 10. Closure in Marine Areas 11, 13 and in the San Juan Islands, Anacortes and Bellingham portion of Marine Area 7 is to protect soft crab. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: April 7, 2003, 6:00 p.m.

March 28, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-33000W Crab—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-330, it is lawful to fish for crab for personal use in all waters of Puget Sound except as provided herein:

(1) Effective 6:00 p.m. April 7, 2003 until further notice, it is unlawful to fish for crab in all waters of Marine Areas 4, 5 and 6.

(2) Effective immediately until further notice, it is unlawful to fish for crab in all waters of Marine Areas 8-1, 8-2, 9, 10, 11, 12, 13 and that portion of Marine Area 7 easterly and southerly of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island including Bellingham, Samish and Padilla Bays, and westerly and southerly of a line from the southern most end of Lummi Island to the northernmost tip of Sinclair Island, and southerly of a line from the northernmost tip of Sinclair Island to Lawrence Point on Orcas Island and southerly of a line which runs from Steep Point on Orcas Island to Limestone Point on San Juan Island and then to Green Point on the eastern tip of Speiden Island and from the western tip of Speiden Island true west to the international boundary.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. April 7, 2003:

WAC 220-56-33000V Crab—Areas and seasons. (03-44)

WSR 03-08-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-56—Filed March 28, 2003, 3:34 p.m., effective April 17, 2003, 12:01 a.m.]

Date of Adoption: March 28, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900S; 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.

EMERGENCY

Reasons for this Finding: This regulation is necessary to close Klineline Park Pond until the day after the event to ensure an orderly fishery during the juvenile fishing event. To alleviate any user conflicts, fishing should not be allowed until the morning after the event. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: April 17, 2003, 12:01 a.m.

March 28, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900S Exceptions to statewide rules—Klineline Pond (Clark Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 17 through 11:59 p.m. April 19, 2003 it is unlawful to fish in those waters of Klineline Pond, except open to fishing 7:00 a.m. through 1:45 p.m. April 19, 2003 to juvenile anglers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 20, 2003:

WAC 232-28-61900S Exceptions to statewide rules—Klineline Pond (Clark Co.)

**WSR 03-08-060
EMERGENCY RULES
STATE BOARD OF EDUCATION**

[Filed March 31, 2003, 1:43 p.m.]

Date of Adoption: March 21, 2003.

Purpose: WAC 180-79A-117 Uniform expiration date, due to recent call up of active United States military duty, some educators will be unable to complete the necessary requirements to maintain the validity of their teaching certificate. The purpose of the proposed amendment is to recognize the call to serve that is beyond their control and grant an

appropriate extension of time to maintain validity of their certificate.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-117.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305 [28A.305.130] (1) through (4).

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: Call to active military duty.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 31, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

WAC 180-79A-117 Uniform expiration date. (1) All certificates issued for one or more stated years shall expire on June 30 of the stated year and shall be calculated as follows:

(a) Certificates issued prior to June 30 of a calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the same calendar year regardless of the date of issuance.

(b) Certificates issued July 1 or later in the calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the next calendar year regardless of the date of issuance.

(c) All valid existing certificates scheduled to expire on August 31 of a given year shall be valid until June 30 of the following year.

(2) An applicant who holds a valid certificate, who submits an application for further certification prior to the expiration date of that certificate, and who meets all the requirements of WAC 180-79A-128, shall be granted a one hundred eighty-day permit as provided in chapter 180-79A WAC.

EMERGENCY

(3) Any educator who is called up to active duty by one of the U.S. military branches shall be granted an extension of the expiration date of his/her certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

WSR 03-08-064
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed March 31, 2003, 3:52 p.m., effective April 1, 2003]

Date of Adoption: March 27, 2003.

Purpose: To update the state WACs to agree with changes in federal regulations as of April 1, 2003, regarding maximum housing and maintenance amounts allowed for long-term and waiver services beneficiaries and their spouses.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-153-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: Section 1924 of the Social Security Act (42 U.S.C. 1396r-5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The increase in the client standards must be effective April 1, 2003, to comply with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Effective Date of Rule: April 1, 2003.

March 27, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availabil-

ity for long-term care (LTC) services. This section describes how the department defines the resource standard and available resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for a single client; or

(b) Three thousand dollars for a legally married couple, unless subsection (2) applies.

(2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1)(a) to each spouse, unless doing so would make one of the spouses ineligible.

(3) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-470-0005, Resource eligibility and limits;

(b) WAC 388-470-0010, How to determine who owns a resource;

(c) WAC 388-470-0015, Availability of resources;

(d) WAC 388-470-0060(6), Resources of an alien's sponsor; and

(e) WAC 388-506-0620, SSI-related medical clients.

(4) For LTC services the department determines a client's nonexcluded resources as follows:

(a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-513-1360;

(b) For an SSI-related client who has a community spouse, the department:

(i) Excludes resources described in WAC 388-513-1360; and

(ii) Adds together the available resources of both spouses according to subsection (5)(a) or (b) as appropriate;

(c) For a client not described in subsection (4)(a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.

(5) The department determines available resources of a legally married client, when both spouses are institutionalized, by following WAC 388-506-0620 (5) and (6). For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of nonexcluded resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(6) If subsection (5)(b) applies, the department allocates the maximum amount of resources ordinarily allowed by law to the community spouse before determining nonexcluded resources used to establish eligibility for the institutionalized

spouse. The maximum allocation amount is ~~((eighty-seven))~~ ninety thousand six hundred sixty dollars effective January 1, ~~((2001))~~ 2003.

(7) The amount of allocated resources described in subsection (6) can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC or by consent order, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(8) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (9)(a), (b), or (c) applies.

(9) A redetermination of the couple's resources as described in subsections (4)(b) or (c) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's nonexcluded resources exceed the standard described in subsection (1)(a), if subsection (5)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (6) or (7) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services. This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical facility, the department applies all subsections of this rule.

(2) For a client receiving waived services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, the department applies rules used for the community options program entry system (COPEs).

(4) Excess resources are reduced in an amount equal to incurred medical expenses (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance charges;

(b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and

(c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395 (2)(a) or (b).

(5) The department allocates nonexcluded income up to a total of the medically needy income level (MNIL) in the following order:

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives a VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(b) Federal, state, or local income taxes ~~((incurred during the time period covered by the PNA, whether paid or unpaid))~~ owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnished for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ~~((2001))~~ 2003, two thousand ~~((one))~~ two hundred ~~((seventy-five))~~ sixty-seven dollars, unless a greater amount is allocated as described in subsection (8) of this section. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand ~~((four))~~ five hundred ~~((fifty-two))~~ fifteen dollars; and

(B) Excess shelter expenses as specified under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse who:

(i) Resides with the community spouse, equal to one-third of the amount that one thousand ~~((four))~~ five hundred

~~((fifty-two))~~ fifteen dollars exceeds the dependent family member's income.

(ii) Does not reside with the community spouse, equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption and reviews the client's circumstances after ninety days.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred ~~((thirty-six))~~ fifty-five dollars, effective April 1, ~~((2001))~~ 2003; and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

Purpose: These amendments change income standards to reflect the new federal poverty level (FPL). Federal poverty guidelines are updated annually in the Federal Register by the United States Department of Health and Human Services under Section 673(2) of the Omnibus Budget Reconciliation Act (42 U.S.C. 9902(2)).

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0085.

Statutory Authority for Adoption: RCW 74.050 [74.04.050], 74.04.057, 74.08.090, and 74.09.530.

Other Authority: 42 U.S.C. 9902(2).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The increase in the FPL must be effective April 1, 2003, to comply with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 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: April 1, 2003.

March 26, 2003

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-056, filed 8/30/01, effective 9/30/01)

WAC 388-478-0085 Medicare ~~((cost-sharing))~~ savings programs—Monthly income and countable resources standards. (1) The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the Federal Poverty Level (FPL). Beginning April 1, ~~((2001))~~ 2003, the QMB program's income standards are:

(a) One person \$~~((716))~~ 749

(b) Two persons \$~~((968))~~ 1010

(2) The special low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but under one hundred twenty percent of FPL. Beginning April 1, ~~((2001))~~ 2003, the SLMB program's income standards are:

WSR 03-08-065

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 31, 2003, 3:53 p.m., effective April 1, 2003]

Date of Adoption: March 26, 2003.

	Minimum	Maximum
(a) One person	\$(716.01) 749.01	\$(859) 898
(b) Two persons	\$(968.01) 1010.01	\$(1161) 1212

(3) The ~~((expanded special low income Medicare beneficiary (ESLMB)))~~ qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but under one hundred thirty-five percent of FPL. Beginning April 1, ~~((2001))~~ 2003, the ESLMB program's income standards are:

	Minimum	Maximum
(a) One person	\$(859.01) 898.01	\$(967) 1011
(b) Two persons	\$(1161.01) 1212.01	\$(1307) 1364

(4) The qualified disabled working individual (QDWI) program income standard is up to two hundred percent of FPL. Beginning April 1, ~~((2001))~~ 2003, the QDWI program's income standards are:

- (a) One person ~~\$(1432)~~ 1497
- (b) Two persons ~~\$(1935)~~ 2020

(5) ~~((The qualified individual (QI) program income standard is over one hundred thirty-five percent of FPL, but under one hundred seventy-five percent of FPL. Beginning April 1, 2001, the QI program's income standards are:~~

	Minimum	Maximum
(a) One person	\$967.01	\$1253
(b) Two persons	\$1307.01	\$1694

~~((6)))~~ The resource standard for the Medicare ~~((cost-sharing))~~ savings programs in this section is:

- (a) One person \$4000
- (b) Two persons \$6000

WSR 03-08-066
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed March 31, 2003, 3:55 p.m., effective April 1, 2003]

Date of Adoption: March 17, 2003.

Purpose: These amendments change income standards to reflect the new federal poverty level (FPL). These changes will increase the number of people eligible for the medical programs based on the FPL, for example, pregnant women and children.

The department has filed a preproposal statement of inquiry as WSR 03-06-058, and is taking appropriate steps to adopt permanent rules reflecting the revised income standards.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-478-0075.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057, 74.09.530 and the poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under authority of Section 673(2) of the Omnibus Budget Reconciliation Act (42 U.S.C. 9902(2)).

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

Reasons for this Finding: The increase in FPL must be effective by April 1, 2003, to comply with federal requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 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: April 1, 2003.

March 17, 2003
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) The department bases the income standard upon the Federal Poverty Level (FPL) for the following medical programs:

- (a) Pregnant women's program up to one hundred eighty-five percent of FPL;
- (b) Children's categorically needy program up to two hundred percent of FPL;
- (c) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and
- (d) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but under two hundred fifty percent of FPL.

EMERGENCY

(2) Beginning April 1, ((2002)) 2003, the monthly FPL standards are:

FAMILY SIZE	100% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$((739)) <u>749</u>	\$((1366)) <u>1385</u>	\$((1477)) <u>1497</u>	\$((1625)) <u>1647</u>	\$((1846)) <u>1871</u>
2	\$((995)) <u>1010</u>	\$((1841)) <u>1869</u>	\$((1990)) <u>2020</u>	\$((2189)) <u>2222</u>	\$((2488)) <u>2525</u>
3	\$((1252)) <u>1272</u>	\$((2316)) <u>2353</u>	\$((2504)) <u>2544</u>	\$((2754)) <u>2798</u>	\$((3130)) <u>3180</u>
4	\$((1509)) <u>1534</u>	\$((2791)) <u>2837</u>	\$((3017)) <u>3067</u>	\$((3319)) <u>3374</u>	\$((3771)) <u>3834</u>
5	\$((1765)) <u>1795</u>	\$((3266)) <u>3321</u>	\$((3530)) <u>3590</u>	\$((3883)) <u>3949</u>	\$((4413)) <u>4488</u>
6	\$((2022)) <u>2057</u>	\$((3741)) <u>3805</u>	\$((4044)) <u>4114</u>	\$((4448)) <u>4525</u>	\$((5055)) <u>5142</u>
7	\$((2279)) <u>2319</u>	\$((4215)) <u>4289</u>	\$((4557)) <u>4637</u>	\$((5013)) <u>5101</u>	\$((5696)) <u>5796</u>
8	\$((2535)) <u>2580</u>	\$((4690)) <u>4773</u>	\$((5070)) <u>5160</u>	\$((5577)) <u>5676</u>	\$((6338)) <u>6450</u>
9	\$((2792)) <u>2842</u>	\$((5165)) <u>5258</u>	\$((5584)) <u>5684</u>	\$((6142)) <u>6252</u>	\$((6980)) <u>7105</u>
10	\$((3049)) <u>3104</u>	\$((5640)) <u>5742</u>	\$((6097)) <u>6207</u>	\$((6707)) <u>6828</u>	\$((7621)) <u>7759</u>
Add to the ten person standard for each person over ten:					
	\$((257)) <u>262</u>	\$((475)) <u>485</u>	\$((514)) <u>524</u>	\$((565)) <u>576</u>	\$((642)) <u>655</u>

(3) There are no resource limits for the programs under this section.

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

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

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

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

Effective Date of Rule: Immediately.

March 31, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-12-31500J Emergency for custody or destruction of dogs harassing deer or elk. Effective immediately until further notice an emergency is declared in the following Washington State Counties and it is lawful for Fish and Wildlife officers to take into custody or destroy, if necessary, any dog that is pursuing, harassing, attacking or killing deer or elk.

- (1) Chelan County
- (2) Douglas County
- (3) Kittitas County
- (4) Okanogan County
- (5) Yakima County

**WSR 03-08-075
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-61—Filed April 1, 2003, 2:31 p.m.]

Date of Adoption: March 31, 2003.

Purpose: Amend wildlife regulations.

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: Weather conditions have forced deer to lower elevations, where harassment by dogs has been observed. In order to protect deer and elk, it is necessary to allow officers to take dogs into custody, and, if necessary, destroy dogs. 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.



WSR 03-08-003
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
[Memorandum—March 18, 2003]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a change of location for their regular April 9, 2003, meeting. The time and date remain the same. This meeting is open to the public.

Original Meeting Location Time
Pierce College at Ft. Lewis 12:30 p.m.
Fort Lewis, Washington

New Meeting Location
Room Cascade 325 H 12:30 p.m.
Pierce College Fort Steilacoom
9401 Farwest Drive S.W.
Lakewood, WA 98498

WSR 03-08-007
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
[Memorandum—March 17, 2003]

Special Board Meeting
Board of Trustees
Bates Technical College

The board of trustees of Bates Technical College will have a special meeting on March 26, 2003, from 12:00 p.m. to approximately 2:00 p.m. in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma. The board will go into executive session for the purpose of discussing personnel matters. No action will be taken during executive session.

WSR 03-08-014
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Beef Commission)
[Memorandum—March 20, 2003]

Revised Washington State Beef Commission Board Meeting Dates

This is to notify you of the following revisions of board meeting dates for the Washington State Beef Commission:

May 13, 2003	Budget Meeting	Ellensburg
June 24, 2003	Annual Meeting	Ellensburg
August 10-12, 2003	Board Meeting	Washington Cattle Feeders Convention Leavenworth
November 13-15, 2003	Board Meeting	Washington Cattlemen's Convention Chelan

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

WSR 03-08-015
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC REVITALIZATION BOARD
[Memorandum—March 21, 2003]

Change of Meeting Location and Start Time for the May 15, 2003, CERB Meeting

The Community Economic Revitalization Board (CERB) will change the meeting location for the May 15, 2003, meeting only. The new meeting location for the May meeting is the Red Lion Hotel (formerly the Westcoast Hotel) in Pasco at 2525 North 20th Avenue, Pasco, WA 99301. The CERB meeting will be held in the Ball Room. The meeting will begin at 8:00 a.m.

WSR 03-08-016
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Memorandum—March 25, 2003]

The board of trustees of Bellingham Technical College will meet in a special session on Monday, March 24, 2003, at 1:30 p.m., at 3240 Northwest Avenue. The board will convene into an executive session to consider acquisition of real estate by purchase. Action may be taken, if necessary, as a result of board discussion. Call 738-3105 ext. 334 for information.

WSR 03-08-022
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
[Filed March 26, 2003, 4:42 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Public notice.
Subject: Medicaid State Plan Amendment 03-007.
Effective Date: April 30, 2003.

Document Description: The Department of Social and Health Services, Medical Assistance Administration, is updating the Medicaid state plan through Amendment TN 03-007 to further describe: (1) Services described in Attachments 3.1-A and 3.1-B to the plan; and (2) policy and methods used in establishing payment rates explained in Attachment 4.19-B of the plan.

Written comments may be sent to: Doug Porter, Assistant Secretary, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45080, Olympia, WA 98504-5080.

MISC.

For more information regarding this clarification of language, please write to: Larry Linn, Rates Analysis Section, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510.

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, weblink <http://maa.dshs.wa.gov>, TDD (800) 848-5429, fax (360) 586-9727, e-mail Myersea@dshs.wa.gov.

March 25, 2003

E. A. Myers

WSR 03-08-024
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 26, 2003, 4:44 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-07 MAA.
 Subject: Prescription drug program updates—MAC list.
 Effective Date: May 1, 2003.

Document Description: Effective for dates of service on and after May 1, 2003, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:

1. New additions to the maximum allowable cost (MAC) list; and
 2. Adjustments to the existing MAC list.
- This memorandum lists the details.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

March 24, 2003

E. A. Myers, Manager
 Rules and Publications Section

WSR 03-08-025
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 26, 2003, 4:44 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-08 MAA.

Subject: Prescription drug program updates—Additions to TCS preferred drug list/EPA/PA criteria and coverage.

Effective Date: May 1, 2003.

Document Description: This memorandum describes the following changes in the Medical Assistance Administration's (MAA) prescription drug program effective May 1, 2003, (unless otherwise specified):

- Additions to MAA's preferred drug list in therapeutic consultation services (TCS);
- Modifications and additions to the expedited prior authorization criteria;
- Changes in limitations of certain drugs; and
- Drug coverage changes to prior authorization.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memoranda," "Year 2003"), TDD (800) 848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

March 24, 2003

E. A. Myers, Manager
 Rules and Publications Section

WSR 03-08-039
RULES COORDINATOR
WASHINGTON STATE PATROL

[Filed March 27, 2003, 1:43 p.m.]

Effective immediately, Ms. Kimberly J. Bush is now the rules coordinator for the Washington State Patrol (WSP). Please be advised of her contact information below:

Ms. Kimberly J. Bush
 WSP Research and Planning Section
 General Administration Building
 P.O. Box 42600
 Olympia, WA 98504-2600
 Mailstop 42600
 (360) 753-0762
 fax (360) 753-0770
Kbush@wsp.wa.gov

Director Diane C. Perry
 Management Services Bureau

MISC.

WSR 03-08-045**NOTICE OF PUBLIC MEETINGS****NSIS HIGHER EDUCATION CONSORTIUM**

[Memorandum—March 24, 2003]

**NSIS Higher Education Consortium
Board of Directors - Revision**

The NSIS Higher Education Consortium board of directors has adopted a schedule of regular meetings for 2003:

Wednesday, May 14th (*originally scheduled for Wednesday, February 19th*)

Thursday, October 2nd

Meetings will begin at 9:00 a.m. and will be held in Conference Room 213, University Center, Everett Station, 3201 Smith Avenue, Everett, WA. This meeting space is accessible to persons of disability. For information, call the University Center office at (425) 252-9505.

WSR 03-08-057**NOTICE OF PUBLIC MEETINGS****UNIFORM LEGISLATION COMMISSION**

[Memorandum—January 24, 2003]

The commission will meet on the second Wednesday of the following months: January, April, July and October. The meetings will begin at 12:00 p.m. at the chambers of Judge Marlin Appelwick, 26th Floor, One Union Square Building, 600 University Street, Seattle, WA 98101, (206) 389-3926. The next meeting will be held on April 9, 2003.

WSR 03-08-059**NOTICE OF PUBLIC MEETINGS****NOXIOUS WEED
CONTROL BOARD**

[Memorandum—March 31, 2003]

The meeting schedule for the Washington State Noxious Weed Control Board for the remainder of 2003 is as follows:

May 19 - 1 p.m.

Special Meeting: Statewide Weed Management Plan
Best Western Summit Inn
603 State Route 906
Snoqualmie Pass, WA 98068

May 20 - 8:30 a.m.

Regular Meeting
Best Western Summit Inn
603 State Route 906
Snoqualmie Pass, WA 98068

July 15 - 8:30 a.m.

Regular Meeting
Grant County Public Works
124 Enterprise Street S.E.
Ephrata, WA 98823

September 16 - 8:30 a.m.

Regular Meeting
WSU Cooperative Extension
201 West Patison
Port Hadlock, WA 98339

November 18 - 8:30

Regular Meeting and Hearing on 2004 Noxious Weed List
Washington Cattlemen's Association
1301 Dolarway
Ellensburg, WA

WSR 03-08-063**OFFICE OF
COMMUNITY DEVELOPMENT**

[Filed March 31, 2003, 3:51 p.m.]

**Low-Income Home Energy Assistance
Program (LIHEAP) Public Hearing**

The Washington State Department of Community, Trade and Economic Development (CTED) plans to hold a public hearing on the proposed Washington state abbreviated plan for the 2004 low-income home energy assistance program (LIHEAP).

The hearing will be held Thursday, June 26, 2003, at the Department of Community, Trade and Economic Development, 906 Columbia Street S.W., 2nd Floor Conference Room, Olympia, WA 98504-8300. The hearing will begin at 10:30 a.m. and close at noon unless taking testimony requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m., June 26, 2003. Written testimony should be sent to the attention of Bruce Yasutake, Office of Community Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

The abbreviated plan is available in alternate format upon request. Meetings sponsored by CTED shall be accessible to persons with disabilities. Accommodations may be arranged with a minimum of ten working days notice, to Bruce Yasutake, or TDD 1-800-833-6388.

If you have any questions or need additional information, please contact Bruce Yasutake at (360) 725-2866 or by e-mail at brucey@cted.wa.gov.

Bruce Yasutake
Program Manager
Energy Services Section

WSR 03-08-068

**INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE**

[Filed March 31, 2003, 4:01 p.m.]

Issuance of Interpretive Statement

This announcement of the issuance of this interpretive statement is published in the Washington State Register pursuant to the requirements of RCW 34.05.230.

The Department of Revenue has issued the following excise tax advisories (ETAs) to provide guidance regarding the retail sales and use tax exemption in RCW 82.08.02565 and 82.12.02565, commonly referred to as the manufacturers' machinery and equipment exemption (M&E exemption). ETA 2012 provides the list of the issues addressed in the other documents issued in this series of ETAs.

- ETA 2012** **Manufacturers' Machinery and Equipment Exemption**
- ETA 2012-1S** **Rental of tangible personal property and rental of equipment with an operator**
- ETA 2012-2S** **Pollution control equipment**
- ETA 2012-3S** **Electrical apparatus and utility systems**
- ETA 2012-4S** **Devices**
- ETA 2012-5S** **Design and Product Development**
- ETA 2012-6S** **Manufacturing site**
- ETA 2012-7S** **Buildings, fixtures, and support facilities**
- ETA 2012-8S** **Computers**
- ETA 2012-9S** **Prototypes**

Copies of these advisories are available via the internet at http://dor.wa.gov/content/rules_laws/eta/eta.htm. Alternatively, a request for copies of these advisories may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 664-0693.

Alan R. Lynn
Rules Coordinator

WSR 03-08-074

**NOTICE OF PUBLIC MEETINGS
WASHINGTON CITIZENS' COMMISSION ON
SALARIES FOR ELECTED OFFICIALS**

[Memorandum—April 1, 2003]

**Notice of Meeting Time Change
For the May 19, 2003, Public Hearing**

The Washington Citizens' Commission on Salaries for Elected Officials has changed the beginning and ending time of its May 19, 2003, regularly scheduled public hearing to 9 a.m. to 3 p.m. The meeting originally was scheduled to begin at 8 a.m. and end at 5 p.m. Meeting information is as follows:

May 19, 2003
Wynham Hotel
1811 Pacific Highway South
SeaTac
9 a.m. to 3 p.m.
10 a.m. Public Testimony

WSR 03-08-080

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed April 1, 2003, 4:40 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-06 MAA.
Subject: Alien emergency medical (AEM) program.
Effective Date: April 1, 2003.

Document Description: The purpose of this memorandum is to help providers understand the alien emergency medical (AEM) program, who is eligible, and what services are covered.

To receive a copy of the reference document, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

March 28, 2003
E. A. Myers, Manager
Rules and Publications Section

WSR 03-08-091

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—April 2, 2003]

The board of trustees of Bellingham Technical College will hold a study session to discuss revision of the five year strategic plan on Wednesday, April 2, 2003, 11:00 a.m. to 5:00 p.m., at 2825 Roeder Avenue, Bellingham, WA. No action will be taken. Call 738-315 ext. 334 for information.

MISC.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal

No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-228-1264	NEW	03-05-033	16-239-0804	NEW-P	03-07-082	16-303-317	AMD	03-08-005
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16-303-330	AMD	03-08-005	16-659	PREP	03-03-122	132F-108-080	AMD-P	03-06-067
16-303-340	AMD	03-06-005	16-662-100	AMD-X	03-03-123	132F-108-100	AMD-P	03-06-067
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16-321-001	REP	03-08-018	16-662-105	AMD	03-08-017	132F-108-140	AMD-P	03-06-067
16-321-010	REP-X	03-03-124	16-662-110	AMD-X	03-03-123	132F-120	REP-P	03-06-067
16-321-010	REP	03-08-018	16-662-110	AMD	03-08-017	132F-120-020	REP-P	03-06-067
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16-401-026	REP-P	03-07-091	132F-104-020	AMD-P	03-06-067	132F-121-160	NEW-P	03-06-067
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16-401-031	REP-P	03-07-091	132F-104-801	REP-P	03-06-067	132F-121-180	NEW-P	03-06-067
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132H-120-310	AMD-P	03-08-021	173-183-820	AMD-X	03-06-036	173-350-410	NEW	03-03-043
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173- 27	PREP	03-03-019	173-314-100	REP-X	03-05-095	180- 79A-117	AMD-E	03-08-060
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197-11-310	AMD-P	03-03-082	220-44-05000S	NEW-E	03-04-058	220-56-33000U	NEW-E	03-06-020
197-11-800	AMD-P	03-03-082	220-44-05000S	REP-E	03-05-027	220-56-33000V	NEW-E	03-07-003
197-11-820	AMD-P	03-03-082	220-44-05000T	NEW-E	03-05-027	220-56-33000V	REP-E	03-08-049
197-11-835	AMD-P	03-03-082	220-44-05000T	REP-E	03-07-024	220-56-33000W	NEW-E	03-08-049
197-11-850	AMD-P	03-03-082	220-44-05000U	NEW-E	03-07-024	220-56-350	AMD	03-05-057
197-11-855	AMD-P	03-03-082	220-47-301	AMD	03-05-076	220-56-35000P	NEW-E	03-07-025
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212-12-310	NEW	03-06-063	220-52-04600U	REP-E	03-08-048	220-72-090	NEW-P	03-06-109
212-12-320	NEW	03-06-063	220-52-04600V	NEW-E	03-07-014	220-72-092	NEW-P	03-06-109
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212-12-380	NEW	03-06-063	220-52-07300A	REP-E	03-03-002	220-100-020	AMD-P	03-06-080
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222- 21-035	AMD	03-06-039	232- 28-266	AMD-P	03-06-066	232- 28-61900S	REP-E	03-08-054
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232- 19-120	REP-P	03-06-080	232- 28-61900H	REP-E	03-05-037	246-290-010	AMD-P	03-03-079
232- 19-130	REP-P	03-06-080	232- 28-61900I	NEW-E	03-06-009	246-290-010	AMD	03-08-037
232- 19-140	REP-P	03-06-080	232- 28-61900I	REP-E	03-06-009	246-290-025	AMD-P	03-03-079
232- 19-180	REP-P	03-06-080	232- 28-61900J	NEW-E	03-06-008	246-290-025	AMD	03-08-037
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232- 28-02201	REP	03-06-110	232- 28-61900K	NEW-E	03-06-028	246-290-060	AMD-P	03-03-079
232- 28-02202	REP-P	03-02-103	232- 28-61900K	REP-E	03-06-028	246-290-060	AMD	03-08-037
232- 28-02202	REP	03-06-110	232- 28-61900L	NEW-E	03-07-001	246-290-100	AMD-P	03-03-079
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232- 28-02203	REP	03-06-110	232- 28-61900M	NEW-E	03-07-016	246-290-105	AMD-P	03-03-079
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246-290-601	AMD	03-08-037	246-310-290	NEW	03-07-096	260- 20-035	REP-P	03-07-051
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246-290-630	AMD	03-08-037	246-310-295	NEW	03-07-096	260- 28-030	AMD-P	03-03-040
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246-290-634	AMD	03-08-037	246-310-990	AMD	03-07-096	260- 32-005	NEW-P	03-07-074
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246-290-654	AMD	03-08-037	246-455-030	AMD-P	03-05-024	260- 48-630	AMD	03-07-057
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246-290-666	AMD	03-08-037	246-802-990	AMD	03-07-095	260- 72-010	REP-P	03-05-070
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246-290-672	AMD	03-08-037	246-815-990	AMD	03-07-095	260- 72-040	NEW	03-07-058
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246-290-674	AMD	03-08-037	246-830-990	AMD	03-07-095	284- 22-020	AMD	03-03-052
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246-290-690	AMD	03-08-037	246-847-065	PREP	03-08-029	284- 24A-070	NEW-W	03-03-063
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246-290-694	AMD	03-08-037	246-869-260	PREP-W	03-04-042	284- 30-3905	NEW-P	03-03-132
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284- 91-025	REP	03-07-007	296- 150P	PREP	03-04-098	296- 46A-517	REP-P	03-05-074
284- 91-027	REP	03-07-007	296- 150R	PREP	03-04-098	296- 46A-550	REP-P	03-05-074
284- 91-030	REP	03-07-007	296- 150T	PREP	03-04-098	296- 46A-553	REP-P	03-05-074
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284- 91-050	REP	03-07-007	296- 17	PREP	03-05-072	296- 46A-680	REP-P	03-05-074
284- 91-060	REP	03-07-007	296- 17-757	PREP	03-03-026	296- 46A-700	REP-P	03-05-074
296- 13-001	REP-P	03-05-074	296- 17-758	PREP	03-03-026	296- 46A-702	REP-P	03-05-074
296- 13-010	REP-P	03-05-074	296- 17-759	PREP	03-03-026	296- 46A-900	REP-P	03-05-074
296- 13-020	REP-P	03-05-074	296- 17-760	PREP	03-03-026	296- 46A-910	REP-P	03-05-074
296- 13-030	REP-P	03-05-074	296- 17-761	PREP	03-03-026	296- 46A-915	REP-P	03-05-074
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296- 13-053	REP-P	03-05-074	296- 17-76204	PREP	03-03-026	296- 46A-933	REP-P	03-05-074
296- 13-055	REP-P	03-05-074	296- 17-76205	PREP	03-03-026	296- 46A-934	REP-P	03-05-074
296- 13-057	REP-P	03-05-074	296- 17-76206	PREP	03-03-026	296- 46A-935	REP-P	03-05-074
296- 13-060	REP-P	03-05-074	296- 17-76207	PREP	03-03-026	296- 46A-940	REP-P	03-05-074
296- 13-080	REP-P	03-05-074	296- 17-76208	PREP	03-03-026	296- 46A-950	REP-P	03-05-074
296- 13-090	REP-P	03-05-074	296- 17-76209	PREP	03-03-026	296- 46A-960	REP-P	03-05-074
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296- 13-110	REP-P	03-05-074	296- 17-76211	PREP	03-03-026	296- 46B-010	NEW-P	03-05-074
296- 13-130	REP-P	03-05-074	296- 17-76212	PREP	03-03-026	296- 46B-020	NEW-P	03-05-074
296- 13-140	REP-P	03-05-074	296- 200A	PREP	03-04-098	296- 46B-030	NEW-P	03-05-074
296- 13-150	REP-P	03-05-074	296- 24	PREP	03-03-110	296- 46B-040	NEW-P	03-05-074
296- 13-160	REP-P	03-05-074	296- 37	PREP	03-04-097	296- 46B-110	NEW-P	03-05-074
296- 13-170	REP-P	03-05-074	296- 400A	PREP	03-04-098	296- 46B-210	NEW-P	03-05-074
296- 13-180	REP-P	03-05-074	296- 401B	PREP	03-04-098	296- 46B-215	NEW-P	03-05-074
296- 13-190	REP-P	03-05-074	296- 402A	PREP	03-04-098	296- 46B-220	NEW-P	03-05-074
296- 13-200	REP-P	03-05-074	296- 45	PREP	03-07-072	296- 46B-225	NEW-P	03-05-074
296- 13-210	REP-P	03-05-074	296- 46A	PREP	03-04-098	296- 46B-230	NEW-P	03-05-074
296- 13-220	REP-P	03-05-074	296- 46A-090	REP-P	03-05-074	296- 46B-250	NEW-P	03-05-074
296- 13-230	REP-P	03-05-074	296- 46A-092	REP-P	03-05-074	296- 46B-300	NEW-P	03-05-074
296- 13-240	REP-P	03-05-074	296- 46A-095	REP-P	03-05-074	296- 46B-314	NEW-P	03-05-074
296- 13-250	REP-P	03-05-074	296- 46A-100	REP-P	03-05-074	296- 46B-334	NEW-P	03-05-074
296- 13-260	REP-P	03-05-074	296- 46A-102	REP-P	03-05-074	296- 46B-358	NEW-P	03-05-074
296- 13-270	REP-P	03-05-074	296- 46A-104	REP-P	03-05-074	296- 46B-394	NEW-P	03-05-074
296- 13-280	REP-P	03-05-074	296- 46A-110	REP-P	03-05-074	296- 46B-410	NEW-P	03-05-074
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296- 13-310	REP-P	03-05-074	296- 46A-155	REP-P	03-05-074	296- 46B-450	NEW-P	03-05-074
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296- 13-350	REP-P	03-05-074	296- 46A-22530	REP-P	03-05-074	296- 46B-520	NEW-P	03-05-074
296- 13-360	REP-P	03-05-074	296- 46A-23001	REP-P	03-05-074	296- 46B-527	NEW-P	03-05-074
296- 13-370	REP-P	03-05-074	296- 46A-23028	REP-P	03-05-074	296- 46B-550	NEW-P	03-05-074
296- 13-380	REP-P	03-05-074	296- 46A-23040	REP-P	03-05-074	296- 46B-553	NEW-P	03-05-074
296- 13-390	REP-P	03-05-074	296- 46A-23062	REP-P	03-05-074	296- 46B-555	NEW-P	03-05-074
296- 13-400	REP-P	03-05-074	296- 46A-250	REP-P	03-05-074	296- 46B-600	NEW-P	03-05-074
296- 13-410	REP-P	03-05-074	296- 46A-300	REP-P	03-05-074	296- 46B-680	NEW-P	03-05-074
296- 13-420	REP-P	03-05-074	296- 46A-30011	REP-P	03-05-074	296- 46B-700	NEW-P	03-05-074
296- 13-430	REP-P	03-05-074	296- 46A-324	REP-P	03-05-074	296- 46B-800	NEW-P	03-05-074
296- 13-440	REP-P	03-05-074	296- 46A-348	REP-P	03-05-074	296- 46B-900	NEW-P	03-05-074
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296- 14-315	NEW-P	03-06-074	296- 46A-370	REP-P	03-05-074	296- 46B-910	NEW-P	03-05-074
296- 14-320	NEW-P	03-06-074	296- 46A-41004	REP-P	03-05-074	296- 46B-911	NEW-P	03-05-074
296- 14-325	NEW-P	03-06-074	296- 46A-41030	REP-P	03-05-074	296- 46B-915	NEW-P	03-05-074
296- 14-330	NEW-P	03-06-074	296- 46A-422	REP-P	03-05-074	296- 46B-920	NEW-P	03-05-074
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296-46B-940	NEW-P	03-05-074	296-104-055	AMD-P	03-08-076	296-307-45013	REP-X	03-04-100
296-46B-945	NEW-P	03-05-074	296-104-700	AMD-P	03-08-076	296-307-45015	AMD-X	03-04-100
296-46B-950	NEW-P	03-05-074	296-128-500	AMD	03-03-109	296-307-45017	REP-X	03-04-100
296-46B-951	NEW-P	03-05-074	296-128-532	NEW	03-03-109	296-307-45019	REP-X	03-04-100
296-46B-955	NEW-P	03-05-074	296-128-533	NEW	03-03-109	296-307-45020	NEW-X	03-04-100
296-46B-960	NEW-P	03-05-074	296-130-010	AMD	03-03-010	296-307-45021	REP-X	03-04-100
296-46B-965	NEW-P	03-05-074	296-130-020	AMD	03-03-010	296-307-45023	REP-X	03-04-100
296-46B-970	NEW-P	03-05-074	296-130-030	AMD	03-03-010	296-307-45025	AMD-X	03-04-100
296-46B-971	NEW-P	03-05-074	296-130-035	AMD	03-03-010	296-307-45027	REP-X	03-04-100
296-46B-975	NEW-P	03-05-074	296-130-040	AMD	03-03-010	296-307-45029	REP-X	03-04-100
296-46B-980	NEW-P	03-05-074	296-130-050	AMD	03-03-010	296-307-45030	NEW-X	03-04-100
296-46B-985	NEW-P	03-05-074	296-130-060	AMD	03-03-010	296-307-45035	NEW-X	03-04-100
296-46B-990	NEW-P	03-05-074	296-130-065	AMD	03-03-010	296-307-45045	NEW-X	03-04-100
296-46B-995	NEW-P	03-05-074	296-130-070	AMD	03-03-010	296-307-45050	NEW-X	03-04-100
296-46B-998	NEW-P	03-05-074	296-130-080	AMD	03-03-010	296-307-455	NEW-X	03-04-100
296-46B-999	NEW-P	03-05-074	296-130-100	NEW	03-03-010	296-307-45505	NEW-X	03-04-100
296-52-60020	AMD	03-06-073	296-130-500	REP	03-03-010	296-307-45510	NEW-X	03-04-100
296-52-60130	AMD	03-06-073	296-155	PREP	03-04-097	296-307-45515	NEW-X	03-04-100
296-52-61040	AMD-X	03-05-073	296-155-300	AMD	03-06-075	296-307-45520	NEW-X	03-04-100
296-52-62005	AMD-X	03-05-073	296-155-305	AMD	03-06-075	296-307-45525	NEW-X	03-04-100
296-52-63005	AMD-X	03-05-073	296-155-310	AMD	03-06-075	296-307-45535	NEW-X	03-04-100
296-52-65005	AMD-X	03-05-073	296-155-315	AMD	03-06-075	296-307-45540	NEW-X	03-04-100
296-52-66005	AMD-X	03-05-073	296-304-01001	AMD	03-04-099	296-307-45545	NEW-X	03-04-100
296-52-67065	AMD	03-06-073	296-304-01003	AMD	03-04-099	296-307-45550	NEW-X	03-04-100
296-52-67160	AMD	03-06-073	296-304-02007	AMD	03-04-099	296-307-45555	NEW-X	03-04-100
296-52-68060	AMD	03-06-073	296-304-02009	AMD	03-04-099	296-307-45560	NEW-X	03-04-100
296-52-69010	AMD	03-06-073	296-304-03007	AMD	03-04-099	296-307-45565	NEW-X	03-04-100
296-52-69015	AMD	03-06-073	296-304-04001	AMD	03-04-099	296-307-460	NEW-X	03-04-100
296-52-69095	AMD	03-06-073	296-304-05001	AMD	03-04-099	296-307-46005	NEW-X	03-04-100
296-52-69125	AMD	03-06-073	296-304-05003	AMD	03-04-099	296-307-46025	NEW-X	03-04-100
296-52-69130	NEW	03-06-073	296-304-05005	AMD	03-04-099	296-307-46030	NEW-X	03-04-100
296-52-70010	AMD	03-06-073	296-304-05009	AMD	03-04-099	296-307-465	NEW-X	03-04-100
296-52-710	AMD	03-06-073	296-304-05013	AMD	03-04-099	296-307-55030	AMD-X	03-04-100
296-52-71020	AMD	03-06-073	296-304-06003	AMD	03-04-099	296-307-560	NEW-X	03-04-100
296-52-71040	AMD	03-06-073	296-304-07009	AMD	03-04-099	296-307-56005	NEW-X	03-04-100
296-52-71045	AMD	03-06-073	296-304-07011	AMD	03-04-099	296-307-56010	NEW-X	03-04-100
296-56	PREP	03-03-110	296-304-07013	AMD	03-04-099	296-307-56015	NEW-X	03-04-100
296-59	PREP	03-03-110	296-304-08001	AMD	03-04-099	296-307-56020	NEW-X	03-04-100
296-62	PREP	03-04-097	296-304-09017	AMD	03-04-099	296-307-56025	NEW-X	03-04-100
296-62	PREP	03-08-073	296-304-09021	AMD	03-04-099	296-307-56030	NEW-X	03-04-100
296-62-054	REP-X	03-04-100	296-304-09023	AMD	03-04-099	296-307-56035	NEW-X	03-04-100
296-62-05402	REP-X	03-04-100	296-304-10003	AMD	03-04-099	296-307-56040	NEW-X	03-04-100
296-62-05404	REP-X	03-04-100	296-304-10007	AMD	03-04-099	296-307-56045	NEW-X	03-04-100
296-62-05406	REP-X	03-04-100	296-305	PREP	03-04-097	296-307-56050	NEW-X	03-04-100
296-62-05408	REP-X	03-04-100	296-307-009	AMD-X	03-04-100	296-401B-092	REP-P	03-05-074
296-62-05410	REP-X	03-04-100	296-307-018	AMD-X	03-04-100	296-401B-100	REP-P	03-05-074
296-62-05412	REP-X	03-04-100	296-307-03930	NEW-X	03-04-100	296-401B-110	REP-P	03-05-074
296-62-070	REP-X	03-04-100	296-307-03935	NEW-X	03-04-100	296-401B-120	REP-P	03-05-074
296-62-07001	REP-X	03-04-100	296-307-03940	NEW-X	03-04-100	296-401B-130	REP-P	03-05-074
296-62-07003	REP-X	03-04-100	296-307-03945	NEW-X	03-04-100	296-401B-140	REP-P	03-05-074
296-62-07005	REP-X	03-04-100	296-307-40013	AMD-X	03-04-100	296-401B-180	REP-P	03-05-074
296-62-071	AMD-P	03-08-044	296-307-40015	AMD-X	03-04-100	296-401B-200	REP-P	03-05-074
296-62-080	REP-X	03-04-100	296-307-40027	AMD-X	03-04-100	296-401B-250	REP-P	03-05-074
296-62-11021	REP-X	03-04-100	296-307-445	NEW-X	03-04-100	296-401B-260	REP-P	03-05-074
296-62-130	REP-X	03-04-100	296-307-450	AMD-X	03-04-100	296-401B-270	REP-P	03-05-074
296-78-56505	AMD	03-06-076	296-307-45001	REP-X	03-04-100	296-401B-300	REP-P	03-05-074
296-78-71001	AMD	03-06-076	296-307-45003	REP-X	03-04-100	296-401B-310	REP-P	03-05-074
296-78-71011	AMD	03-06-076	296-307-45005	AMD-X	03-04-100	296-401B-320	REP-P	03-05-074
296-78-835	AMD	03-06-076	296-307-45007	REP-X	03-04-100	296-401B-330	REP-P	03-05-074
296-79	PREP	03-03-110	296-307-45009	REP-X	03-04-100	296-401B-335	REP-P	03-05-074

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296-401B-350	REP-P	03-05-074	296-402A-320	REP-P	03-05-074	296-842-18005	NEW-P	03-08-044
296-401B-410	REP-P	03-05-074	296-402A-330	REP-P	03-05-074	296-842-18010	NEW-P	03-08-044
296-401B-420	REP-P	03-05-074	296-402A-340	REP-P	03-05-074	296-842-190	NEW-P	03-08-044
296-401B-430	REP-P	03-05-074	296-402A-350	REP-P	03-05-074	296-842-19005	NEW-P	03-08-044
296-401B-440	REP-P	03-05-074	296-402A-360	REP-P	03-05-074	296-842-200	NEW-P	03-08-044
296-401B-445	REP-P	03-05-074	296-402A-370	REP-P	03-05-074	296-842-20005	NEW-P	03-08-044
296-401B-450	REP-P	03-05-074	296-402A-380	REP-P	03-05-074	296-842-20010	NEW-P	03-08-044
296-401B-455	REP-P	03-05-074	296-402A-390	REP-P	03-05-074	296-842-20015	NEW-P	03-08-044
296-401B-460	REP-P	03-05-074	296-402A-400	REP-P	03-05-074	296-842-210	NEW-P	03-08-044
296-401B-470	REP-P	03-05-074	296-402A-410	REP-P	03-05-074	296-842-21005	NEW-P	03-08-044
296-401B-475	REP-P	03-05-074	296-402A-430	REP-P	03-05-074	296-842-220	NEW-P	03-08-044
296-401B-476	REP-P	03-05-074	296-402A-440	REP-P	03-05-074	296-842-22005	NEW-P	03-08-044
296-401B-500	REP-P	03-05-074	296-402A-450	REP-P	03-05-074	296-842-22010	NEW-P	03-08-044
296-401B-510	REP-P	03-05-074	296-402A-460	REP-P	03-05-074	296-842-22015	NEW-P	03-08-044
296-401B-520	REP-P	03-05-074	296-402A-470	REP-P	03-05-074	296-842-22020	NEW-P	03-08-044
296-401B-600	REP-P	03-05-074	296-402A-480	REP-P	03-05-074	296-842-300	NEW-P	03-08-044
296-401B-610	REP-P	03-05-074	296-402A-490	REP-P	03-05-074	296-878	PREP	03-03-110
296-401B-620	REP-P	03-05-074	296-402A-500	REP-P	03-05-074	308- 13-150	PREP	03-04-056
296-401B-630	REP-P	03-05-074	296-402A-510	REP-P	03-05-074	308- 13-150	AMD-P	03-08-062
296-401B-640	REP-P	03-05-074	296-402A-520	REP-P	03-05-074	308- 15	PREP	03-04-080
296-401B-700	REP-P	03-05-074	296-402A-530	REP-P	03-05-074	308- 17-120	AMD	03-03-024
296-401B-800	REP-P	03-05-074	296-402A-540	REP-P	03-05-074	308- 17-240	AMD	03-03-024
296-401B-850	REP-P	03-05-074	296-402A-550	REP-P	03-05-074	308- 20-120	AMD-P	03-05-058
296-401B-860	REP-P	03-05-074	296-402A-560	REP-P	03-05-074	308- 20-120	AMD	03-08-043
296-401B-870	REP-P	03-05-074	296-402A-570	REP-P	03-05-074	308- 20-210	AMD-P	03-03-119
296-401B-900	REP-P	03-05-074	296-402A-580	REP-P	03-05-074	308- 20-210	AMD	03-06-054
296-401B-910	REP-P	03-05-074	296-402A-590	REP-P	03-05-074	308- 48-800	PREP	03-04-076
296-401B-920	REP-P	03-05-074	296-402A-600	REP-P	03-05-074	308- 48-800	AMD-P	03-08-010
296-401B-950	REP-P	03-05-074	296-402A-610	REP-P	03-05-074	308- 56A-020	AMD	03-05-081
296-401B-960	REP-P	03-05-074	296-402A-620	REP-P	03-05-074	308- 56A-021	AMD-P	03-07-080
296-401B-970	REP-P	03-05-074	296-402A-630	REP-P	03-05-074	308- 56A-030	AMD	03-05-081
296-401B-980	REP-P	03-05-074	296-402A-640	REP-P	03-05-074	308- 56A-040	AMD	03-05-081
296-401B-990	REP-P	03-05-074	296-402A-650	REP-P	03-05-074	308- 56A-056	AMD	03-05-081
296-402A-010	REP-P	03-05-074	296-402A-660	REP-P	03-05-074	308- 56A-060	AMD	03-05-081
296-402A-020	REP-P	03-05-074	296-402A-670	REP-P	03-05-074	308- 56A-065	AMD-P	03-06-040
296-402A-030	REP-P	03-05-074	296-402A-675	REP-P	03-05-074	308- 56A-070	AMD-P	03-08-093
296-402A-040	REP-P	03-05-074	296-402A-680	REP-P	03-05-074	308- 56A-075	AMD-P	03-06-040
296-402A-050	REP-P	03-05-074	296-402A-690	REP-P	03-05-074	308- 56A-110	AMD	03-05-081
296-402A-060	REP-P	03-05-074	296-800	PREP	03-04-097	308- 56A-115	AMD	03-05-081
296-402A-070	REP-P	03-05-074	296-841	PREP	03-08-073	308- 56A-140	AMD-P	03-05-001
296-402A-080	REP-P	03-05-074	296-842-100	NEW-P	03-08-044	308- 56A-150	AMD-P	03-05-001
296-402A-090	REP-P	03-05-074	296-842-105	NEW-P	03-08-044	308- 56A-150	AMD	03-05-081
296-402A-100	REP-P	03-05-074	296-842-10505	NEW-P	03-08-044	308- 56A-160	AMD-P	03-05-001
296-402A-110	REP-P	03-05-074	296-842-110	NEW-P	03-08-044	308- 56A-200	AMD-P	03-05-001
296-402A-130	REP-P	03-05-074	296-842-11005	NEW-P	03-08-044	308- 56A-210	AMD	03-05-081
296-402A-140	REP-P	03-05-074	296-842-11010	NEW-P	03-08-044	308- 56A-215	AMD-P	03-05-001
296-402A-150	REP-P	03-05-074	296-842-120	NEW-P	03-08-044	308- 56A-250	AMD-P	03-03-095
296-402A-160	REP-P	03-05-074	296-842-12005	NEW-P	03-08-044	308- 56A-250	AMD	03-08-055
296-402A-170	REP-P	03-05-074	296-842-12010	NEW-P	03-08-044	308- 56A-265	AMD-P	03-03-095
296-402A-180	REP-P	03-05-074	296-842-130	NEW-P	03-08-044	308- 56A-265	AMD	03-08-055
296-402A-190	REP-P	03-05-074	296-842-13005	NEW-P	03-08-044	308- 56A-270	AMD-P	03-03-095
296-402A-200	REP-P	03-05-074	296-842-140	NEW-P	03-08-044	308- 56A-270	AMD	03-08-055
296-402A-210	REP-P	03-05-074	296-842-14005	NEW-P	03-08-044	308- 56A-275	AMD-P	03-03-095
296-402A-220	REP-P	03-05-074	296-842-150	NEW-P	03-08-044	308- 56A-275	AMD	03-08-055
296-402A-230	REP-P	03-05-074	296-842-15005	NEW-P	03-08-044	308- 56A-295	AMD	03-05-081
296-402A-240	REP-P	03-05-074	296-842-160	NEW-P	03-08-044	308- 56A-300	AMD-P	03-08-093
296-402A-250	REP-P	03-05-074	296-842-16005	NEW-P	03-08-044	308- 56A-305	AMD-P	03-08-093
296-402A-260	REP-P	03-05-074	296-842-170	NEW-P	03-08-044	308- 56A-315	AMD-P	03-08-093
296-402A-270	REP-P	03-05-074	296-842-17005	NEW-P	03-08-044	308- 56A-320	AMD-P	03-08-093
296-402A-290	REP-P	03-05-074	296-842-17010	NEW-P	03-08-044	308- 56A-325	AMD-P	03-08-093
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308-56A-640	PREP-W	03-07-078	316-45-250	AMD-X	03-08-070	365-210-090	NEW	03-07-035
308-57	PREP-W	03-07-077	316-45-270	AMD-X	03-08-070	365-210-100	NEW	03-07-035
308-63	PREP-W	03-07-079	316-45-290	AMD-X	03-08-070	365-210-110	NEW	03-07-035
308-93-370	AMD	03-07-076	316-45-310	AMD-X	03-08-070	365-210-120	NEW	03-07-035
308-93-380	AMD	03-07-076	316-45-330	AMD-X	03-08-070	365-210-130	NEW	03-07-035
308-93-390	AMD	03-07-076	316-45-350	AMD-X	03-08-070	365-210-140	NEW	03-07-035
308-93-440	AMD	03-07-076	316-45-370	AMD-X	03-08-070	365-210-150	NEW	03-07-035
308-96A-021	AMD	03-05-080	316-45-390	AMD-X	03-08-070	365-210-160	NEW	03-07-035
308-96A-047	NEW	03-05-080	316-45-410	AMD-X	03-08-070	365-210-170	NEW	03-07-035
308-96A-074	AMD	03-05-082	316-45-430	AMD-X	03-08-070	365-210-180	NEW	03-07-035
308-96A-177	REP	03-05-080	316-45-550	AMD-X	03-08-070	365-210-190	NEW	03-07-035
308-96A-314	AMD	03-05-082	316-55-001	AMD-X	03-08-070	365-212-010	NEW	03-07-036
308-96A-316	AMD	03-05-082	316-55-005	AMD-X	03-08-070	365-212-020	NEW	03-07-036
308-96A-550	AMD	03-05-082	316-55-010	AMD-X	03-08-070	365-212-030	NEW	03-07-036
308-99-040	AMD	03-04-092	316-55-020	AMD-X	03-08-070	365-212-040	NEW	03-07-036
308-100-090	AMD-P	03-07-097	316-55-030	AMD-X	03-08-070	365-212-050	NEW	03-07-036
308-100-180	AMD-P	03-07-097	316-55-070	AMD-X	03-08-070	365-212-060	NEW	03-07-036
308-124H-029	PREP	03-03-080	316-55-090	AMD-X	03-08-070	365-212-070	NEW	03-07-036
308-124H-061	PREP	03-03-080	316-55-110	AMD-X	03-08-070	365-212-080	NEW	03-07-036
308-129-100	AMD	03-03-055	316-55-120	AMD-X	03-08-070	365-212-090	NEW	03-07-036
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308-420-020	AMD	03-03-054	316-55-150	AMD-X	03-08-070	374-80-040	AMD	03-06-015
308-420-050	AMD	03-03-054	316-55-160	AMD-X	03-08-070	374-80-050	AMD	03-06-015
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308-420-090	AMD	03-03-054	316-55-510	AMD-X	03-08-070	388-14A-3102	AMD-E	03-04-088
308-420-100	AMD	03-03-054	316-55-515	AMD-X	03-08-070	388-14A-3110	AMD-E	03-04-088
308-420-130	REP	03-03-054	316-55-517	AMD-X	03-08-070	388-14A-3115	AMD-E	03-04-088
308-420-140	AMD	03-03-054	316-55-525	AMD-X	03-08-070	388-14A-3120	AMD-E	03-04-088
308-420-190	AMD	03-03-054	316-55-600	AMD-X	03-08-070	388-14A-3122	NEW-E	03-04-088
308-420-200	AMD	03-03-054	316-55-700	AMD-X	03-08-070	388-14A-3370	AMD-E	03-04-088
308-420-210	AMD	03-03-054	316-55-710	AMD-X	03-08-070	388-14A-3810	AMD-E	03-04-088
308-420-230	AMD	03-03-054	316-55-730	AMD-X	03-08-070	388-14A-6105	NEW-E	03-07-030
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314-12-180	REP-P	03-02-097	352-40	PREP	03-04-038	388-14A-6115	NEW-E	03-07-030
314-12-300	REP-P	03-02-097	352-40-010	AMD-P	03-08-101	388-14A-6120	NEW-E	03-07-030
314-12-310	REP-P	03-02-097	352-40-020	AMD-P	03-08-101	388-14A-6125	NEW-E	03-07-030
314-12-320	REP-P	03-02-097	352-40-030	AMD-P	03-08-101	388-15-650	REP	03-06-024
314-12-330	REP-P	03-02-097	352-40-040	AMD-P	03-08-101	388-15-651	REP	03-06-024
314-12-340	REP-P	03-02-097	352-40-050	REP-P	03-08-101	388-15-652	REP	03-06-024
314-29-003	NEW-P	03-02-097	352-40-060	AMD-P	03-08-101	388-15-653	REP	03-06-024
314-29-015	NEW-P	03-02-097	352-40-070	AMD-P	03-08-101	388-15-654	REP	03-06-024
314-29-020	NEW-P	03-02-097	352-40-080	AMD-P	03-08-101	388-15-655	REP	03-06-024
314-29-025	NEW-P	03-02-097	352-40-090	AMD-P	03-08-101	388-15-656	REP	03-06-024
314-29-030	NEW-P	03-02-097	352-40-100	AMD-P	03-08-101	388-15-657	REP	03-06-024
314-29-035	NEW-P	03-02-097	352-40-110	AMD-P	03-08-101	388-15-658	REP	03-06-024
314-29-040	NEW-P	03-02-097	352-40-120	AMD-P	03-08-101	388-15-659	REP	03-06-024
315-04-065	NEW-C	03-07-067	352-40-125	REP-P	03-08-101	388-15-660	REP	03-06-024
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316-45-020	AMD-X	03-08-070	352-40-150	AMD-P	03-08-101	388-32-0025	PREP	03-03-056
316-45-030	AMD-X	03-08-070	352-40-900	REP-P	03-08-101	388-32-0025	AMD-E	03-03-069
316-45-050	AMD-X	03-08-070	363-116-300	AMD-P	03-08-058	388-32-0030	PREP	03-03-056
316-45-110	AMD-X	03-08-070	363-116-365	NEW-P	03-06-061	388-32-0030	AMD-E	03-03-069
316-45-130	AMD-X	03-08-070	363-116-405	NEW-P	03-06-060	388-71-0194	AMD-E	03-05-044
316-45-150	AMD-X	03-08-070	365-210-030	AMD	03-07-035	388-71-0194	AMD-E	03-05-098
316-45-170	AMD-X	03-08-070	365-210-060	AMD	03-07-035	388-71-0202	AMD-E	03-05-044
316-45-190	AMD-X	03-08-070	365-210-061	NEW	03-07-035	388-71-0202	AMD-E	03-05-098
316-45-210	AMD-X	03-08-070	365-210-062	NEW	03-07-035	388-71-0203	AMD-E	03-05-044

TABLE

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-71-0203	AMD-E	03-05-098	388-71-0758	NEW	03-06-024	388-78A-0270	NEW-P	03-03-018
388-71-0405	AMD-E	03-05-044	388-71-0760	NEW	03-06-024	388-78A-0280	NEW-P	03-03-018
388-71-0405	AMD-E	03-05-098	388-71-0762	NEW	03-06-024	388-78A-0290	NEW-P	03-03-018
388-71-0410	AMD-E	03-05-044	388-71-0764	NEW	03-06-024	388-78A-030	REP-P	03-03-018
388-71-0410	AMD-E	03-05-098	388-71-0766	NEW	03-06-024	388-78A-0300	NEW-P	03-03-018
388-71-0415	AMD-E	03-05-044	388-71-0768	NEW	03-06-024	388-78A-0310	NEW-P	03-03-018
388-71-0415	AMD-E	03-05-098	388-71-0770	NEW	03-06-024	388-78A-0320	NEW-P	03-03-018
388-71-0420	AMD-E	03-05-044	388-71-0772	NEW	03-06-024	388-78A-0330	NEW-P	03-03-018
388-71-0420	AMD-E	03-05-098	388-71-0774	NEW	03-06-024	388-78A-0340	NEW-P	03-03-018
388-71-0425	AMD-E	03-05-044	388-71-0776	NEW	03-06-024	388-78A-0350	NEW-P	03-03-018
388-71-0425	AMD-E	03-05-098	388-72A-0005	NEW	03-05-097	388-78A-0360	NEW-P	03-03-018
388-71-0430	AMD-E	03-05-044	388-72A-0010	NEW	03-05-097	388-78A-0370	NEW-P	03-03-018
388-71-0430	AMD-E	03-05-098	388-72A-0015	NEW	03-05-097	388-78A-0380	NEW-P	03-03-018
388-71-0435	AMD-E	03-05-044	388-72A-0020	NEW	03-05-097	388-78A-0390	NEW-P	03-03-018
388-71-0435	AMD-E	03-05-098	388-72A-0025	NEW	03-05-097	388-78A-040	REP-P	03-03-018
388-71-0442	NEW-E	03-05-044	388-72A-0030	NEW	03-05-097	388-78A-0400	NEW-P	03-03-018
388-71-0442	NEW-E	03-05-098	388-72A-0035	NEW	03-05-097	388-78A-0410	NEW-P	03-03-018
388-71-0445	AMD-E	03-05-044	388-72A-0040	NEW	03-05-097	388-78A-0420	NEW-P	03-03-018
388-71-0445	AMD-E	03-05-098	388-72A-0045	NEW	03-05-097	388-78A-0430	NEW-P	03-03-018
388-71-0460	AMD-E	03-05-044	388-72A-0050	NEW	03-05-097	388-78A-0440	NEW-P	03-03-018
388-71-0460	AMD-E	03-05-098	388-72A-0055	NEW	03-05-097	388-78A-045	REP-P	03-03-018
388-71-0465	AMD-E	03-05-044	388-72A-0060	NEW	03-05-097	388-78A-0450	NEW-P	03-03-018
388-71-0465	AMD-E	03-05-098	388-72A-0065	NEW	03-05-097	388-78A-0460	NEW-P	03-03-018
388-71-0470	AMD-E	03-05-044	388-72A-0070	NEW	03-05-097	388-78A-0470	NEW-P	03-03-018
388-71-0470	AMD-E	03-05-098	388-72A-0075	NEW	03-05-097	388-78A-0480	NEW-P	03-03-018
388-71-0475	REP-P	03-06-093	388-72A-0080	NEW	03-05-097	388-78A-0490	NEW-P	03-03-018
388-71-0480	AMD-E	03-05-044	388-72A-0085	NEW	03-05-097	388-78A-050	REP-P	03-03-018
388-71-0480	AMD-E	03-05-098	388-72A-0090	NEW	03-05-097	388-78A-0500	NEW-P	03-03-018
388-71-0600	AMD-E	03-05-044	388-72A-0095	NEW	03-05-097	388-78A-0510	NEW-P	03-03-018
388-71-0600	AMD-E	03-05-098	388-72A-0100	NEW	03-05-097	388-78A-0520	NEW-P	03-03-018
388-71-0605	AMD-E	03-05-044	388-72A-0105	NEW	03-05-097	388-78A-0530	NEW-P	03-03-018
388-71-0605	AMD-E	03-05-098	388-72A-0110	NEW	03-05-097	388-78A-0540	NEW-P	03-03-018
388-71-0610	AMD-E	03-05-044	388-78A	REP-P	03-03-018	388-78A-055	REP-P	03-03-018
388-71-0610	AMD-E	03-05-098	388-78A	AMD-C	03-07-088	388-78A-0550	NEW-P	03-03-018
388-71-0702	NEW	03-06-024	388-78A-0010	NEW-P	03-03-018	388-78A-0560	NEW-P	03-03-018
388-71-0704	NEW	03-06-024	388-78A-0020	NEW-P	03-03-018	388-78A-0570	NEW-P	03-03-018
388-71-0706	NEW	03-06-024	388-78A-0030	NEW-P	03-03-018	388-78A-0580	NEW-P	03-03-018
388-71-0708	NEW	03-06-024	388-78A-0040	NEW-P	03-03-018	388-78A-0590	NEW-P	03-03-018
388-71-0710	NEW	03-06-024	388-78A-0050	NEW-P	03-03-018	388-78A-060	REP-P	03-03-018
388-71-0712	NEW	03-06-024	388-78A-0060	NEW-P	03-03-018	388-78A-0600	NEW-P	03-03-018
388-71-0714	NEW	03-06-024	388-78A-0070	NEW-P	03-03-018	388-78A-0605	NEW-P	03-03-018
388-71-0716	NEW	03-06-024	388-78A-0080	NEW-P	03-03-018	388-78A-0610	NEW-P	03-03-018
388-71-0718	NEW	03-06-024	388-78A-0090	NEW-P	03-03-018	388-78A-0620	NEW-P	03-03-018
388-71-0720	NEW	03-06-024	388-78A-010	REP-P	03-03-018	388-78A-0630	NEW-P	03-03-018
388-71-0722	NEW	03-06-024	388-78A-0100	NEW-P	03-03-018	388-78A-0635	NEW-P	03-03-018
388-71-0724	NEW	03-06-024	388-78A-0110	NEW-P	03-03-018	388-78A-0640	NEW-P	03-03-018
388-71-0726	NEW	03-06-024	388-78A-0120	NEW-P	03-03-018	388-78A-0650	NEW-P	03-03-018
388-71-0728	NEW	03-06-024	388-78A-0130	NEW-P	03-03-018	388-78A-0660	NEW-P	03-03-018
388-71-0730	NEW	03-06-024	388-78A-0140	NEW-P	03-03-018	388-78A-0670	NEW-P	03-03-018
388-71-0732	NEW	03-06-024	388-78A-0150	NEW-P	03-03-018	388-78A-0680	NEW-P	03-03-018
388-71-0734	NEW	03-06-024	388-78A-0160	NEW-P	03-03-018	388-78A-0690	NEW-P	03-03-018
388-71-0736	NEW	03-06-024	388-78A-0170	NEW-P	03-03-018	388-78A-070	REP-P	03-03-018
388-71-0738	NEW	03-06-024	388-78A-0180	NEW-P	03-03-018	388-78A-0700	NEW-P	03-03-018
388-71-0740	NEW	03-06-024	388-78A-0190	NEW-P	03-03-018	388-78A-0710	NEW-P	03-03-018
388-71-0742	NEW	03-06-024	388-78A-020	REP-P	03-03-018	388-78A-0720	NEW-P	03-03-018
388-71-0744	NEW	03-06-024	388-78A-0200	NEW-P	03-03-018	388-78A-0730	NEW-P	03-03-018
388-71-0746	NEW	03-06-024	388-78A-0210	NEW-P	03-03-018	388-78A-0740	NEW-P	03-03-018
388-71-0748	NEW	03-06-024	388-78A-0220	NEW-P	03-03-018	388-78A-0750	NEW-P	03-03-018
388-71-0750	NEW	03-06-024	388-78A-0230	NEW-P	03-03-018	388-78A-0760	NEW-P	03-03-018
388-71-0752	NEW	03-06-024	388-78A-0240	NEW-P	03-03-018	388-78A-0770	NEW-P	03-03-018
388-71-0754	NEW	03-06-024	388-78A-0250	NEW-P	03-03-018	388-78A-0780	NEW-P	03-03-018
388-71-0756	NEW	03-06-024	388-78A-0260	NEW-P	03-03-018	388-78A-0790	NEW-P	03-03-018

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-148-1155	NEW-E	03-05-099	388-424-0025	AMD	03-05-029	388-526	PREP	03-08-086
388-148-1160	NEW-E	03-05-099	388-436-0002	AMD-E	03-04-067	388-527	PREP	03-08-086
388-148-1165	NEW-E	03-05-099	388-444-0035	AMD	03-05-031	388-529	PREP	03-08-086
388-148-1170	NEW-E	03-05-099	388-448-0130	AMD-P	03-08-079	388-530	PREP	03-08-086
388-148-1175	NEW-E	03-05-099	388-448-0140	AMD-P	03-08-079	388-530-1270	NEW	03-05-043
388-148-1180	NEW-E	03-05-099	388-450-0020	PREP	03-08-083	388-531	PREP	03-04-087
388-148-1185	NEW-E	03-05-099	388-450-0045	AMD	03-03-071	388-531	PREP	03-08-084
388-148-1190	NEW-E	03-05-099	388-450-0050	AMD-P	03-03-008	388-531	PREP	03-08-086
388-148-1205	NEW-E	03-06-091	388-450-0050	AMD	03-06-095	388-531-0050	AMD	03-06-049
388-148-1210	NEW-E	03-06-091	388-450-0080	PREP	03-06-057	388-532	PREP	03-08-086
388-148-1215	NEW-E	03-06-091	388-450-0156	AMD	03-05-030	388-533	PREP	03-08-086
388-148-1220	NEW-E	03-06-091	388-452-0005	PREP	03-07-042	388-534	PREP	03-08-086
388-148-1225	NEW-E	03-06-091	388-460-0005	AMD	03-03-072	388-535	PREP	03-08-086
388-148-1230	NEW-E	03-06-091	388-470-0005	AMD	03-05-015	388-535A	PREP	03-08-086
388-148-1235	NEW-E	03-06-091	388-470-0010	REP	03-05-015	388-537	PREP	03-08-086
388-148-1240	NEW-E	03-06-091	388-470-0012	AMD	03-05-015	388-538	PREP	03-08-086
388-148-1245	NEW-E	03-06-091	388-470-0015	REP	03-05-015	388-539	PREP	03-08-086
388-148-1250	NEW-E	03-06-091	388-470-0020	REP	03-05-015	388-540	PREP	03-08-086
388-148-1255	NEW-E	03-06-091	388-470-0025	REP	03-05-015	388-542	PREP	03-08-086
388-148-1260	NEW-E	03-06-091	388-470-0030	REP	03-05-015	388-543	PREP	03-08-086
388-148-1265	NEW-E	03-06-091	388-470-0035	REP	03-05-015	388-543-1100	AMD-X	03-05-054
388-148-1270	NEW-E	03-06-091	388-470-0045	AMD	03-05-015	388-543-1225	NEW	03-05-051
388-148-1275	NEW-E	03-06-091	388-470-0050	REP	03-05-015	388-544	PREP	03-08-086
388-148-1280	NEW-E	03-06-091	388-470-0055	AMD	03-05-015	388-545	PREP	03-08-086
388-148-1285	NEW-E	03-06-091	388-470-0065	REP	03-05-015	388-546	PREP	03-04-087
388-148-1290	NEW-E	03-06-091	388-474-0012	NEW.	03-03-114	388-546	PREP	03-08-023
388-148-1295	NEW-E	03-06-091	388-476-0005	PREP	03-04-086	388-546	PREP	03-08-086
388-148-1300	NEW-E	03-06-091	388-478-0055	AMD	03-03-114	388-550	PREP	03-08-086
388-155-070	AMD-P	03-06-092	388-478-0075	PREP	03-06-058	388-550-2501	AMD	03-06-047
388-155-090	AMD-P	03-06-092	388-478-0075	AMD-E	03-08-066	388-550-2511	AMD	03-06-047
388-180-0100	NEW	03-04-013	388-478-0080	PREP	03-08-085	388-550-2521	AMD	03-06-047
388-180-0110	NEW	03-04-013	388-478-0085	AMD-E	03-08-065	388-550-2531	AMD	03-06-047
388-180-0120	NEW	03-04-013	388-478-0085	PREP	03-08-081	388-550-2541	AMD	03-06-047
388-180-0130	NEW	03-04-013	388-484-0005	AMD	03-06-046	388-550-2551	AMD	03-06-047
388-180-0140	NEW	03-04-013	388-492	PREP	03-07-087	388-550-2561	AMD	03-06-047
388-180-0150	NEW	03-04-013	388-500	PREP	03-08-086	388-550-2800	PREP	03-04-087
388-180-0160	NEW	03-04-013	388-501	PREP	03-08-086	388-550-3381	AMD	03-06-047
388-180-0170	NEW	03-04-013	388-502	PREP	03-08-086	388-550-3401	REP	03-06-047
388-180-0180	NEW	03-04-013	388-502-0010	PREP	03-03-017	388-550-4500	AMD-P	03-06-111
388-180-0190	NEW	03-04-013	388-502-0010	AMD-E	03-03-027	388-550-4800	PREP	03-04-087
388-180-0200	NEW	03-04-013	388-503	PREP	03-08-086	388-550-4900	AMD-P	03-06-111
388-180-0210	NEW	03-04-013	388-505	PREP	03-08-086	388-550-5000	AMD-P	03-06-111
388-180-0220	NEW	03-04-013	388-505-0210	PREP	03-06-055	388-550-5100	AMD-P	03-06-111
388-180-0230	NEW	03-04-013	388-506	PREP	03-08-086	388-550-5150	AMD-P	03-06-111
388-290-0075	AMD-E	03-06-045	388-510	PREP	03-08-086	388-550-5200	AMD-P	03-06-111
388-290-0085	AMD-E	03-06-045	388-511	PREP	03-08-086	388-550-5400	AMD-P	03-06-111
388-290-0190	AMD-E	03-06-045	388-512	PREP	03-08-086	388-550-5450	PREP	03-04-087
388-290-0210	REP-E	03-06-045	388-513	PREP	03-08-086	388-550-5600	AMD-P	03-06-111
388-310-0800	AMD-E	03-04-066	388-513-1340	PREP	03-08-083	388-550-6000	PREP	03-04-087
388-400-0040	AMD	03-05-028	388-513-1350	AMD-E	03-08-064	388-550-6800	NEW-P	03-06-111
388-400-0045	AMD	03-05-028	388-513-1350	PREP	03-08-082	388-550-6900	NEW-P	03-06-111
388-406-0015	PREP-W	03-03-112	388-513-1364	NEW	03-06-048	388-551	PREP	03-08-086
388-408-0034	PREP	03-06-056	388-513-1380	AMD-E	03-08-064	388-552	PREP	03-08-086
388-408-0035	PREP	03-06-056	388-513-1380	PREP	03-08-082	388-555	PREP	03-08-086
388-408-0040	PREP	03-06-056	388-515	PREP	03-08-086	388-556	PREP	03-08-086
388-408-0045	PREP	03-06-056	388-515-1530	REP	03-08-067	388-561	PREP	03-08-086
388-408-0050	PREP	03-06-056	388-515-1540	NEW-E	03-05-044	388-561-0001	AMD	03-06-048
388-410-0030	PREP	03-07-040	388-515-1540	NEW-E	03-05-098	388-730-0010	AMD	03-03-070
388-424-0005	PREP	03-03-007	388-517	PREP	03-08-086	388-730-0060	AMD	03-03-070
388-424-0010	PREP	03-03-007	388-519	PREP	03-08-086	388-730-0065	AMD	03-03-070
388-424-0015	PREP	03-03-007	388-523	PREP	03-08-086	388-730-0070	AMD	03-03-070
388-424-0020	AMD	03-05-029	388-523-0120	PREP	03-04-085	388-730-0090	AMD	03-03-070

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-805-005	AMD-E	03-06-059	388-818-060	REP	03-05-100	388-865-0235	PREP	03-08-077
388-805-030	AMD-E	03-06-059	388-818-070	REP	03-05-100	388-865-0240	PREP	03-08-077
388-805-035	NEW-E	03-06-059	388-818-080	REP	03-05-100	388-865-0245	PREP	03-08-077
388-805-040	NEW-E	03-06-059	388-818-090	REP	03-05-100	388-865-0250	PREP	03-08-077
388-805-065	AMD-E	03-06-059	388-818-110	REP	03-05-100	388-865-0255	PREP	03-08-077
388-805-145	AMD-E	03-06-059	388-818-130	REP	03-05-100	388-865-0260	PREP	03-08-077
388-805-205	AMD-E	03-06-059	388-820-020	AMD-E	03-03-115	388-865-0265	PREP	03-08-077
388-805-300	AMD-E	03-06-059	388-820-060	AMD-E	03-03-115	388-865-0270	PREP	03-08-077
388-805-710	AMD-E	03-06-059	388-820-120	AMD-E	03-03-115	388-865-0275	PREP	03-08-077
388-805-720	AMD-E	03-06-059	388-825-020	AMD-E	03-03-115	388-865-0280	PREP	03-08-077
388-805-730	AMD-E	03-06-059	388-825-055	AMD-E	03-03-115	388-865-0282	PREP	03-08-077
388-805-740	AMD-E	03-06-059	388-825-100	AMD-E	03-03-115	388-865-0284	PREP	03-08-077
388-805-750	AMD-E	03-06-059	388-825-120	AMD-E	03-03-115	388-865-0286	PREP	03-08-077
388-818-001	REP	03-05-100	388-825-180	AMD-E	03-03-115	388-865-0288	PREP	03-08-077
388-818-0010	NEW	03-05-100	388-825-205	AMD-E	03-03-115	388-865-0300	PREP	03-08-077
388-818-002	REP	03-05-100	388-825-252	AMD-E	03-03-115	388-865-0305	PREP	03-08-077
388-818-0020	NEW	03-05-100	388-825-254	AMD-E	03-03-115	388-865-0310	PREP	03-08-077
388-818-003	REP	03-05-100	388-825-500	NEW-E	03-03-115	388-865-0315	PREP	03-08-077
388-818-0030	NEW	03-05-100	388-825-505	NEW-E	03-03-115	388-865-0320	PREP	03-08-077
388-818-0040	NEW	03-05-100	388-825-510	NEW-E	03-03-115	388-865-0325	PREP	03-08-077
388-818-005	REP	03-05-100	388-825-515	NEW-E	03-03-115	388-865-0330	PREP	03-08-077
388-818-0050	NEW	03-05-100	388-825-520	NEW-E	03-03-115	388-865-0335	PREP	03-08-077
388-818-0060	NEW	03-05-100	388-825-525	NEW-E	03-03-115	388-865-0340	PREP	03-08-077
388-818-0070	NEW	03-05-100	388-825-530	NEW-E	03-03-115	388-865-0345	PREP	03-08-077
388-818-0080	NEW	03-05-100	388-825-535	NEW-E	03-03-115	388-865-0350	PREP	03-08-077
388-818-0090	NEW	03-05-100	388-825-540	NEW-E	03-03-115	388-865-0355	PREP	03-08-077
388-818-010	REP	03-05-100	388-825-545	NEW-E	03-03-115	388-865-0360	PREP	03-08-077
388-818-0100	NEW	03-05-100	388-825-546	NEW-E	03-03-115	388-865-0363	PREP	03-08-077
388-818-0110	NEW	03-05-100	388-825-550	NEW-E	03-03-115	388-865-0365	PREP	03-08-077
388-818-0120	NEW	03-05-100	388-825-555	NEW-E	03-03-115	388-865-0400	PREP	03-08-077
388-818-0130	NEW	03-05-100	388-825-560	NEW-E	03-03-115	388-865-0405	PREP	03-08-077
388-818-0140	NEW	03-05-100	388-825-565	NEW-E	03-03-115	388-865-0410	PREP	03-08-077
388-818-0150	NEW	03-05-100	388-825-570	NEW-E	03-03-115	388-865-0415	PREP	03-08-077
388-818-0160	NEW	03-05-100	388-825-571	NEW-E	03-03-115	388-865-0420	PREP	03-08-077
388-818-0170	NEW	03-05-100	388-825-575	NEW-E	03-03-115	388-865-0425	PREP	03-08-077
388-818-0180	NEW	03-05-100	388-825-576	NEW-E	03-03-115	388-865-0430	PREP	03-08-077
388-818-0190	NEW	03-05-100	388-825-580	NEW-E	03-03-115	388-865-0435	PREP	03-08-077
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