

February 18, 2004

OLYMPIA, WASHINGTON

ISSUE 04-04



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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.

REPLICATION 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 February 2004 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504-0552, pursuant to RCW 34.08.020. Subscription rate is \$211.38 per year, sales tax included, postpaid to points in the United States. Periodical postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
P.O. Box 40552
Olympia, WA 98504-0552

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

John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

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Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

2003-2004

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

WSR 04-04-004
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 22, 2004, 9:04 a.m.]

Subject of Possible Rule Making: Establishment of service credit for a period of unpaid leave in certain systems and plans.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.32.010, 41.32.835, 41.32.-865, 41.35.005, 41.40.010, 41.40.630, 41.40.710, 41.50.750.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provide clarification on when members can establish service credit, and in which systems and plans.

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.

January 21, 2004
 Merry A. Kogut
 Rules Coordinator

WSR 04-04-007
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed January 22, 2004, 1:53 p.m.]

Subject of Possible Rule Making: Experimental coastal pilchard fishery.

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: Changes are needed in the provision of the coastal pilchard fishery to accommodate vessel designation changes, by-catch, and other provisions.

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, Intergovernmental Affairs Program Special Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1076, phone (360) 902-2720. Contact by March 18, 2004. Expected proposal filing date March 19, 2004.

January 22, 2004
 Evan Jacoby
 Rules Coordinator

WSR 04-04-008
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed January 22, 2004, 1:54 p.m.]

Subject of Possible Rule Making: Integration of hydraulic project approvals and forest practice applications for non-fish bearing streams.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.55.100, 77.12.047, 76.09.030(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Forests and Fish Agreement and RCW 76.09.030(2) include policy statements that hydraulic project approvals (HPAs) should be more closely integrated with approved forest practice approvals. Pursuant to chapter 76.09 RCW, the Forest Practices Board has adopted regulations that include, among other items, fish protection measures normally included in the HPAs for projects in nonfish bearing streams. Based on these upgraded fish protection measures adopted by the Forest Practices Board on May 17, 2001, Washington Department of Fish and Wildlife (WDFW) is considering modifying WAC 220-110-035 so that forest practices conducted in or across nonfish bearing waters with an approved forest practices application or notification issued by the Department of Natural Resources will not require an HPA. This will achieve equal or better protection of fish life while reducing unnecessary permitting requirements for applicants.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This proposed action is being coordinated with the Department of Natural Resources, which is responsible for regulation of forest practices under the forest practices rules. A memorandum of agreement between the two agencies on the implementation of this proposed rule is currently in development.

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 John Mankowski, Environmental Policy Lead, Intergovernmental Resource Management, (360) 902-2589. Contact by March 18, 2004. Expected proposal filing on or after March 19, 2004.

January 22, 2004
 Evan Jacoby
 Rules Coordinator

WSR 04-04-016**PREPROPOSAL STATEMENT OF INQUIRY
UNIVERSITY OF WASHINGTON**

[Filed January 23, 2004, 9:48 a.m.]

Subject of Possible Rule Making: Chapter 478-168 WAC, regulations for the University of Washington libraries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.20.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The loan code for the University of Washington libraries needs updating to accommodate technological change and allow greater flexibility.

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. Written comments or inquiries may be directed to Rebecca Goodwin Deardorff, Director, Rules Coordination Office by United States mail University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203; campus mail Box 355509; e-mail rules@u.washington.edu; or fax (206) 616-6294.

January 21, 2004

Rebecca Goodwin Deardorff, Director
UW Rules Coordination Office

WSR 04-04-017**PREPROPOSAL STATEMENT OF INQUIRY
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed January 23, 2004, 9:50 a.m.]

Subject of Possible Rule Making: WAC 139-05-210 Basic law enforcement equivalency certification.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This change would allow peace officers to work in Washington state without holding a Washington state driver's license. This change is necessary for peace officers that reside in another state (e.g. Idaho and Oregon) and work in Washington state.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sharon M. Tolton, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, phone (206) 835-7345, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise of the intended rule amendments. Proposal also listed on the agency website.

January 16, 2004
Sharon M. Tolton
Deputy Director

WSR 04-04-020**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 26, 2004, 2:22 p.m.]

Subject of Possible Rule Making: Military leave vis a vis service credit.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5); chapters 41.32, 41.35, 41.40 RCW to be determined later.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Retirement Systems (DRS) seeks to address the issue of how to compute leave for interruptive military service. This issue is not currently addressed in WAC.

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

Process for Developing New Rule: 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. DRS 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.

January 23, 2004
Merry A. Kogut
Rules Coordinator

WSR 04-04-021**PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket No. UT-040015—Filed January 27, 2004, 10:34 a.m.]

Subject of Possible Rule Making: This rule making would consider possible corrections and changes to rules relating to telecommunications, including rules in chapter 480-122 WAC, Washington telephone assistance program.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: While implementing the rules in chapter 480-120 WAC, Telephone companies, that took effect in July 2003, stakeholders and agency staff have identified a variety of issues that suggest that the commission review its rules relating to telecommunications, including

chapter 480-122 WAC. This rule making would consider possible corrections, changes, and clarifications to address those issues and others that may emerge during the rule-making process.

Process for Developing New Rule: Agency study and the commission will ask for initial comments, and will provide the opportunity for additional comments. The commission will schedule one or more workshops with representatives of affected companies and constituencies to discuss issues related to this rule making and any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by filing comments with the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150, by Wednesday, February 25, 2004. An initial workshop is scheduled for March 11, 2004. For specific information regarding opportunities for written comments, participation in the workshop, and to ensure receipt of further information concerning this rule making, please see below.

WRITTEN COMMENTS AND STAKEHOLDER WORKSHOP: Written comments may be submitted to the commission at the address given above and should be filed with the commission no later than **Wednesday, February 25, 2004**, for consideration at the **March 11, 2004, stakeholder workshop**.

Electronic copies. The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the commission's records center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (UT-040015)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The commission will post on the commission's web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/040015>. If you are unable to file your comments electronically or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's web site as it becomes available. If you wish to receive further information on this rule making you may (1) call the commission's records center at (360) 664-1234, (2) e-mail the commission at records@wutc.wa.gov, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. UT-040015 to ensure that you are placed on the appropriate service list. Questions may be addressed to Sharyn Bate, (360) 664-1295 or e-mail at sbate@wutc.wa.gov.

NOTICE

TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING — The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. **ANY PERSON WHO COMMENTS** will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. UT-040015, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UT-040015, and the words "Please keep me on the mailing list" to records@wutc.wa.gov. Please note that all information in the mailings will be accessible through the commission's internet website at <http://www.wutc.wa.gov/040015>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

January 27, 2004
Carole J. Washburn
Executive Secretary

WSR 04-04-031
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed January 28, 2004, 8:13 a.m.]

The Medical Assistance Administration would like to withdraw the following preproposal statements of inquiry: WSR 99-03-104, filed on January 20, 1999, relating to chapter 388-545 WAC; WSR 00-03-010, filed on January 7, 2000, relating to chapter 388-547 WAC; WSR 01-17-064, filed August 15, 2001, relating to chapter 388-545 WAC; and WSR 02-06-085, filed on March 1, 2002, relating to chapter 388-544 WAC.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-04-035
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed January 28, 2004, 3:44 p.m.]

The Medical Assistance Administration would like to withdraw the following preproposal statement of inquiry: WSR 02-06-084, filed on March 1, 2002.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-04-050
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

(Geologist Licensing Board)

[Filed January 29, 2004, 2:37 p.m.]

Subject of Possible Rule Making: Chapter 308-15 WAC, Geologist licensing services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.220.040 and 18.235.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board will consider changes to the minimum education and experience requirements, requirements to take Part I of the national Association of State Boards of Geology exam, types of stamps (seals), frequency of offering specialty examinations, types of meetings, references to "grandparenting," other substantive and clarifying amendments identified through public input and/or board action.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other agencies that regulate the licensure of geologists in Washington state.

Process for Developing New Rule: Agency study, the department will distribute draft rules to individuals on the geologist mailing lists, and will post information on the department's geologist website at <http://www.dol.wa.gov/design/geofront.htm>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Leslie Saeger, Program Manager, Geologist Licensing Board, P.O. Box 9045, Olympia, WA 98507-9045, phone (360) 664-1497, TTY (360) 664-8885, e-mail lsaeger@dol.wa.gov.

January 28, 2004
 George A. Twiss
 Acting Administrator

WSR 04-04-061
PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION

[Filed February 2, 2004, 9:57 a.m.]

Subject of Possible Rule Making: Card rooms.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Bob Tull, representing DigiDeal Corporation. Mr. Tull is requesting an amendment to WAC 230-40-070. Currently, this rule allows electronic facsimiles of cards to be used in house-banked card games. Mr. Tull is requesting an amendment to allow electronic facsimiles of cards to be used for all card games, not just house-banked card games (for example, poker games).

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Robert Berg, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: On March 12, 2004, at the Red Lion, 2300 Evergreen Park Drive, Olympia, WA 98502, (360) 943-4000; on April 9, 2004, at the Phoenix Inn Suites, 415 Capitol Way North, Olympia, WA 98501, (360) 570-0555; and on May 14, 2004, at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000.

January 30, 2004
 Susan Arland
 Rules Coordinator

WSR 04-04-068
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed February 2, 2004, 11:21 a.m.]

Subject of Possible Rule Making: Stream obstruction hearings procedure.

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: Stream obstruction hearings procedures will be reviewed for adequacy of resource protection, necessity of appeal, and other procedural requirements.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Hueckel, Habitat Program, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1076, phone (360) 902-2416. Contact by March 19, 2004. Expected proposal filing March 20, 2004.

February 2, 2004
 Evan Jacoby
 Rules Coordinator

WSR 04-04-069**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed February 2, 2004, 11:23 a.m.]

Subject of Possible Rule Making: Duties of commercial fishers.

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: Carp fishers currently have to complete a fish receiving ticket before transporting catch out of state. The need for this will be reviewed.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1076, phone (360) 902-2651. Contact by March 19, 2004. Expected proposal filing March 20, 2004.

February 2, 2004

Evan Jacoby

Rules Coordinator

WSR 04-04-084**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed February 3, 2004, 1:30 p.m.]

Subject of Possible Rule Making: WAC 180-79A-140 and 180-79A-231.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 281.305.130 [28A.305.130] and 28A.410-010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

January 31, 2004

Larry Davis

Executive Director

WSR 04-04-094**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed February 3, 2004, 4:17 p.m.]

The Economic Services Administration requests the withdrawal of preproposal statement of inquiry, filed as WSR 03-07-087 on March 19, 2003.

Brian Lindgren, Manager

Rules and Policies Assistance Unit

WSR 04-04-095**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed February 3, 2004, 4:19 p.m.]

Subject of Possible Rule Making: WAC 388-538-063 (new), 388-505-0110 (amend), and possibly other related WAC sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.035, 74.09.522, and ESSB 5404 (section 209(15), chapter 25, Laws of 2003 1st sp.s.).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2003 legislature directed the Medical Assistance Administration (MAA) to design and implement a medical care services management pilot project for clients who receive general assistance (GAU) benefits. The pilot project will be designed to maximize care coordination, high-risk medical management, and chronic care management to achieve better health outcomes. The pilot project will be operated in King and Pierce counties, which contain the highest concentration of general assistance clients. The pilot project will require GAU clients in these two designated counties to enroll, or be enrolled, in a managed care organization contracted with MAA. GAU scope of care and GAU medical/financial eligibility requirements are not changing.

The pilot project will not be conducted as a "pilot rule-making" under chapter 34.05 RCW.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DSHS Economic Services Administration.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Wendy Boedigheimer, Rules Program Manager, P.O. Box 5533, Olympia, WA 98504-5533, phone

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

February 3, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-04-096

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

[Filed February 3, 2004, 4:20 p.m.]

Subject of Possible Rule Making: Chapter 388-526 WAC, MAA administrative hearings.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: MAA is amending this WAC to better define the scope of this rule and to add procedural requirements to MAA's client hearing process.

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, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov, TDD 1-800-848-5429.

February 3, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-04-097

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

[Filed February 3, 2004, 4:20 p.m.]

Subject of Possible Rule Making: The DSHS Division of Employment and Assistance Programs will amend chapter 388-492 WAC, Washington combined application program (WASHCAP).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08-090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This change is needed to

comply with a revised federal waiver. The new rules will further define WASHCAP eligibility.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole McRae, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3074, fax (360) 413-3493, e-mail MCRAECA@DSHS.WA.GOV.

February 3, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-04-098

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

[Filed February 3, 2004, 4:21 p.m.]

Subject of Possible Rule Making: Chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.16.035 and 51.16.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Labor and industries is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries within the state and sets basic rates of premium for these classifications that are distributed fairly (RCW 51.16.035). The department has conducted a review of various classification and reporting rules and determined that certain rules are in need of revision, such as, the computer service industry and general housekeeping changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state, local, or federal agency regulates this subject.

Process for Developing New Rule: Labor and industries will solicit input from the business community by way of direct mailings, the internet, focus meetings, and/or informal public meetings. Labor and industries will use this input to formulate proposed changes to the existing rules and advise customers of future rule making by direct mailing and/or the internet.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Labor and industries will mail letters with ideas on possible rule changes to affected employers. Employers will be encouraged to participate in the process to share ideas

and/or meetings. Employers can obtain information on our process at the employer services website (www.lni.wa.gov/claimsinsurance) and can submit comments electronically to Woeh235@lni.wa.gov or by mail to Labor and Industries, Attention Classification Services, P.O. Box 44148, Olympia, WA 98504-4148 or by calling (360) 902-4776 or by fax (360) 902-4729.

February 3, 2004
Paul Trause
Director

WSR 04-04-099
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 3, 2004, 4:23 p.m.]

Subject of Possible Rule Making: This rule making would amend the general obligations of a provider who provides medical or mental health services to crime victims, WAC 296-30-081.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 7.68.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently WAC 296-30-081 (1)(a) instructs medical providers that they must comply with this chapter and the department's rules and fee schedules.

Currently WAC 296-30-081 (1)(b) instructs mental health providers that they must comply with chapter 296-30 WAC and the crime victims compensation program's mental health treatment rules and fees, chapter 296-31 WAC.

This rule is needed in order to ensure that all providers comply with chapter 296-30 WAC and for mental health providers the crime victims compensation program's mental health treatment rules and fees.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Not applicable.

Process for Developing New Rule: Public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cletus Nnanabu, Program Manager, Crime Victims Compensation Program, P.O. Box 44520, Olympia, WA 98504-44520, phone (360) 902-5340, fax (360) 902-5333, TDD (360) 902-4974.

February 3, 2004
Paul Trause
Director

WSR 04-04-100
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 3, 2004, 4:24 p.m.]

Subject of Possible Rule Making: Chapter 296-17-WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.16.035 and 51.16.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is amending the definition of occupation disease as defined in WAC 296-17-870 back to the original definition prior to an amendment that became effective January 1, 2004. This will provide the business community an opportunity to provide comments as to how the definition should be amended.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state, local, or federal agency regulates this subject.

Process for Developing New Rule: Labor and industries will solicit input from the business community by way of direct mailings, the internet, focus meetings, and/or informal public meetings. Labor and industries will use this input to formulate proposed changes to the existing rules and advise customers of future rule making by direct mailing and/or the internet.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Labor and industries will mail letters with ideas on possible rule changes to affected employers. Employers will be encouraged to participate in the process to share ideas and/or meetings. Employers can obtain information on our process at the employer services website (www.lni.wa.gov/claimsinsurance) and can submit comments electronically to Woeh235@lni.wa.gov or by mail to Labor and Industries, Attention Classification Services, P.O. Box 44148, Olympia, WA 98504-4148 or by calling (360) 902-4776 or by fax (360) 902-4729.

February 3, 2004
Paul Trause
Director

WSR 04-04-101
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY
[Order 03-10—Filed February 4, 2004, 8:20 a.m.]

Subject of Possible Rule Making: Dangerous waste regulations, chapter 173-303 WAC, will be amended to incorporate several federal hazardous waste regulations, including adding mercury-containing devices to the universal waste rule, updating export requirements, adopting air emission permit rules, and amendments to corrective action rules. Changes to state-only requirements are primarily technical in nature; however, changes are being considered to implement

the hazardous waste facilities initiative to extend financial requirements to recyclers and used oil processors and re-refiners.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 70.105 and 70.105D RCW, the Hazardous Waste Management Act and Hazardous Waste Cleanup-Model Toxics Control Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: One key purpose of this rule making is to update the dangerous waste regulations by incorporating recent federal hazardous waste requirements into the state's regulations. By staying current with the federal program, the regulated community has primarily one environmental agency to work with. The second purpose is to update state requirements, including implementing recommendations of the hazardous waste facilities initiative.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Environmental Protection Agency (EPA) implements hazardous waste regulations in Washington until ecology adopts those regulations and begins implementing them. A formal EPA authorization process follows ecology's adoption. EPA is aware of which federal regulations ecology intends to adopt during this rule making. Ecology will provide drafts to EPA for their review and will communicate with EPA throughout the rule-making process.

Process for Developing New Rule: One of the main purposes of this rule making is to update existing hazardous waste requirements with newer federal rules. Since many of these are already in effect (and were developed as part of federal rule making), the process will consist primarily of making draft and proposed rule language available for review and comment. Input will be sought where ecology may differ from the federal program.

Ecology is also asking for comment at this time on options to implement the hazardous waste facilities initiative. Ecology is considering making amendments to the dangerous waste regulations that affect hazardous waste treatment, storage, disposal and recycling facilities, and used oil processors that accept wastes from off-site. These amendments will not change the way in which on-site recycling and treatment are done by hazardous waste generators, or waste collection and handling facilities operated by local governments (e.g., household hazardous waste collection, used oil collection).

We are asking the public and potentially affected parties to provide ecology with information and comment at this time on two options for rule making regarding these hazardous waste facilities. The options under consideration are:

Option 1: Applying traditional site specific requirements to hazardous waste recycling facilities and used oil processors. Currently, hazardous waste treatment, storage and disposal facilities must, among other things, provide the following:

- A closure plan that describes how buildings, structures and equipment that manage hazardous wastes will be closed in a safe and timely manner;
- Pollution legal liability (PLL) coverage to pay for claims by third parties that are damaged from a release of hazardous wastes; and,

- A cost estimate for closure and financial assurance to pay for waste removal, decontamination and clean up (financial assurance).

Recyclers and used oil processors have been exempted from these requirements. Option 1 would extend the requirements listed above to recycling facilities and used oil processors. This approach results in specific cost estimates for closure based on a full inventory of wastes, third party costs, and no resale value of wastes in process.

Option 2: Developing a more streamlined approach for off-site recycling facilities and used oil processors. Under this option, recyclers and used oil processors would be required to address the eventual closure of their operations by:

- Preparing a closure plan; and
- Providing a maximum of \$50,000 in financial assurance. This amount could be lower if the facility owner or operator prepares a detailed closure cost estimate and justification for review and approval by ecology.

This option would also consider deleting the requirement for pollution liability coverage for third party damages.

Ecology requests comments and input on the above options. Commenters are requested to respond to the following questions:

Q1. Do you have a preference for an option listed above? If so, which option and why?

Q2. Are there other options that ecology should consider that will help assure safe and orderly closure of hazardous waste management facilities and that owners/operators pay for a significant portion of the cost of closure?

Q3. Are there factors other than closure plans, closure cost estimates, liability coverage, and financial mechanisms for assuring closure funding (e.g., bond, letter of credit, insurance) that ecology should consider?

Q4. Would you be willing to pay slightly more (e.g., 5%) for waste treatment, disposal or recycling for greater assurance that the facility managing the waste would pay for waste removal and decontamination of its facility in the event of bankruptcy, sale, or closure?

Ecology is also requesting any information that generators or facilities have available on closure cost estimates for hazardous waste recycling or used oil processing operations.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To receive information on the rule making (availability of draft and proposed rules, hearing announcements, and opportunities for public involvement), or for more detailed information about the rule-making content and process, contact Patricia Hervieux at pther461@ecy.wa.gov or, you may call (360) 407-6756, write Attn: HWTR, P.O. Box 47600, Olympia, WA 98504-7600, or fax (360) 407-6715. Please submit comments on the options for recyclers and used oil processor to Jim Sachet at the same address or to jsac461@ecy.wa.gov. For announcements throughout the rule making you may sign up for the DW regulations list serve at <http://listserv.wa.gov/archives/dw-rules.html>.

Visit ecology's rules website at <http://www.ecy.wa.gov/laws-rules/currentactivity.htm>.

February 2, 2004
Greg Sorlie
Program Manager

WSR 04-04-104
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed February 4, 2004, 9:02 a.m.]

Subject of Possible Rule Making: Post thirty year program for PERS Plan 1 and TRS Plan 1 members.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.32.4986, 41.40.191.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Put agency policies and practices into WAC.

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

Process for Developing New Rule: 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 (DRS) 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.

February 3, 2004
Merry A. Kogut
Rules Coordinator

WSR 04-04-108
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 4, 2004, 10:50 a.m.]

Subject of Possible Rule Making: To amend chapter 16-401 WAC, Nursery inspection fees, by adding a requirement that licensed nurseries must maintain accurate records of grapevine, fruit tree, or fruit tree related ornamental nursery stock sales and by specifying minimum standards for these records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.13, 15.14, and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposal will increase the department's ability to conduct audits to determine if the appropriate assessment amounts have been paid by licensees.

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

Process for Developing New Rule: Washington State Department of Agriculture representatives will discuss proposed rule changes with affected stakeholders and comply with the filing, publication and public hearing requirements of chapter 34.05 RCW. Affected stakeholders will have an opportunity to submit written comments on the proposal during the public comment period and present oral testimony at the public hearing.

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

February 3, 2004
Mary A. Martin Toohey
Assistant Director



WSR 04-02-047
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 5, 2004, 4:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-20-055.

Title of Rule: Chapter 388-290 WAC, Working connections child care (WCCC).

Purpose: The intent of this filing is to clarify existing rules and create new rules concerning eligibility for WCCC. We intend for WCCC consumers to better understand the eligibility process.

The proposed rules will also make permanent two emergency rule filings. Emergency filings, WSR 03-06-045, 03-14-061 and 03-22-005, repealing WAC 388-290-0210 and amending WAC 388-290-0075, 388-290-0085, and 388-290-0190 have been in effect since March 1, 2003. Emergency filings, WSR 03-12-026 and 03-20-050, amending WAC 388-290-0130 have been in effect since June 2, 2003.

Statutory Authority for Adoption: RCW 74.04.050 and 74.12.340.

Statute Being Implemented: RCW 74.13.085, 74.12.340, and chapter 25, Laws of 2003 1st sp.s.

Summary: To clarify and change WCCC rules and add new rules. The rules will have an impact on the following areas: Consumer eligibility, qualified providers clients must use to remain eligible, rates, copayments, client responsibilities, and reapplication procedures.

Reasons Supporting Proposal: The proposed rules will help the department address budget issues and the health and safety of children.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Lind, Division of Child Care and Early Learning, (360) 413-3032.

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

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

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

The changes in chapter 388-290 WAC will clarify for consumers what income and activities they need to meet in order to become eligible for WCCC. The changes also address family compositions more completely in relation to the second parent activity and eligibility.

Other changes relate to an increase in consumer copayments, removal of some payments for WCCC services, detailed explanation of payments for children with special needs care, and in-home/relative care requirements. These changes should assist in budget issues and assist in determining correct payment and qualified providers' clients must use to remain eligible for WCCC.

Some WAC were separated into two or more new WAC for clarity, such as "rights and responsibilities for consumers" was separated from one to two sections. New WAC are added to assist workers and consumers understand the pro-

cess more fully, such as, what do consumers verify and what happens when a denial letter is sent.

Proposal Changes the Following Existing Rules: Changes were made in consumer eligibility (activities and income), copayments, payments for WCCC services in-home/relative eligibility, consumer rights and responsibilities, overpayments and the definition of family size.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose more than minor costs to small business.

RCW 34.05.328 does not apply to this rule adoption. Proposed WAC 388-290-0005 through 388-290-0125, 388-290-255, 388-290-270 and 388-290-271 relate to client financial eligibility for WCCC services, and are exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii), which states in part: "This section does not apply to... rules of the department of social and health services relating to client medical and financial eligibility."

Proposed WAC 388-290-0130 through 388-290-0247 and 388-290-273 do not meet the definition of significant legislative rules. Proposed rules clarify existing background check requirements for WCCC providers, clarify existing provider documentation requirements for receiving WCCC payment rates, and make other changes to clarify the language of the rules.

Proposed WAC 388-290-260 and 388-290-265 concerning hearing procedures are "procedural rules" under RCW 34.05.328 (5)(c)(i), and do not meet the definition of significant legislative rules.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 5, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 9, 2004.

Date of Intended Adoption: Not earlier than March 10, 2004.

January 5, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0001 What is the purpose of the working connections child care program? The purpose of working connections child care (WCCC) is to:

(1) Help families with children pay ((for)) child care costs for approvable activities to find jobs, keep their jobs, and get better jobs; and

(2) Consider the health and safety of children while they are in care and receiving child care subsidies.

PROPOSED

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0005 Who is considered a consumer for the WCCC program? ~~((1))~~ **For the purposes of this chapter, "you" and "your" refer to the consumer. If you apply for or receive WCCC, ~~((you are considered))~~ we consider you to be the consumer.**

~~((2))~~ **(1)** In WCCC, an eligible consumer is one of the following individuals who has parental control of one or more children, lives in the state of Washington, and is the child's:

- (a) Parent, either biological or adopted;
- (b) Stepparent;
- (c) Legal guardian verified by a legal or court document;
- (d) Adult sibling or step-sibling;
- (e) Nephew or niece;
- (f) Aunt;
- (g) Uncle;
- (h) Grandparent; or
- (i) Any of the ~~((above))~~ relatives in (f) through (h) of this subsection with the prefix great, such as great-aunt.

~~((3))~~ **(2)** You are not an eligible consumer when you:

- (a) Are the only parent in the household; and
- (b) Will be away from the home for more than thirty ~~((consecutive))~~ days in a row.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0010 What makes me eligible for WCCC benefits? For the purposes of this chapter "we" and "us" refer to the department of social and health services. You may be eligible for WCCC benefits if:

- (1) Your family is described under WAC 388-290-0015;
- (2) You are participating in an approved activity under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or have been approved per WAC 388-290-0055;
- (3) You and your children are eligible under WAC 388-290-0020;
- (4) Your countable income, is at or below two hundred percent of the Federal Poverty Level (FPL) (under WAC 388-290-0065); and
- (5) Your share of the child care cost, called a copayment (under WAC 388-290-0075), is lower than the total DSHS maximum monthly payment for all children in the family who are eligible for subsidized care. We do not pro-rate your copayment when care is provided for part of a month.

NEW SECTION

WAC 388-290-0012 When do I need to verify information? (1) When you apply for benefits, we require you to provide information that helps us decide your eligibility. We call this "verification."

- (2) After you apply, we ask you to give us new verification when:
 - (a) You report a change;
 - (b) We find out that your circumstances have changed;
 or

(c) The information we have is questionable or confusing.

(3) Whenever we ask for verification, we give you a notice as described in WAC 388-458-0020.

(4) You must give us the verification within the time limits described in WAC 388-406-0030(1).

(5) We accept any verification that you can easily get when it reasonably supports your statement or circumstances. The verification you give to us must:

- (a) Clearly relate to what you are trying to verify;
- (b) Be from a reliable source; and
- (c) Be accurate, complete, and consistent.

(6) We cannot make you give us a specific type or form of verification.

(7) If the only type of verification that you can get costs money, we pay for it.

(8) If the verification that you give to us is questionable or confusing, we may:

(a) Ask you to give us more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of your residence that knows your situation); or

(b) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to your home to verify your circumstances.

(9) If you do not give us all of the verification that we have asked for, we determine if you are eligible based on the information that we already have. If we cannot determine that you are eligible based on this information, we deny or stop your benefits per WAC 388-290-0107 and 388-290-0115.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0015 How does the WCCC program determine my family size for eligibility? For children to be included in the household, they must meet the age requirements in subsection (2) of this section and in WAC 388-290-0020(2). Once we verify the children's eligibility, we determine your family size by reviewing those individuals who live together in the same household as follows:

(1) If you are:	We count the following individuals as part of the family for WCCC eligibility:
(a) A single parent, including a minor parent living independently;	You and your children.
(b) Unmarried parents who have at least one mutual child;	Both parents and all their children living in the household.
(c) Unmarried parents with no mutual children;	Unmarried parents and their respective children ((are counted)) <u>living in the household as separate WCCC families.</u>

(d) Married parents;	Both parents and all their children living in the household.
(e) Undocumented parents;	Parents and children, documented and undocumented, as long as the child needing care is a U.S. citizen or legally residing in the United States. All other family rules in this section apply.
(f) A consumer as defined in WAC 388-290-0005 ((2)) (1)(c) through (i) ((and you are not financially responsible for the children));	((Only)) The children ((are counted as the WCCC family)) only. (The children and their income ((are)) is counted.)
(g) A minor parent with children and live with a parent/guardian;	Only the minor parent and their children.
(h) A family member who is out of the household because of ((employment)) employer requirements, such as the military or training, and is expected to return to the household.	<u>You, the absent individual, and the children</u> ((, and the other parent if it is a two-parent family. All other family rules in)). Subsection (1)(b) and (d) of this section apply.
(i) A family member who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household.	<u>You, the absent individual and the children.</u> Subsection (1)(b) and (d) of this section apply as well as WAC 388-290-0020.
(j) An incarcerated family member.	<u>The absent individual is removed from the household. We count all remaining household members.</u> All other family rules in this section apply.
(2) If your household includes:	We count the following individuals as part of the family for WCCC eligibility:
(a) Eighteen year old siblings of the children ((requiring)) who require care ((who)) and are enrolled in ((secondary education)) high school or general equivalency diploma (GED) program.	The eighteen year olds (unless they are a parent themselves), until they turn nineteen or complete high school/GED, whichever comes first. All other family rules in this section apply.

(b) Siblings of the children requiring care who are up to twenty-one years of age and who are participating in an approved program through the school district's special education department under RCW ((28A.155.0202)) 28A.155.020.	The individual participating in an approved program through RCW ((28A.155.0202)) 28A.155.020 up to twenty-one years of age (unless they are a parent themselves). All other family rules in this section apply.
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PROPOSED

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0020 Are there special circumstances that might affect my WCCC eligibility? (1) You might be eligible for WCCC if you are:

(a) An employee of the same child care ~~((facility))~~ center where your children ~~((are receiving))~~ receive care and you do not provide direct care to your own children during the time WCCC is requested;

(b) In sanction or Child SafetyNet status for temporary assistance for needy families (TANF), while you are in an activity needed to remove the sanction, Child SafetyNet status, or for employment;

(c) A parent in a two-parent family and one parent is not able ~~((or))~~ and available to provide care for your children while the other is working, looking for work, or preparing for work;

(i) "Able" means physically and mentally capable of caring for a child in a responsible manner. If you claim one parent is unable to care for the children, you must provide written documentation from a licensed professional (see WAC 388-448-0020 (1) and (2)) that states the:

(A) Reason the parent is unable to care for the children;

(B) Expected duration and severity of the condition that keeps them from caring for the children; and

(C) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing they are cooperating with treatment and are still unable to care for the children.

(ii) "Available" means ~~((able))~~ free to provide care when not participating in an approved work activity under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or 388-290-0055 during the time child care is needed.

(d) A married consumer described under WAC 388-290-0005 (1)(d) through (i). Only you or ~~((the other parent))~~ your spouse must be participating in activities under WAC 388-290-0040, 388-290-0045, ~~((or))~~ 388-290-0050, or 388-290-0055.

(2) You might be eligible for WCCC if your children are legally residing in the country, are Washington state residents, and are:

(a) Less than age thirteen ~~((years of age))~~; or

(b) Less than age nineteen, and:

(i) Have a verified special need, according to WAC 388-290-0220; or

(ii) Are under court supervision.

(3) Any of your children who receive care at the same place where you work (other than (1)(a) of this subsection) are not eligible for WCCC payments but can be included in your household if they meet WAC 388-290-0015. This includes if you work:

(a) In a family home child care in any capacity and your children are receiving care at the same home during your hours of employment; or

(b) In your home or another location and your children receive care at the same location during your hours of employment.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0025 What rights do I have when I apply for or receive WCCC benefits? When you apply for or receive WCCC benefits you have the right to:

(1) Be treated politely and fairly without regard to race, color, creed, religion, sex, presence of any sensory, mental or physical disability, sexual orientation, political affiliation, national origin, religion, age, gender, disability, or birthplace;

(2) Have ~~((an application accepted and acted upon))~~ WCCC eligibility determined within thirty days from your application date per WAC 388-290-0100(2);

(3) Be informed, in writing, of your legal rights and responsibilities related to WCCC benefits;

(4) Only have your information shared with other agencies when required by federal or state regulations;

(5) Get a written notice~~(s)~~ at least ten days before ~~((the department makes))~~ we make changes to lower or stop benefits except as stated in WAC 388-290-0120;

(6) Ask for a fair hearing if you do not agree with ~~((the department))~~ us about a decision per WAC 388-290-0260.

(7) Ask a supervisor or administrator to review a decision or action affecting your benefits without affecting the right to a fair hearing;

(8) Have interpreter or translator service within a reasonable amount of time and at no cost to you;

(9) ~~((Be allowed to))~~ Choose your provider as long as the provider meets the requirements in WAC 388-290-0125; and

(10) ~~((Refuse to speak to a))~~ Ask the fraud early detection (FRED) investigator from the division of fraud investigations (DFI) to come back at another time. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. This request will not affect your eligibility for benefits. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0030 What responsibilities do I have when I apply for or receive WCCC benefits? When you apply for or receive WCCC benefits you ~~((have a responsibility to))~~ must:

(1) ~~((Supply the department with))~~ Give us information so we can determine your eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 388-290-0125 and make your own child care arrangements;

(3) Pay, or make arrangements to have someone pay, your WCCC copayment directly to your child care provider;

(4) Leave your children with your provider only for approved activities or arrange to pay the provider yourself, as the provider requires, for care while you are engaged in unapproved activities.

(5) Keep ~~((and provide when requested,))~~ attendance records. Records must be:

(a) Accurate ((attendance records when you choose in-home/relative child care;

~~(s));~~

(b) Provided when requested; and

(c) Kept for one year after care has been provided.

(6) Pay your in-home/relative provider the entire amount ~~((the department sends))~~ we send you for in-home/relative care listed on the remittance advice you receive with the warrant;

~~((6))~~ (7) Require the in-home/relative provider to sign a receipt when you pay the provider the amount we send you and your copayment. You must keep the receipts for one year for ~~((DSHS))~~ us to review on request;

~~((7))~~ Notify WCCC staff, within five days, of any change in providers;))

(8) ~~((Notify your provider within ten days when we change your child care authorization;~~

(9) Provide notice to WCCC staff within ten days of any change in:

(a) The number of child care hours needed (more or less hours);

(b) Your household income to include TANF grant stops or starts;

(c) Your household size such as any family member moves in or out of your home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address or phone number of your in-home/relative provider;

(f) Your home address or telephone number; or

(g) Your legal obligation to pay child support.

(10) Report to your child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about your in-home/relative provider)) Cooperate with the quality assurance review process to remain eligible for WCCC. You become ineligible for WCCC benefits upon a determination of noncooperation by quality assurance and remain ineligible until you meet quality assurance requirements or thirty days from the determination of noncooperation.

(9) Cooperate with the fraud early detection (FRED) investigator. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.

NEW SECTION

WAC 388-290-0031 What changes do I need to report when I apply for or receive WCCC? (1) Notify WCCC staff, within five days, of any change in providers;

(2) Notify your provider within ten days when we change your child care authorization;

(3) Provide notice to WCCC staff within ten days of any change in:

(a) The number of child care hours you need (more or less hours);

(b) Your household income, including any TANF grant or child support increases or decreases;

(c) Your household size such as any family member moving in or out of your home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address and telephone number of your in-home/relative provider;

(f) Your home address and telephone number; and

(g) Your legal obligation to pay child support.

(4) Report to your child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about your in-home/relative provider.

(5) Report to the child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

NEW SECTION

WAC 388-290-0032 What are the consequences if I do not report changes within the specified time-lines? If you fail to report any changes as required in WAC 388-290-0031 within the stated timeframes, we may establish an overpayment or you might have to pay more than your normal share of child care costs, such as:

(1) Paying a higher copayment;

(2) Paying for extra hours of care when your activity requires more than ten hours a day of care;

(3) Receiving an overpayment for care billed as a result of using care when you were not eligible for WCCC;

(4) Receiving an overpayment for absent days the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, DSHS 22-877). An overpayment for absent days can occur when care is used when you are not eligible for WCCC and can be up to five days a month;

(5) Billing in-home/relative care when you are not eligible for WCCC.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0035 What responsibilities does the WCCC program staff have? The WCCC program staff are responsible to:

(1) Determine your eligibility within thirty days from the date you applied (application date as described in WAC 388-290-0100(2)).

(2) Allow you to choose your provider as long as they meet the requirements in WAC 388-290-0125;

~~((2))~~ (3) Review your chosen in-home/relative provider's background information.

~~((3))~~ (4) Authorize payments only to child care providers who allow you to see your children whenever they are in care;

~~((4))~~ (5) Only authorize payment when no adult in your WCCC family is "able ~~((or))~~ and available" to care for your children (under WAC 388-290-0020).

~~((5))~~ (6) Inform you of:

(a) Your rights and responsibilities under the WCCC program at the time of application and ~~((eligibility review))~~ reapplication;

(b) The types of child care providers we can pay;

(c) The community resources that can help you select child care when needed; and

(d) Any change in your copayment during the authorization period except under WAC 388-290-0120~~((4))~~(5).

~~((6))~~ (7) Respond to you within ten days if you report a change of circumstance that affects you;

(a) WCCC eligibility ~~((or))~~;

(b) Copayment; ~~((and~~

~~(7))~~ or

(c) Providers.

(8) Provide prompt child care payments to your child care provider.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0040 If I receive a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits? If you receive a temporary assistance for needy families (TANF) grant, you may be eligible for WCCC benefits, for activities in your individual responsibility plan (IRP), for up to sixteen hours maximum per day for your hours of participation in the following:

(1) An approved WorkFirst activity under WAC 388-310-0200;

(2) Employment or self-employment. We consider "employment" or "work" to mean:

(a) Engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States; or

(b) Working in a federal or state paid work study program. You may receive WCCC for paid work study and transportation hours (not for the time you are in an unapproved activity).

(3) Transportation time between the location of child care and your place of employment or approved activity;

(4) Up to ten hours per week of study time before or after regularly scheduled classes or up to three hours of study time per day when needed to cover time between approved classes; and

(5) Up to eight hours per day of sleep time when it is needed, such as if you work nights and sleep days.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0045 If I don't get a temporary assistance for needy families (TANF) grant, what activities

must I be involved in to be eligible for WCCC benefits? If you do not receive TANF, you may be eligible for WCCC benefits for up to sixteen hours maximum per day for the hours of your participation or enrollment in the following:

(1) Employment or self-employment under WAC 388-290-0050. We consider "employment" or "work" to mean:

(a) Engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States; or

(b) Working in a federal or state paid work study program. You may receive WCCC for paid work study and transportation hours (not for the time you are in an unapproved activity), unless you meet requirements in subsection (2) of this WAC;

(c) VISTA volunteers, Americorps, and Washington Service Corps (WSC) if the income is taxed.

(2) ~~((Secondary education))~~ High school or general equivalency diploma (GED) program ((if you are age twenty-one or younger)) until you reach your twenty-second birthday.

(3) Same-day job search if you are a TANF applicant;

(4) The food stamp employment and training program under chapter 388-444 WAC;

(5) Adult basic education (ABE), English as a second language (ESL), high school/GED, vocational education, or job skills training or other program under WAC 388-310-1000, 388-310-1050, 388-310-1200, or 388-310-1800, and you are:

(a) Working:

(i) Twenty or more hours per week; or

(ii) Sixteen or more hours per week in a paid federal or state work study ((job)) program.

(b) Participating in ((the educational program)) post secondary education for no longer than thirty-six months. Child care for post secondary education in this section is limited up to thirty-six months maximum regardless of the length of the school program. The thirty-six months includes months you attended post secondary education, supported by WCCC, while receiving TANF.

(6) WCCC may be approved for activities listed in WAC 388-290-0040 (3) through (5), when needed.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0050 If I am self-employed, can I get WCCC benefits? You may be eligible for WCCC benefits for up to sixteen hours maximum per day when ~~((you're))~~ you are self-employed.

(1) We consider "employment" or "work" to mean engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States;

(2) You are eligible for the calculation discussed in subsection (4)(a) of this section one time only, for one self-employment venture. If you change self-employment, any months left up to the first six months are covered by child care according to subsection (4)(a)(i) of this section.

(3) If you get TANF and are self employed:

(a) You must have an approved self-employment plan under WAC 388-310-1700; and

(b) The amount of WCCC you get for self-employment is equal to the number of hours in your approved plan;

(c) Income from self employment while you are receiving TANF is determined by WAC 388-450-0085.

~~((2))~~ (4) If you don't get TANF((:

~~(a) During the first six months of your WCCC eligibility, the number of hours of WCCC you can get will be calculated based on your self-employment earnings. The number of hours of WCCC you get is))~~ at the time of application for WCCC and it is a:

(a) New self-employment business (established less than six months):

(i) The hours of care you are eligible to receive for the first six months is based on your report of how many hours are needed, up to sixteen hours per day; and

(ii) Your self employment income is based on WAC 388-290-0060.

(b) For a self-employment business (established for six months or more) the number of hours of care you are eligible to receive is based on whichever is more:

(i) Your work hours reported in your business records; or

(ii) The average number of monthly hours equal to dividing your monthly self-employment income by the federal or state minimum wage (whichever minimum wage is lower).

~~((b))~~ (c) After the first six months, the number of hours of WCCC you can get each month is based on the lesser of subsections ~~((2)(a))~~ (4)(b)(i) or (ii) of this section.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0055 If I am not working or in an approved activity right now, can I get WCCC benefits? When care is approved in the situations described in subsections (1) and (2) of this section, the child needs to attend for the provider to bill.

(1) We can authorize WCCC payments for a child's attendance in child care for up to ~~((two weeks))~~ fourteen consecutive days when you're waiting to enter an approved activity under WAC 388-290-0040 or 388-290-0045.

(2) We can authorize WCCC payments for a child's attendance in child care for up to ~~((four weeks))~~ twenty-eight consecutive days if you or the other parent in the household experience a gap ~~((for reasons out of your control such as a layoff in employment, or approved activity, and:~~

~~(a))~~ in your approved activity.

(3) Your household may be eligible for payment described in subsection (2) of this section:

(a) Twice in a calendar year;

(b) For the same number of units open while you were in the approved activity, not to exceed two hundred thirty hours a month;

(c) If you report the loss of activity or employment timely following WAC 388-290-0031; and

(d) If you receive WCCC immediately before the loss of employment or approved activity, and:

(i) Your employment, or the approved activity, will resume within that period; or

~~((b) You're))~~ (ii) You are looking for another job ~~((and you received WCCC immediately before the gap in employment, or approved activity))~~.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0060 What income (~~is counted~~) does the WCCC program count when determining ((WCCC)) eligibility and copayments? The WCCC program counts income as money you get from:

- (1) A TANF grant, except when exempt under WAC 388-290-0070(9);
- (2) Child support payments;
- (3) Supplemental Security Income (SSI);
- (4) Other Social Security payments, such as SSA and SSDI;
- (5) Refugee assistance payments;
- (6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);
- (7) Unemployment compensation;
- (8) Other types of income not listed in WAC 388-290-0070;

(9) VISTA volunteers, Americorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment. Gross wages includes any wages that are taxable. "Self-employment income" means your gross income from self-employment minus allowable business expenses in WAC 388-450-0085; ~~((and~~

~~(10))~~ (11) Lump sums as money you get from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(12) Income for the sale of property as follows:

(a) If you sold the property before application, we consider the proceeds an asset and do not count as income;

(b) If you sold the property in the month you apply or during your eligibility period, we count it as a lump sum payment as described in WAC 388-290-0065(3).

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0065 How does the WCCC program define and use my income?

((We consider ...	... To equal ...
(1) The sum of all income listed in WAC 388-290-0060. We:	Your expected average monthly income.
(a) Determine the number of months it took your family to earn the income and divide the amount by those months to get an average monthly amount;	

((We consider ...	... To equal ...
(b) Use the best available estimate of your family's current income when you don't have income history to make an accurate estimate of your future income; or	
(c) Ask for evidence of your future income such as a letter from your employer.	
(2) Lump sum payments received in the month of application or during your WCCC eligibility. We:	
(a) Verify that any lump sum payment income presented to us is accurate;	
(b) Divide the lump sum payment by twelve to come up with a monthly amount (we apply that amount to the month it was received and the remaining months of the current authorization period);	
(c) Add any monthly lump sum amount to your expected average monthly income.	Total monthly income.
(3) Your total monthly income minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).	Countable income. Your countable income is used to figure your initial and on-going eligibility and your copayment for WCCC.)

We use your countable income when determining your eligibility and copayment. Your countable income is the sum of all income listed in WAC 388-290-0060 minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).

(1) To determine your income we:

(a) Determine the number of months, weeks or pay periods it took your family to earn the income and divide the income by the number of months, weeks or pay periods to get an average monthly amount; or

(b) Use the best available estimate of your family's current income when you begin new employment or if you don't have an income history to make an accurate estimate of your future income, we may ask your employer to verify your income.

(2) Parts or all of your income (earned or unearned) may be determined by averaging. If your income decreases during your eligibility, we recalculate your average income only if the average drops one hundred dollars below the lowest income amount used for two months. The change is effective the first day of the third month.

(3) If you receive a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during your WCCC eligibility we:

(a) Divide the lump sum payment by twelve to come up with a monthly amount; and

(b) Add the monthly amount to your expected average monthly income for the month it was received and the remaining months of the current authorization period;

(c) You must meet income guidelines for WCCC after the lump sum payment is applied to remain eligible for WCCC.

PROPOSED

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0070 What income types and deductions (~~are not counted~~) does the WCCC program disregard when figuring my income eligibility and for WCCC benefits? (1) The WCCC program does not count the following income types when figuring your income eligibility and copayment:

- (a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;
- (b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;
- (c) Adoption support assistance and foster care payments;
- (d) Reimbursements, such as an income tax refund;
- (e) Diversion cash assistance and the early exit bonus;
- (f) Income in-kind that is untaxed, such as working for rent;
- (g) Military housing and food allowance;
- (h) The TANF grant for the first three consecutive calendar months after you start a new job. The first calendar month is the month in which you start working;
- (i) Payments to you (~~by~~) from your employer for benefits such as medical plans;
- (j) Earned income of a WCCC family member defined under WAC 388-290-0015(2);
- (k) Income of consumers described in WAC 388-290-0005 (1)(c) through (i);

(l) Earned income from a minor child who we count as part of your WCCC household; and

(m) Benefits received by children of Vietnam War veterans who are diagnosed with all forms or manifestations of spina bifida (except spina bifida occulta).

(2) WCCC deducts the amount you pay for child support under court order, division of child support administrative order, or tribal government order, from your other countable income (~~types~~) when figuring your eligibility and co-pay for the WCCC program.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0075 What (~~are the~~) steps does the WCCC program (~~takes~~) take to determine my family's WCCC eligibility and copayment amount? The WCCC program takes the following steps to determine your WCCC income eligibility and copayment:

- (1) Determine your family size (under WAC 388-290-0015); and
- (2) Determine your countable income (under WAC 388-290-0065).
- (3) If your family's countable monthly income falls within the range below, then your copayment is:

YOUR INCOME	YOUR COPAYMENT is:
At or below 82% of the FPL	\$15
Above 82% of the FPL up to 137.5% of the FPL	\$((25)) 50

YOUR INCOME	YOUR COPAYMENT is:
Above 137.5% of the FPL -200% of the FPL	The dollar amount equal to subtracting 137.5% of FPL from countable income, multiplying by 44%, then adding \$((25)) 50
Income above 200% of the FPL, you are not eligible for WCCC benefits.	

(4) We do not pro-rate the copayment when you use care for part of a month.

NEW SECTION

WAC 388-290-0082 When I am approved, how long is my eligibility period? We can approve you for a period up to six months. Your eligibility can end prior to your end date as stated in WAC 388-290-0110.

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0085 When might my WCCC copayment change? (1) Once we (~~have determined~~) determine that you are eligible for WCCC benefits, your copayment could change when:

- (a) (~~Your activity changes under WAC 388-290-0040, 388-290-0045, or 388-290-0050;~~)
- ~~(b))~~ Your monthly income decreases;
- ~~((e))~~ (b) Your family size increases;
- ~~((d))~~ (c) We make an error in your copayment computation;

(d) You did not report all income, activity and household information;

(e) You are no longer eligible for the (~~three month TANF grant exemption under WAC 388-290-0070(h) or the~~) minimum copayment under WAC 388-290-0090;

(f) We make a mass change in benefits due to a change in law or program funding; or

(g) You are approved for a new eligibility period.

(2) If your copayment changes during your eligibility period, the change is effective the first of the month following our becoming aware of the change.

(3) We do not increase your copayment during your current eligibility period when your countable income remains at or below two hundred percent of the FPL, and:

- (a) Your monthly countable income increases; or
- (b) Your family size decreases.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0090 When do I pay the minimum copayment? You (~~will~~) pay the minimum copayment (~~when~~):

- (1) If your countable monthly income is at or below eighty-two percent of the FPL;
- (2) If you are a minor parent, and are:
 - (a) Receiving TANF; or
 - (b) Part of your parent's or relative's TANF (~~grant~~) assistance unit.

PROPOSED

(3) ~~((In))~~ For the first full month following the month you get a job ~~((, if you get TANF at the time of application))~~ or apply for WCCC and we pay benefits; ~~((or))~~

(4) ~~((The first month you receive WCCC, if you don't get TANF at the time of application for WCCC))~~ If there is a break of at least thirty days in your WCCC benefits due to your activity ending; or

(5) If you received child care benefits within the last thirty days immediately prior to the eligibility period and you do not meet the qualifications in subsections (1) through (4) of this section, your copayment will be computed according to WAC 388-290-0075.

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 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0095 If I receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin? When you receive TANF, and are eligible for WCCC, your benefits begin when your eligible provider (under WAC 388-290-0125) is caring for your ~~((child))~~ children and you are participating in an approved activity under WAC 388-290-0040 or 388-290-0055.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0100 If I do not receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin? (1) ~~((When))~~ If you do not receive TANF and are eligible for WCCC your benefits begin as described in WAC 388-290-0055(1) or the date you apply for WCCC and the following requirements are met:

(a) You have turned in all your information ~~((in))~~ within thirty days of your application date;

(b) You meet all eligibility requirements; and

(c) Your eligible provider (under WAC 388-290-0125) is caring for your ~~((child(re)))~~ children.

(2) Your application date is whichever is earlier:

(a) The date your application is date stamped as received; or

(b) The date your application is entered into our automated system as received.

(3) If you fail to turn in all your information within thirty days from your application date you must restart your application process. Your begin date for benefits ~~((begin date will start as))~~ is described in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0105 ~~((What is the process for my))~~ How do I reapply for WCCC ((review for reauthorization of my WCCC benefits)) when my eligibility period is ending? (1) ~~((You are required to complete a review of your))~~ If

you want to receive child care benefits for another eligibility period you must reapply for WCCC benefits before your current eligibility period ends. We determine if you are ~~((still))~~ eligible by:

(a) Requesting ~~((on-going eligibility review))~~ application information prior to the end date of your current WCCC eligibility period; and

(b) ~~((Reviewing))~~ Verifying the requested information for completeness and accuracy.

(2) ~~((You))~~ You may be eligible for WCCC benefits ~~((may continue))~~ for a new eligibility period if:

(a) Your ~~((review eligibility))~~ application information is received no later than ~~((ten days after your previous))~~ the last day of your current eligibility period ~~((ends))~~;

(b) Your provider is eligible for payment under WAC 388-290-0125; and

(c) You ~~((are eligible for))~~ meet all WCCC eligibility requirements.

(3) If you are determined eligible for WCCC benefits based on your ~~((review))~~ application information, ~~((the program will))~~ we notify you of ~~((continued benefits))~~ your new eligibility period and copayment.

(4) If you provide the requested ~~((review))~~ application information to us ~~((more than ten days beyond your last))~~ anytime after your eligibility period ends, you are determined eligible for WCCC and you:

(a) Receive TANF, your benefit begins when:

(i) You are participating in your approved activity, and

(ii) Your eligible provider (under WAC 388-290-0125) is caring for your child.

(b) Do not receive TANF, your benefit begin date is the date you:

(i) Application is date stamped as received or entered into our automated system as received;

(ii) Eligible provider (under WAC 388-290-0125) is caring for your child; ~~((;))~~ and

(iii) Participation in an approved activity has started.

NEW SECTION

WAC 388-290-0107 When do I receive a denial letter? We send you a denial letter when you have applied for child care and you:

(1) Withdraw your request;

(2) Are not eligible due to you;

(a) Family compositions;

(b) Income; or

(c) Activity.

(3) Did not provide information necessary to determine your eligibility according to WAC 388-290-0012.

NEW SECTION

WAC 388-290-0108 What happens if I meet eligibility requirements after I receive a denial letter? If you turn in information or otherwise meet eligibility requirements after we send you a denial letter, we determine your benefit begin date by:

(1) WAC 388-290-0095 if you are TANF; or

(2) WAC 388-290-0100 if you are Non-TANF.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0110 What circumstances might affect my ~~((on-going))~~ eligibility for ~~((the))~~ WCCC benefits and when might I be eligible again? (1) We stop your eligibility for WCCC ~~((stops))~~ benefits when you do not:

(a) ~~((Do not))~~ Pay copayment fees assessed by ~~((the department))~~ us and you do not make mutually acceptable arrangements with your child care provider to pay the copayment ~~((are not made with your child care provider));~~

(b) ~~((Do not))~~ Complete the requested ~~((review information))~~ reapplication before the deadline noted in WAC 388-290-0105 (2)(a); ~~((or))~~

(c) ~~((Do not))~~ Meet other WCCC eligibility requirements related to family size, income and approved activities; or

(d) Cooperate with the quality assurance review process or the with the division of fraud investigations.

(2) You might be eligible for WCCC again when you meet all WCCC eligibility requirements, and:

(a) Back copayment fees are paid; ~~((or))~~

(b) You make mutually acceptable payment arrangements ~~((are made))~~ with your child care ~~((provider(s)))~~ provider; or

(c) You cooperate with the quality assurance review process or with the division of fraud investigations.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0120 When doesn't advance and adequate notice of payment changes apply to me? We do not give you advance and adequate notice in the following circumstances:

(1) You tell us you no longer want WCCC;

(2) Your whereabouts are unknown to us;

(3) You are receiving duplicate child care benefits;

(4) Your current eligibility period is scheduled to end;

(5) Your new ~~((authorization))~~ eligibility period results in a change in child care benefits;

~~((5))~~ (6) The location where child care occurs does not meet requirements under WAC 388-290-0130(2) ~~((or (3)))~~; or

~~((6))~~ (7) We determine your in-home/relative provider:

(a) Is not of suitable character and competence;

(b) May cause a risk of harm to your children based on the provider's physical or mental health; or

(c) Has been convicted of, or has charges pending for crimes ~~((listed in WAC 388-290-0160 or 388-290-0165))~~ posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0125 What child care providers can I choose under the WCCC program? To receive payment under the WCCC program, your child care provider must be:

(1) Licensed as required by chapter 74.15 RCW;

(2) Meeting their states licensing regulations, for providers who care for children in states bordering Washington. We pay the lesser of the following to qualified child care facilities in bordering states:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for the DSHS region where the child resides.

(3) Exempt from licensing but certified by us, such as:

(a) Tribal child care facilities that meet the requirements of tribal law;

(b) Child care facilities on a military installation; and

(c) Child care facilities operated on public school property by a school district.

(4) Seasonal day camps that have a contract with us to provide subsidized child care and are:

(a) Of a duration of three months or less;

(b) Engaged primarily in recreational or educational activities; and

(c) Accredited by the American Camping Association (ACA).

(5) An in-home/relative provider meeting the requirements in WAC 388-290-0130;

(6) You may choose to have up to one back up provider for any one-time period.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0130 What in-home/relative providers can I choose under the WCCC program? (1) To be authorized as an in-home/relative provider under the WCCC program, your in-home/relative provider must:

(a) Be a U.S. citizen or legally residing in the ~~((country))~~ United States;

(b) Meet the requirements in WAC 388-290-0135; and

(c) ~~((Complete and submit a criminal background inquiry form prescribed by us; and~~

~~((d)))~~ Be one of the following adult relatives providing care in the home of either the child or the relative:

(i) An adult sibling living outside the child's home;

(ii) An extended tribal family member under chapter 74.15 RCW; or

(iii) A grandparent, aunt, uncle, or great-grandparent, great-aunt or great-uncle.

(2) ~~((A))~~ An in-home, nonrelative provider ~~((may))~~ must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

(b) Be an adult friend or neighbor and ~~((must))~~ provide care in the child's ~~((own))~~ home.

(3) If you use an in-home/relative provider you can:

(a) Have no more than one in-home/relative provider authorized for payment during your eligibility period;

(b) Have one back up provider (licensed or an in-home/relative provider);

(c) Change to a different in-home/relative provider during your eligibility period. Payment for the current in-home/relative provider would end before payment for the new provider could begin.

(4) An in-home/relative provider can care for:

(a) One consumer's children during any one-time period. If the provider is an approved provider for another consumer, the hours they provide care for all WCCC consumers must not overlap; and

(b) Up to a maximum of six children during any one-time period.

(5) An in-home/relative provider is not an eligible provider (under WAC 388-290-0095 and 388-290-0100) any-time prior to the date we receive the results of all applicable criminal background checks under WAC 388-290-0143(1). Providers other than in-home/relative that you can use are described in WAC 388-290-0125.

(6) The in-home/relative provider (~~(may not be)~~) is not eligible for payment if they are:

(a) The child's biological, adoptive or step-parent;

(b) The child's nonneedy or needy relative or relative's spouse or partner;

(c) The child's legal guardian or the guardian's spouse or partner; (~~or~~)

(~~(e)~~) (d) Another adult acting in loco parentis or that adult's spouse or partner; or

(e) Anyone living in the same residence with the child.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0135 When I choose an in-home/relative provider, what information must I submit to receive WCCC benefits? When you choose in-home/relative child care, you must submit to us the following and complete certain forms:

(1) The in-home/relative child care provider's name and address and telephone;

(2) A copy of the provider's valid Social Security card (and);

(3) A copy of the provider's photo identification (~~(to us)~~);

(~~(3)~~) (4) A completed background (~~(inquiry application)~~) check authorization; and

(~~(4)~~) (5) A form supplied by us that is completed (~~(form that makes)~~) and signed by the consumer and provider in which both attest to the following (~~(assurances)~~):

(a) The provider is:

(i) Of suitable character and competence;

(ii) Of sufficient physical and mental health to meet the needs of the children in care. If requested by us, you must provide written evidence that the in-home child care provider of your choice is of sufficient physical and mental health to be a safe child care provider;

(iii) Able to work with the children without using corporal punishment or psychological abuse;

(iv) Able to accept and follow instructions;

(v) Able to maintain personal cleanliness; and

(vi) Prompt and regular in job attendance.

(b) The children are current on the immunization schedule as described in the National Immunization Guidelines, developed by the American Academy of Pediatrics and the Advisory Committee on Immunization Practices;

(c) The home where care is provided is safe for the care of the children;

(d) The in-home/relative child care provider is informed about basic health practices, prevention and control of infectious disease, immunizations, and home and physical premises safety relevant to the care of the children; and

(e) You and the provider state you have instructed the in-home/relative (~~(child care)~~) provider that they (~~(will have the following responsibilities)~~) are continuously responsible to provide:

(i) (Provide) Constant care and supervision of the children throughout the arranged time of care in accordance with the needs of the children (constant care and supervision includes remaining awake while the children sleep); and

(ii) (Provide developmentally appropriate) Activities for the children that are consistent with their developmental stages.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0140 When does the WCCC program not pay for the cost of in-home/relative child care? (The WCCC program will) We do not pay for the cost of in-home/relative care if:

(1) Your (in-home/relative) provider does not meet the requirements in WAC 388-290-0130 or 388-290-0135;

(2) You fail to submit a completed criminal background (inquiry) check form or copies of the provider's Social Security card (~~(and)~~), photo identification (~~(to the department)~~), and current address to us;

(3) Your in-home/relative provider has been convicted of, or has charges pending for crimes posted on the DSHS secretary's list of disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>;

(4) We do not have background check results according to WAC 388-290-0143; or

(5) We determine your (~~(in-home/relative)~~) provider is not of suitable character and competence or of sufficient physical(~~(-emotional)~~) or mental health to meet the needs of the child in care, or the household may be at risk of harm by this provider, as indicated by information other than conviction information(~~(-or~~

~~(-or~~) Your in-home/relative provider has been convicted of, or has charges pending for crimes listed in WAC 388-290-0160 or 388-290-0165). We will use criteria, such as the following, when reviewing information about incidents/issues/reports/findings:

(a) Recency;

(b) Seriousness;

(c) Type;

(d) Frequency; and

(e) Relationship to the direct care of a child including health, mental health, learning, and safety.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0143 Who must have a background check for the WCCC program and how often is the check done? (1) A background check must be completed for:

(a) All in-home/relative providers who apply to care for a WCCC consumer's child; and

(b) Any individual sixteen years of age or older who is residing with a provider when care occurs outside of the (~~WCCC~~) child's home.

(2) A (~~new~~) background check must be completed(~~(;~~ ~~(a))~~) for individuals listed in subsection (1)(a) and (b) of this section at least every two years(;

~~(b) Any time a);~~

(3) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when:

(a) Any individual sixteen years of age or older is newly residing with a provider when care occurs outside of the child's home;

(b) We have a valid reason to do a check more frequently;

(c) A in-home/relative provider applies to provide care for a (~~WCCC~~) family(;

~~(e) For any individual sixteen years of age or older newly residing with a provider when care occurs outside of the WCCC child's home; or~~

(d) When we have a valid reason to do a check more frequently), such as when:

(i) A break in service occurs to the current consumer;

(ii) There is a break in consumer eligibility; or

(iii) A provider is currently providing care and there are no prior background results for this provider.

(4) We do not need to request a new background check for an individual in subsection (1)(a) or (b) if:

(a) We have results that were received no more than ninety days prior to the current requested start date of care; and

(b) The results indicate that there is no record.

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 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0145 Why is a background check required and will I be notified of the results? (1) We require the background check to:

(a) Help safeguard the health, safety, and well-being of children;

(b) Reduce the possible risk of harm from persons who have been convicted or have charges pending of certain crimes having access to WCCC children (~~(that have been convicted of certain crimes)~~); and

(c) Help you make informed(~~(, safe and responsible))~~ decisions about individuals who have access to your children.

(2) (~~(As a)~~) We notify you, the WCCC consumer(, ~~you will be notified)~~:

(a) Whether we can approve the provider for the WCCC program; and

(b) Of the following results from the background check:

(i) No background information is found given current sources of information;

(ii) Background information is found, but the information will not disqualify the individual being checked; or

(iii) Background information is found that disqualifies the individual being checked.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0150 What information (~~is included in~~) does the background check contain and where does it come from? (1) The background information (~~(will include))~~ includes, at a minimum, criminal convictions and pending charges.

(2) Additional sources may include:

(a) Child/adult protective service case information; and

(b) Civil judgments, determinations, or disciplinary board final decisions of abuse or neglect.

(3) (~~The~~) We obtain background information (~~(may be obtained from sources such as:~~

~~(a))~~, at a minimum, from the Washington state patrol under chapter 10.97 RCW(;

~~(b))~~ via the background check central unit (BCCU).

(4) Additional sources of the background information may be obtained from:

(a) Child/adult protective service case files;

~~((e))~~ (b) Other states and federally recognized Indian tribes;

~~((d))~~ (c) The department of corrections and the courts;

~~((e))~~ (d) Law enforcement records of convictions and pending charges in other states or locations if:

(i) The individual being checked has lived in another state; and

(ii) Reports from credible community sources indicate a need to investigate another state's records.

~~((e) Self disclosure by)~~

(f) The individual being checked self-discloses information.

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

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0155 What happens after (~~we receive~~) the WCCC program receives the background information? After we receive the background information we:

(1) Compare the background information with convictions (~~(listed in WAC 388-06-0170 and 388-06-0180))~~ posted on the DSHS secretary's list of disqualifying convictions for economic services administration (ESA). You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>.

(2) Review the background information using the following rules:

(a) We give the same weight to a pending charge for a crime (~~(is given the same weight))~~ as a conviction;

(b) If the conviction has been renamed (~~(it is given)~~), we give the same weight as the previous named conviction. For example, larceny is now called theft;

(c) We give convictions whose titles are preceded with the word "attempted" (~~(are given))~~ the same weight as those titles without the word "attempted"; and

(d) ~~We do not consider~~ the crime (~~((will not be considered))~~) a conviction for the purposes of WCCC when:

(i) It has been pardoned; or

(ii) A court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Notify you whether or not we are able to approve the provider for WCCC.

(4) Allow you, the consumer, to decide character and suitability of the provider (~~((given an individual's))~~) when an individual is not automatically (~~((disqualifying))~~) disqualified due to the background information from the record of arrests and prosecutions (RAP) sheet.

(5) Deny or stop payment when the background information disqualifies the individual being checked.

(6) Assist you in finding other child care arrangements.

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0160 What convictions would cause the WCCC program to permanently disqualify my in-home/relative provider (~~((from being authorized by us))~~)?

(1) If your provider or an individual listed in WAC 388-290-0143(1)(~~((b))~~) has a background containing (~~((the following felony convictions, the provider is))~~) any conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, we permanently (~~((disqualified))~~) disqualify the person as an in-home/relative child care provider for WCCC(~~((:~~

(a) ~~Child abuse and/or neglect;~~

(b) ~~Spousal abuse;~~

(c) ~~A crime against a child (including child pornography);~~

(d) ~~A crime involving violence (including rape sexual assault, or homicide but not including other physical assault); or~~

(e) ~~Any federal or out of state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or vulnerable adults in any home or facility)). You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>.~~

(2) If the conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not permanently disqualify the provider.

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 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0165 Is there other background information or convictions that will disqualify my in-home/relative provider? (1) We can disqualify your in-home/relative provider (~~((can be disqualified))~~) if the individual being checked has a background containing information other than conviction information that we determine:

(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or

(b) Puts the household at risk for harm.

(2) If an individual being checked (~~((as))~~) has a background containing (~~((the following crimes within the last five years))~~) any conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, your provider is disqualified as an in-home/relative child care provider for WCCC(~~((:~~

(a) ~~Any physical assault not included in WAC 388-290-0160;~~

(b) ~~Any sex offense not included in WAC 388-290-0160;~~

(c) ~~Any felony conviction not included in WAC 388-290-0160;~~

(d) ~~Felony violation of the following drug-related crimes:~~

(i) ~~The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances, see chapter 69.52 RCW);~~

(ii) ~~The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);~~

(iii) ~~The Precursor Drug Act (substance used in making controlled substances, see chapter 69.43 RCW);~~

(iv) ~~The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or~~

(v) ~~Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.~~

(e) ~~Any federal or out of state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or vulnerable adults in your home or facility not less than five years from a conviction listed in this section)) for five years after the conviction date. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/>.~~

(3) If an individual being checked has:

(a) A conviction listed in subsection (2)(~~((a) through (e))~~) of this section, and it has been more than five years; or

(b) A conviction other than those listed in WAC 388-290-0160 or subsection (2)(~~((a) through (e))~~) of this section, we (~~((will))~~) allow you to determine the provider's character, suitability, and competence by reviewing important information such as the:

(i) (~~((The))~~) Amount of time that has passed since the conviction;

(ii) (~~((The))~~) Seriousness of the crime that led to the conviction;

(iii) (~~((The))~~) Individual's age at the time of conviction;

(iv) (~~((The))~~) Individual's behavior since the conviction;

(v) (~~((The))~~) Number and types of convictions in the individual's background; and

(vi) (~~((Documentation indicating the individual has successfully completed))~~) Individual's verification, if any, of successful completion of all court-ordered programs and restitution.

(4) If conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not disqualify the provider (~~((if conditions in WAC 388-290-0167 (1)(a) and (b) are met))~~).

AMENDATORY SECTION (Amending WSR 02-14-066, filed 6/27/02, effective 7/1/02)

WAC 388-290-0167 What happens if my in-home/relative provider, who provides care in their home, is disqualified based solely on the disqualifying background of an individual living with that provider? (1) If we disqualify your provider (~~(is disqualified)~~) based solely on the disqualifying background of an individual living with that provider, we (~~(will)~~) require that:

- (a) Child care occurs in the child's home away from the disqualified individual, if you wish to continue using that provider; and
- (b) The parent and provider sign an agreement with us indicating that:
 - (i) Care (~~(will occur)~~) occurs in the child's home; and
 - (ii) There (~~(will be)~~) is no contact between the child and disqualified individual during child care hours.
- (2) The parent may choose a licensed provider or submit an application for a different in-home/relative provider.
- (3) If we become aware that the parent and provider are not meeting the conditions in subsection (1)(a) and (b) of this section:
 - (a) We (~~(will)~~) terminate care without advance and adequate notice;
 - (b) You (~~(will)~~) need to find a different provider; and
 - (c) You may be subject to an overpayment under WAC 388-290-0270.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0180 When are the WCCC program subsidy rates in this chapter effective? DSHS child care subsidy rates in this chapter are effective on or after January 1, 2002 (~~(when a family:~~

- (1) ~~Has a household change that requires their authorization to be updated;~~
- (2) ~~Is newly authorized to receive child care subsidies; or~~
- (3) ~~Is reauthorized to continue receiving child care subsidies).~~

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0190 What does the WCCC program pay for and when can the program pay more? (1) We may pay for:

- (a) Basic child care hours, either full day, half day or hourly. We authorize:
 - (i) (~~(A)~~) Full day (~~(of)~~) child care (~~(is authorized)~~) to licensed(~~(f)~~) or certified facilities and DSHS contracted seasonal day camps (~~(that have contracted with us to provide subsidized child care)~~) when your children need care (~~(is needed)~~) for five or more hours per day;
 - (ii) (~~(A)~~) Half day (~~(of)~~) child care (~~(is authorized)~~) to licensed(~~(f)~~) or certified facilities and DSHS contracted seasonal day camps (~~(that have contracted with us to provide subsidized child care)~~) when your children need care (~~(is needed)~~) for less than five hours per day; and

(iii) Hourly child care (~~(is authorized when the provider is an)~~) for in-home/relative child care.

- (b) A registration fee (under WAC 388-290-0245);
- (c) (~~(An activity))~~ A field trip fee (under WAC 388-290-0245);
- (d) (~~(Care for nonstandard hours (under WAC 388-290-0210 and 388-290-0215);~~
- (e)) An infant bonus (under WAC 388-290-0250); and
- (~~(f))~~) (e) Special needs care when the child has a documented need for higher level of care (under WAC 388-290-0220, 388-290-0225, 388-290-0230, and 388-290-0235).
- (2) (~~(We pay more than the basic child care subsidy daily rate if:~~
- (a)) If care is not available within a reasonable distance at our daily rate (~~(within a reasonable distance)), then we authorize~~ the provider's usual daily rate (~~(is authorized; or~~
- (b)).
- (3) If care is over ten hours per day, and the provider's policy is to charge for these extra hours, then we authorize an additional amount of care (~~(is authorized)~~).
- (4) Refer to WAC 388-290-0270, 388-290-0271, and 388-290-0273 for when overpayments can be assessed to you or your provider.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps? (1) We pay the lesser of the following to a licensed or certified child care center or (~~(a)~~) DSHS contracted seasonal day camp (~~(that has a contract with us to provide subsidized child care)~~):

- (~~(1))~~) (a) The provider's usual daily rate for that child; or
- (~~(2))~~) (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table(~~(-)~~):

		Infants ((Birth))	Toddlers	Preschool	School-age
		One month - 11 mos.)	(12 - 29 mos.)	(30 mos. - 5 yrs)	(5 - 12 yrs)
Region 1	Full-Day	\$24.32	\$20.45	\$19.32	\$18.18
	Half-Day	\$12.16	\$10.23	\$9.66	\$9.09
Region 2	Full-Day	\$24.55	\$20.50	\$19.00	\$16.82
	Half-Day	\$12.27	\$10.25	\$9.50	\$8.41
Region 3	Full-Day	\$32.50	\$27.09	\$23.41	\$22.73
	Half-Day	\$16.25	\$13.55	\$11.70	\$11.36
Region 4	Full-Day	\$37.82	\$31.59	\$26.50	\$23.86
	Half-Day	\$18.91	\$15.80	\$13.25	\$11.93
Region 5	Full-Day	\$27.73	\$23.86	\$21.00	\$18.64
	Half-Day	\$13.86	\$11.93	\$10.50	\$9.32
Region 6	Full-Day	\$27.27	\$23.41	\$20.45	\$20.00
	Half-Day	\$13.64	\$11.70	\$10.23	\$10.00

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licenser in order for a child care center to provide care for a thirteen-year-old or older child.

PROPOSED

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care ((home))? (1) We pay the lesser of the following to a licensed or certified family home child care ((home)):

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - ((12)) 11 yrs)
Region 1	Full-Day	\$20.00	\$18.00	\$18.00	\$16.00
	Half-Day	\$10.00	\$9.00	\$9.00	\$8.00
Region 2	Full-Day	\$20.00	\$19.00	\$17.00	\$17.00
	Half-Day	\$10.00	\$9.50	\$8.50	\$8.50
Region 3	Full-Day	\$29.00	\$25.00	\$22.00	\$20.00
	Half-Day	\$14.50	\$12.50	\$11.00	\$10.00
Region 4	Full-Day	\$30.00	\$29.67	\$25.00	\$24.00
	Half-Day	\$15.00	\$14.83	\$12.50	\$12.00
Region 5	Full-Day	\$22.00	\$20.00	\$19.00	\$17.00
	Half-Day	\$11.00	\$10.00	\$9.50	\$8.50
Region 6	Full-Day	\$22.00	\$20.00	\$20.00	\$19.00
	Half-Day	\$11.00	\$10.00	\$10.00	\$9.50

(2) The family home child care ((home)) WAC 388-155-010 allows providers to ((provide)) care ((to)) for children ((within a)) from birth ((through eleven years of age range exclusively)) up to and including the day before their twelfth birthday. In order for a family home provider to ((provide)) care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensor. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or that relative's spouse or partner;
- (c) The child's legal guardian or the guardian's spouse or partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or partner.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0220 How does DSHS determine that my child qualifies for a special needs daily rate? To qual-

ify for the DSHS child care programs special needs subsidy daily rate ((my)) your child must either:

- (1) Be thirteen to nineteen years old and be under court supervision; or
- (2) Be under nineteen years old, and;
- (((2))) (a) Have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care while in the care of the licensed or certified facility, a DSHS contracted seasonal day camp or in-home/relative provider; and
- (((3))) (b) Have their condition and need for higher level of care verified by an individual who is ((+))
- (((+))) not employed by the child care facility(((+)) and
- (((b))) is either a:
- (i) Health, mental health, education or social service professional with at least a master's degree; or
- (((+)-A)) (ii) Registered nurse.
- (((4))-B) Be thirteen to nineteen years old and be a dependent of the courts.))

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0225 What is the ((DSHS child care)) additional subsidy daily rate for children with special needs in a licensed or certified child care center or DSHS contracted seasonal day camp? (1) In addition to the rate listed in WAC 388-290-0200, we authorize special needs daily rates to licensed or certified child care centers or DSHS contracted seasonal day camps ((that have contracts with us to provide subsidized child care under WAC 388-290-0200 and)) according to whichever of the following is greater:

- (((4))) (a) The provider's reasonable documented additional cost associated with the care of the child; or
- (((2))) (b) The daily rate listed in the table below after you have verified that your child has a special need and requires a higher level of care according to WAC 388-290-0220.

		Infants (((Birth)) One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

(2) The child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

PROPOSED

(3) If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must be:

- (a) At least eighteen years of age; and
- (b) Meet the requirements for being an assistant under chapter 388-295 WAC.

(4) If the provider has a waiver to care for a child who:

- (a) Is thirteen years or older; and
- (b) Has special needs according to WAC 388-290-0220,

we authorize the special needs payment rate as described in subsection (1) of this section using the five to twelve year age range for comparison.

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

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0230 ~~What is the ((DSHS child care)) additional subsidy daily rate for children with special needs in a licensed or certified family home child care ((home))?~~ (1) In addition to the rate listed in WAC 388-290-0205, we authorize special needs daily rates to licensed or certified family home child care ((homes under WAC 388-290-0205 and whichever of)) providers according to whichever of the following is greater:

- (a) The provider's reasonable documented additional cost associated with the care of the child; or
- (b) The daily rate listed in the table below((-) after you have verified that your child has a special need and requires a higher level of care according to WAC 388-290-0220:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - ((12)) 11 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

~~(2) ((The family child care home WAC 388-155-010 allows providers to provide care to children within a birth through eleven years of age range exclusively. In order for a family home provider to provide care for a twelve year old or older child, the provider must obtain a child specific and time limited waiver from their child care licensor.))~~ A family home child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1) (b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If the provider has a waiver to care for a child who:

- (a) Is twelve years or older; and
- (b) Has special needs according to WAC 388-290-0220, we authorize the special needs payment rate as described in subsection (1) of this section using the five to eleven year age range for comparison.

(4) If a provider is requesting one-on-one supervision/direct care for the child with special needs. The person providing the one-on-one care must be:

- (a) At least eighteen years old; and
- (b) Meet the requirements for being an assistant under chapter 388-155 WAC.

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

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0235 What is the DSHS in-home/relative child care daily rate for children with special needs?

~~(1) ((DSHS authorizes)) We authorize a base rate of two dollars and six cents an hour for in-home/relative child care ((for care of a child with)) when a child has verified special needs and ((the lesser of:~~

~~(2) The provider's reasonable documented additional cost associated with the care for that child with special needs; or~~

~~(3) Sixty-two cents per hour)) requires a higher level of care according to WAC 388-290-0220.~~

(2) In addition to the base rate, we authorize whichever of the following is greater:

- (a) Sixty-two cents per hour; or
- (b) The provider's reasonable documented additional cost associated with the care for that child.

(3) The in-home/relative provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(a) of this section. The verification must include details about all the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If other children in the home are also authorized for in-home/relative care with the same provider, we authorize:

- (a) Two dollars and six cents an hour for the child needing the most care; and
- (b) One dollar and three cents an hour for any additional children.

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

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0245 When can the WCCC program authorize payment of fees for registration? (1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps ((that have contracts with us to provide subsidized child care)) a registration fee once per calendar year of fifty dollars per child or the provider's usual fee, whichever is less only if the fees are:

PROPOSED

(a) Required of all parents whose children are in care with that provider; and

(b) Needed to maintain the child care arrangement.

(2) The registration fee may be authorized more than once per calendar year when:

(a) There is a break in your child care services for more than sixty days and the provider's (~~usual~~) policy is to charge an additional registration fee when there is a break in care; or

(b) The children change child care providers and the new provider meets subsection (1)(a) and (b) of this section.

~~((3) The WCCC program pays licensed or certified child care providers a monthly activity fee of twenty dollars per child or the provider's actual cost for the activity, whichever is less only if the fees meet the conditions in subsection (1)(a) and (b) of this section.))~~

NEW SECTION

WAC 388-290-0247 When can the WCCC program authorize payment for field trips fees? (1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps a monthly field trip fee up to twenty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fees meet the conditions in subsection (1)(a) and (b) of WAC 388-290-0245. The field trip fee is to cover the provider's actual expenses for:

(a) Admission;

(b) Transportation (not to include the provider's gas and insurance); and

(c) The cost of hiring a nonemployee to provide an in-house field trip activity.

(2) The field trip fee can only be reimbursed for children three years of age and older.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0250 When can WCCC pay a bonus for enrolling an infant? ~~((The WCCC program pays))~~ We pay licensed or certified child care providers a one-time bonus of two hundred fifty dollars for each infant they newly enroll in care if all the following conditions are met:

(1) The child being cared for is less than twelve months of age;

(2) The child care (~~facility~~) provider has not already received a bonus for that infant, from the WCCC program or any other subsidy program;

(3) We expect care to be provided for five days or more; and

(4) The provider (~~must care~~) cares for the infant a minimum of five days (~~in order to claim the bonus~~).

AMENDATORY SECTION (Amending WSR 02-14-083, filed 6/28/02, effective 7/1/02)

WAC 388-290-0255 When can the WCCC program establish a protective payee to pay my in-home/relative provider? ~~((The WCCC program establishes))~~ We establish a protective payee to pay your in/home-relative provider when we confirm:

(1) You (~~do not pay~~) have not paid your in-home/relative child care provider;

(a) Your copayment (~~and~~); or

(b) The entire amount the department sends you for in-home/relative child care;

~~((2))~~ and

(i) You have not reported the WCCC warrant lost, stolen, or destroyed;

(ii) We issued (~~the~~) the child care warrant to the correct address; and

(iii) Twelve or more working days have passed since the issuance date (~~, and you have not reported the WCCC warrant lost, stolen, or destroyed;~~

~~(3))~~;

(2) You have a history of failing to pay your in-home/relative provider(s); or

~~((4))~~ (3) You have a protective payee for your TANF grant or for a Child (~~SafetyNet~~) Safety Net Payment.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0260 Do I have the right to ask for a hearing about my WCCC benefits and how do I ask for one? (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits except for mass changes resulting from a change in policy or law.

(2) Licensed or certified child care providers can request hearings under chapter 388-02 WAC and RCW 43.20B.675 only for WCCC overpayments.

(3) To request a hearing you or the licensed or certified provider:

(a) Contacts the office which sent them the notice; or

(b) Writes to the Office of Administrative Hearings, ((919 Lakeridge Way SW, PO Box 42488)) PO Box 42489, Olympia WA 98504-((2488))2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers (per RCW 43.20B.675).

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0265 When can I get WCCC benefits pending the outcome of a hearing? (1) If you are a WCCC consumer, you can receive WCCC pending the outcome of a hearing if you request the hearing:

(a) On or before the effective date of an action; or

(b) No more than ten days after (~~the department sends~~) we send you a notice of adverse action.

"Adverse action" means an action to reduce or terminate your WCCC, or to set up a protective payee to receive your WCCC warrant for you.

(2) If you lose a hearing, any WCCC you use between the date of the adverse action and the date of the hearing or hearing decision is an overpayment to you, the consumer.

(3) If you are a WCCC consumer, you may not receive WCCC benefits pending the outcome of a hearing if you

request payment to a provider who is not eligible under WAC 388-290-0125.

(4) If you are eligible for WCCC, you may receive child care benefits for another eligible provider, pending the outcome of the hearing.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0270 ~~What is a WCCC overpayment and ((when might I have one))~~ **what can be included?** (1) A WCCC overpayment:

(a) Occurs when you or a provider ~~((has received))~~ **receives** benefits or payment ~~from WCCC~~ that you or they are not eligible to receive;

(b) Is ~~((written by us and))~~ expected to be paid back by you or the provider; ~~and~~

(c) Is written for the month care is billed for, not the month it is paid or the month the overpayment is written.

(2) ~~((We establish WCCC overpayments, regardless of whether you are a current or past WCCC consumer, when we made payment for WCCC benefits and:~~

~~(a) You are no longer eligible or you are eligible for a smaller amount of care;~~

~~(b) You knowingly fail to report information to us that affects the amount of WCCC you are eligible for; or~~

~~(c) You do not have attendance records and payment receipts to support the amount you billed us for in-home/relative care.~~

~~(3))~~ When setting up an overpayment, we reduce the WCCC overpayment by the amount of the WCCC underpayment when applicable.

~~((4))~~ (3) In areas not covered by this section, you are subject to chapter 388-410 WAC (Benefit errors).

~~((5) We set up overpayments starting the date that we paid for WCCC when you were not eligible or eligible for a lesser amount of care.~~

~~(6) We establish WCCC overpayments for licensed/certified child care providers and contracted seasonal day camps, when:~~

~~(a) The provider receives payment for WCCC services not provided;~~

~~(b) The provider does not have attendance records that support the billing;~~

~~(c) We pay the provider more than they are eligible to bill; or~~

~~(d) The provider receives payment from us and the provider is not eligible based on WAC 388-290-0125))~~ (4) Payments made through departmental error fall under subsection (1) of this section.

(5) Absent days can be added to an overpayment, either yours or the provider's, when care is used or billed when you were not eligible for WCCC per WAC 388-290-0032 or care is billed incorrectly.

NEW SECTION

WAC 388-290-0271 **When might I be assessed an overpayment?** We establish WCCC overpayments, regardless of whether you are a current or past WCCC consumer, when we make payment for WCCC benefits and:

(1) You are no longer eligible or you are eligible for a smaller amount of care;

(2) You fail to report information to us that results in an error in our determination of:

(a) Your eligibility;

(b) The amount of care authorized; or

(c) The amount of your copayment.

(3) Your provider does not meet the requirements in WAC 388-290-0130;

(4) You use DSHS WCCC subsidized payment to pay a person who has not been determined an eligible provider by WCCC;

(5) You do not have attendance records and payment receipts to support the amount you billed us for in-home/relative care;

(6) You cannot provide verification that you have paid your provider the DSHS WCCC subsidized payment.

NEW SECTION

WAC 388-290-0273 **When would my provider be assessed an overpayment?** (1) We establish WCCC overpayments for licensed or certified child care providers and DSHS contracted seasonal day camps, when:

(a) The provider receives payment for WCCC services not provided;

(b) The provider does not have attendance records that support the billing (refer to WAC 388-295-7030, 388-155-460, and 388-151-460 for attendance record requirements). Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) We pay the provider more than they are eligible to bill;

(d) The provider received payment from us and the provider is not eligible based on WAC 388-290-0125; or

(e) The provider is caring for a child outside their licensed allowable age range without a waiver.

(2) The worker may request documentation from the provider when preparing to establish an overpayment. The provider has fourteen consecutive calendar days to supply any requested documentation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-290-0080

When does the WCCC program determine and review my eligibility and copayments?

WAC 388-290-0210

When can the WCCC program authorize the nonstandard hour child care bonus?

WSR 04-04-005
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed January 22, 2004, 9:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-19-006.

Title of Rule: WAC 392-140-600 through 392-140-685, state special education safety net funding.

Purpose: To reflect changes made by the 2003 legislature, to eliminate the provision for supplemental safety net funding, and to make minor language modifications.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: Section 507(7), chapter 309, Laws of 1999.

Summary: Proposed amendments eliminate consideration of supplemental safety net funding, add language adapting Worksheet A for districts participating in pilot program according to the provisions of RCW 28A.630.015(4), and make minor language modifications.

Name of Agency Personnel Responsible for Drafting: Ben Gravely, Office of Superintendent of Public Instruction, (360) 725-6142; Implementation: Calvin W. Brodie, Office of Superintendent of Public Instruction, (360) 725-6301; and Enforcement: Marty S. Daybell, Office of Superintendent of Public Instruction, (360) 725-6002.

Name of Proponent: Office of Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes to rules, elimination of provision for supplemental safety net awards, addition of language requiring adaptation of Worksheet A for districts participating in the pilot program according to the provisions of RCW 28A.630.015(4), and minor clarifications to language pertaining to application process.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Old Capitol Building, P.O. Box 47200, Room 152, Olympia, WA 98504-7200, on March 10, 2004, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Sheila Emery by March 1, 2004, TDD (360) 664-3631 or (360) 725-6271.

Submit Written Comments to: Legal Services, OSPI, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by March 9, 2004.

Date of Intended Adoption: March 11, 2004.

January 20, 2004
 Dr. Terry Bergeson
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-600 Special education safety net—Applicable provisions. The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net allocations of Individuals with Disabilities Education Act (IDEA) federal funds for the ((2002-03)) 2003-04 school year and thereafter.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-605 Special education safety net—Application type, certification, worksheets. Application for safety net funding shall be made on Form SPI 1381 - Certification published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding for high-cost individual student(s). The school district making application for safety net funding shall certify that:

(a) The district recognizes that differences in costs attributable to district philosophy, service delivery choice, or accounting practice are not a legitimate basis for safety net awards.

(b) The application complies with the respective safety net application standards of WAC 392-140-616;

(c) The application provides true and complete information to the best of the school district's knowledge;

(d) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, must be expended in program 24, and federal Medicaid has been billed for all services to eligible students;

(e) The district is making reasonable effort to provide appropriate services for students in need of special education using state funding generated by the basic education apportionment and special education funding formulas and federal funding;

(f) The district's special education services are operated in a reasonably efficient manner;

(g) Indirect costs included for purposes of determining safety net allocations do not exceed the allowable percent for federal special education program plus one percent;

(h) Any available state and federal funding is insufficient to address the additional needs;

(i) The costs of any supplemental contracts are not included for purposes of determining safety net awards. Supplemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP; and

(j) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by an IEP.

(2) Worksheet A shall be included with the application and must demonstrate the need for safety net funding. Worksheet A is used to determine a maximum amount of eligibility for a school district. Award amounts may be less than the maximum amount of eligibility determined on Worksheet A.

School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(3) All high-cost individual student applications shall include worksheets "A" and "C" and summary published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

~~((4) At the final meeting of the year, the state oversight committee may consider supplemental safety net funding needs of applicant districts that have exhausted their pool of high cost individual students. This supplemental funding is limited to the remaining safety net funding available pursuant to WAC 392-140-660.~~

~~Districts making application for supplemental safety net funds shall convincingly demonstrate to the committee that their request for supplemental funding is not due to district philosophy, service delivery choice, or accounting practice.))~~

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-608 Special education safety net—Safety net application—Timing. Safety net applications shall be submitted and reviewed pursuant to the dates published by the superintendent of public instruction. late applications will not be accepted and no applications for the school year will be accepted after the final application due date.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-609 Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs. Individualized education programs (IEPs) which are appropriate, properly and efficiently prepared and formulated are those IEPs that meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction identified on the IEP complies with state standards (regularly scheduled teaching or training activities provided or designed by special education qualified staff).

(3) The provision of special education services conforms with areas of need identified in the student's evaluation and/or reevaluation made pursuant to chapter 392-172 WAC.

~~((4) The state oversight committee determines:~~

~~(a) There are no unresolved state audit examination issues related to special education which are material in nature;~~

~~(b) There are no unresolved state child count verification issues which are material in nature; and~~

~~(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.))~~

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-626 Special education safety net—Worksheet A—Demonstration of need. Applications for high-cost individual students shall demonstrate district financial need as follows:

(1) Application worksheet "A" shall demonstrate a fiscal need in excess of:

(a) Any previous safety net awards for the current school year; and

(b) All other available revenue for special education, including all carryover of state and federal special education revenue.

(2) Awards shall not exceed the amount of need demonstrated on the worksheet "A."

(3) Worksheets submitted with safety net applications are to reflect the state adopted excess cost method of accounting, consistently applied for both years presented.

(4) The safety net oversight committee may revise the district's worksheet "A" submitted for errors or omissions or more current information.

(5) The school district shall provide clarifying information as requested by the state oversight committee.

(6) After the close of the school year, the safety net oversight committee may review the worksheet "A" used to determine need for a district's award against the actual final school year enrollments, revenues, and expenditures reported by the district. Based upon the results of this review:

(a) The safety net allocation for the school year may be adjusted or recovered; or

(b) If the committee finds that a portion of the safety net allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.

(7) The state safety net oversight committee shall adapt the worksheet "A" - Demonstration of Need as appropriate for applications prepared by districts participating in the pilot program according to the provisions of RCW 28A.630.015 (4).

(8) In accordance with the state of Washington Accounting Manual for Public School Districts and proposed federal language, demonstrated need shall not include legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child to ensure a free appropriated public education.

AMENDATORY SECTION (Amending WSR 02-05-036, filed 2/12/02, effective 2/13/02)

WAC 392-140-630 Special education safety net—Special education program audit team—Purpose, procedures. ~~((The))~~ Special education program audits ~~((team consists of))~~ by staff of the state auditor's office ~~((funded in the Biennial Operating Appropriations Act))~~ may be requested to assist the special education safety net committee ~~((when requested))~~. When reviewing a school district's special education program, the ~~((audit team shall))~~ auditors may review and verify any certifications and supporting information provided by the district in a safety net application. The ~~((audit team shall))~~ auditors may provide the results of the review to

the state oversight committee. The results of the ~~((audit team's review shall))~~ auditor's review may be considered by the oversight committee in determining, adjusting, or recovering safety net awards.

AMENDATORY SECTION (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

WAC 392-140-640 Special education safety net—State oversight committee—Membership, structure. Membership of the state oversight committee shall consist of: Staff of the office of superintendent of public instruction, staff of the office of state auditor, ~~((staff of the office of financial management))~~ one or more representatives from a school district(s), and one or more representatives from an educational service district.

(1) The state oversight committee members will be appointed by the office of superintendent of public instruction.

(2) The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

(3) Members of the state oversight committee from school districts and/or educational service districts will be appointed based on their knowledge of special education program service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will guarantee a representative state committee.

(4) Alternate members shall be appointed. In the event a member is unable to attend a committee meeting, an alternate member shall attend.

(5) Membership appointments shall be made for a period of one year. The oversight committee manager may replace a portion of the committee each year in order to enhance representation.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-643 Special education safety net—Definition—State oversight committee—Procedures. (1) The state oversight committee will review applications as deemed necessary by the superintendent of public instruction pursuant to WAC 392-140-608.

(2) All applications received by the state oversight committee will be reviewed for completeness by the state oversight committee manager or designee. Applications must include all necessary forms, worksheets, and attachments described in the instruction bulletin published by the superintendent of public instruction. If applications are not complete, they will ~~((be returned to the submitting school district))~~ not be considered by the committee.

(3) The state oversight committee manager will forward to the committee members copies of the applications in a timely manner.

(4) The state oversight committee manager will be responsible for presenting each application for consideration to the committee.

(5) Committee members shall question and discuss the application content for completeness, accuracy, and under-

standing of the reason(s) for the applicant's need for safety net funding.

(6) The committee may request that a submitting school district provide clarifying information.

(7) Committee members will individually indicate their agreement or disagreement with the action of the committee pursuant to WAC 392-140-646.

(8) A majority vote by the committee members will be sufficient to determine the committee action.

(9) The state oversight committee manager will ensure that notes are taken which summarize the questions and discussion related to each application. A decision summary for each application shall include the amount of the initial request, funding adjustments recommended by the committee, the amount of any award to be made, and the reasons for and against the action taken by the committee.

(10) Committee members shall each sign the decision summary.

(11) The state oversight committee manager, on behalf of the committee, will notify the applicant school district in writing of the determination of the committee. The school district will be provided a copy of the decision summary.

(12) All applications received by the state oversight committee will be retained by the superintendent of public instruction for use in the evaluation of the safety net funding process and to provide the superintendent of public instruction with information with which to make future decisions regarding the safety net process.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-646 Special education safety net—State oversight committee actions. The state oversight committee shall take the following actions:

(1) After the state oversight committee determines:

(a) There are no unresolved audit examination issues related to special education that are material in nature;

(b) There are no unresolved state child count verification issues which are material in nature; and

(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.

(2) An application reviewed during an application cycle may be:

(a) Approved;

(b) Disapproved; or

(c) Returned to the submitting school district, for possible resubmission at a later date during the school year, because information contained in the application is insufficient to establish a need for safety net funding.

~~((2))~~ (3) The amount approved shall be equal to or less than the amount for which application was made.

~~((3))~~ (4) The approval may be contingent on additional requirements imposed by the committee such as development of an action plan to resolve a specified problem prior to submission of any future safety net application to assure school district compliance with the criteria and standards set forth in these safety net regulations.

PROPOSED

~~((4))~~ (5) The approvals are subject to adjustment and recovery pursuant to WAC 392-140-675 through 392-140-685.

AMENDATORY SECTION (Amending Order 96-15, filed 9/18/96, effective 10/19/96)

WAC 392-140-653 Special education safety net—Reapplication. If the applicant school district withdrew an application, or ~~((had))~~ submitted an incomplete application ~~((returned))~~, or is dissatisfied with the results of the state oversight committee's decision with regard to its application, the applicant may reapply for safety net funding in a later application cycle for the school year. All applications for each meeting must include all updated worksheets and attachments described in the bulletin published by the superintendent of public instruction and meet the timing requirements of WAC 392-140-608.

WSR 04-04-006

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 22, 2004, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-022.

Title of Rule: Chapter 308-56A WAC, Certificates of title—Motor vehicles etc.

Purpose: To meet the criteria set forth in Governor Locke's Executive Order 97-02; and to clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110, 46.12.040, and 46.16.216.

Summary: Amending WAC 308-56A-020 Application for certificate of ownership required, 308-56A-140 Department temporary permit, 308-56A-455 Assembled and home-made vehicles, and 308-56A-460 Destroyed or wrecked vehicle rebuilt.

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; and 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 March 12, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by March 11, 2004, TTY (360) 664-8885 or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831 by March 11, 2004.

Date of Intended Adoption: April 6, 2004.

January 21, 2004

D. McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 03-05-081, filed 2/19/03, effective 3/22/03)

WAC 308-56A-020 Application for certificate of ownership required. When is an application for certificate of ownership required? In addition to the requirements set forth in chapter 46.12 and 46.16 RCW an application for certificate of ownership is required when:

(1) There is a change of vehicle ownership on a Washington certificate of ownership due to:

- (a) Sale;
- (b) Gift-donation;
- (c) Inheritance;
- (d) Trade;
- (e) Addition or deletion of a registered owner;
- (f) Proprietorship, partnership or individuals forming a corporation, whether or not the business name is changing;
- (g) Proprietorship, partnership or individuals purchasing a corporation which will no longer be operated as a corporation, whether or not the business name is changed;
- (h) Court order;
- (i) Transferring vehicle to or from a trust;
- (j) Repossession; or
- (k) Adding/removing a lease on a vehicle.

(2) Applying for registration of a vehicle which has most recently been titled and/or registered in another jurisdiction and only registration is being established in Washington. If the vehicle will remain titled in another jurisdiction, no Washington certificate of ownership will be issued.

(3) There is a name change of the registered owner, whether individual(s) or a business entity.

(4) Adding ~~((or changing))~~ a lien holder.

(5) The vehicle is assembled, homemade, has had a glider kit installed or is a street rod.

(6) The motorcycle engine has been replaced.

(7) ~~((The vehicle has been changed or modified to accept a fuel other than that shown on the outstanding certificate of ownership.~~

~~((8) There has been a structural change, as defined in WAC 308-56A-150 (1)(d), other than changing the bed of a truck.~~

(9))) The vehicle identification number needs to be corrected.

((10))) (8) The vehicle has been reported ((destroyed)) as salvage or wrecked by an ((insurance company)) insurer, owner, or wrecker(, or vehicle owner(s)) and new certificate of ownership is requested. Title procedures are in WAC 308-56A-460.

AMENDATORY SECTION (Amending WSR 03-12-006, filed 5/22/03, effective 6/22/03)

WAC 308-56A-140 Department temporary permit.

~~((1)) What is a department temporary permit? A department temporary permit is a permit issued in lieu of registration and license plates when:~~

~~(a) The vehicle is not currently licensed in Washington; and~~

~~(b) Proper vehicle documentation to title and license the vehicle is not available but is likely to be available within sixty days; and~~

~~(c) The vehicle was not purchased from a licensed Washington dealer.~~

~~(2) How long is a department temporary permit valid? The department temporary permit is valid for up to sixty days.~~

~~(3) What if I believe I will not be able to obtain proper documentation within sixty days, what options are available to me? When documents are not expected to be received within sixty days, you may choose to:~~

~~(a) Not operate your vehicle and wait to register the vehicle until all required documents are received; or~~

~~(b) Obtain the department temporary permit and if you do not receive the required documentation within sixty days, discontinue using the vehicle until proper documentation is filed with the department or apply for an extension of the temporary permit under subsection (4) of this section.~~

~~(4) May a department temporary permit be extended? Yes, a department temporary permit may be extended on a case-by-case basis if the registered owner has demonstrated all possible avenues have been explored and upon departmental approval.~~

~~(5) Where do I obtain a department temporary permit? Department temporary permits are available at all Washington vehicle license offices.~~

~~(6) What fees are required to be paid when applying for a department temporary permit? In addition to other fees and applicable taxes, the department temporary permit fee, certificate of ownership application fee, inspection fees and licensing fees must be paid at the time the department temporary permit is issued.~~

~~(7) How do I display the department temporary permit? The cardboard copy of the department temporary permit must be displayed according to instructions on the permit and the signed registration must be carried in the vehicle or the towing vehicle.~~

~~(8) How many months of gross weight must I purchase with a department temporary permit for my vehicle, which is eligible for monthly gross weight? If you have a vehicle that is eligible for monthly gross weight, you must purchase a minimum of two months gross weight license to correspond~~

~~with the duration of the department temporary permit. You may receive credit as described in WAC 308-96A-220(7) for gross weight license already purchased.~~

~~(9) How do I obtain license plates and registration for my vehicle that has been issued a department temporary permit? You may obtain license plates and new registration for your vehicle that has been issued a department temporary permit by submitting the necessary documents and fees to any Washington vehicle license office.~~

~~(10) What fees are required to be paid when clearing a department temporary permit? In addition to other fees as prescribed by law, the title application fee and license plate fees must be paid at the time the temporary permit is cleared.~~

~~(11) How do I obtain a replacement vehicle title application/registration certificate portion of the department temporary permit? You may obtain a photocopy of the department temporary permit registration certificate through the county's auditor/agent or subagent office. You must provide the vehicle identification number or the department temporary permit number. The replacement department temporary permit will retain the same expiration date as the original.~~

~~(12) How do I obtain a replacement for the cardboard department temporary permit that is displayed in the vehicle window? You may obtain a replacement cardboard department temporary permit at any Washington vehicle license office. You must provide the vehicle title application/registration certificate, VIN, or the department temporary permit number.))~~

(1) What is a department temporary permit? A department temporary permit consists of a system-generated permit and a cardboard temporary "plate" which may be issued in lieu of a registration certificate and license plates when:

(a) The vehicle is not currently licensed in Washington; and

For the purposes of this section, a vehicle may be considered unlicensed if the current license expires within sixty days of application for the department temporary permit, or the vehicle's license plates are missing or unreadable; and

(b) Appropriate vehicle documentation to title and license the vehicle is not immediately available but is likely to be available within sixty days; and

(c) The vehicle was purchased from someone other than a licensed Washington dealer; or

(d) The vehicle:

(i) Has been declared a salvage vehicle under RCW 46.12.070; and

(ii) Has been retained by the registered owner(s) shown on department of licensing records; and

(iii) Is scheduled for inspection by the Washington state patrol; and

(iii) Note: Except as provided in (d) of this subsection, a department temporary permit will not be issued to any vehicle when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a salvage vehicle not reported to the department.

(2) How long is a department temporary permit valid? The department temporary permit is valid for no longer than sixty days from the date of application.

(3) Where do I apply for and obtain a department temporary permit? You may apply for a department temporary permit at any Washington vehicle licensing office.

(4) What fees are due when applying for a department temporary permit? All applicable taxes, title, license fees and inspection fees are due when the department temporary permit is issued. Any fees for license plates are due when the department temporary permit is cleared.

(5) How do I display the cardboard temporary plate? You must display the cardboard temporary plate where it is visible from outside of the vehicle or towed vehicle (such as on the inside left of the rear window), or you may weather-proof the plate and place it in the license plate holder. Carry the permit in the vehicle or the towing vehicle.

(6) How many months of gross weight must I purchase with a department temporary permit if my vehicle is eligible for monthly gross weight? If your vehicle is eligible for monthly gross weight, you must purchase a minimum of two months' gross weight license to correspond with the duration of the department temporary permit. You may receive credit as described in WAC 308-96A-220(7) for gross weight license already purchased.

(7) How do I obtain a registration certificate and license plates for my vehicle that has been issued a department temporary permit? You may obtain a registration certificate and license plates for your vehicle at any vehicle licensing office by submitting:

- (a) An application for certificate of ownership; and
- (b) An odometer disclosure statement, if applicable; and
- (c) License plate fees; and
- (d) Other applicable documentation, fees, and taxes.

(8) What fees are due when clearing a department temporary permit? In addition to other fees as prescribed by law, the title application fee and license plate fees are due when the department temporary permit is cleared.

(9) How do I obtain a replacement department temporary permit? You may obtain a photocopy of the department temporary permit by contacting any vehicle licensing office, which will acquire the photocopy from the department. You must provide the vehicle identification number or the department temporary permit number. The replacement department temporary permit will retain the same expiration date as the original.

(10) How do I obtain a replacement cardboard temporary "plate"? You may obtain a replacement cardboard temporary "plate" at any Washington vehicle license office where it was purchased. You must provide the vehicle identification number or the department temporary permit number.

(11) May a department temporary permit be extended? Yes, a department temporary permit may be extended on a case-by-case basis upon departmental approval.

(a) An extension of a department temporary permit issued for a total loss vehicle described in subsection (1)(d) of this section will not be approved.

(b) An extension of a department temporary permit cannot be granted for vehicles described in subsection (6) of this section when no more than two months' gross weight were

purchased. Additional gross weight cannot be issued until the department temporary permit is cleared.

AMENDATORY SECTION (Amending WSR 03-10-097, filed 5/7/03, effective 6/7/03)

WAC 308-56A-455 Assembled and homemade vehicles. ((1) ~~What constitutes an assembled vehicle? An assembled vehicle is a vehicle that has been put together by using major component parts from two or more commercially manufactured vehicles. For the purposes of this section major component parts include replacement of those listed in RCW 46.80.010(5). Assembled vehicles are not glider kits, custom built, replica, or kit vehicles. An assembled vehicle will be recognized as one produced by a particular manufacturer.~~

(2) ~~What constitutes a homemade vehicle? A homemade vehicle that cannot visually be identified as one produced by a particular manufacturer. The model year of a homemade vehicle is determined by the Washington state patrol at the time of inspection. The make is homemade.~~

(3) ~~What is the difference between an assembled vehicle and a homemade vehicle? The difference between an assembled and a homemade vehicle is that an assembled vehicle will be recognizable as one produced by a particular manufacturer. A homemade vehicle will be a vehicle that cannot visually be identified as one produced by a particular manufacturer. The model year of a homemade vehicle will be the original year of licensing and the make will be homemade.~~

(4) ~~What documents are required to apply for a certificate of ownership for an assembled or homemade vehicle? The application for certificate of ownership must be accompanied by the following documents:~~

(a) ~~The certificate of ownership or bills of sale for each vehicle or major component part used in the assembly or construction of the vehicle. The bills of sale must be notarized unless the vendor has a regular place of business and is registered with the department of revenue as an agent for use tax purposes. The bill(s) of sale shall include:~~

- (i) ~~The names and addresses of the seller and purchaser;~~
- (ii) ~~A description of the part being sold, including the make, model and identification or serial number;~~
- (iii) ~~The date of sale;~~
- (iv) ~~The purchase price of the part; and~~
- (v) ~~The stock number if from a Washington-licensed wrecker.~~

(b) ~~A Washington state patrol inspection or inspection from other personnel authorized by the director verifying the vehicle identification number, make, model, and year; and~~

(c) ~~A completed declaration of value form.~~

(5) ~~What happens if I must remove, destroy or conceal a vehicle identification number during assembly or construction of my vehicle? The assembled parts must be inspected by an authorized member of the Washington state patrol or other personnel authorized by the director who will issue a statement of fact prior to assembly or construction of a vehicle involving the removal, destruction, or concealment of any vehicle identification number. After assembly of a vehicle where the identification number has been removed, destroyed or concealed, an authorized member of the Washington state patrol or other personnel authorized by the director must~~

~~determine if a new vehicle identification number will be assigned.)~~ **(1) What constitutes an assembled vehicle?** An assembled vehicle is a vehicle that:

(a) Has had the complete body or frame replaced with the body or frame from another commercially manufactured vehicle; or

(b) Had the body or frame cut in two and replaced with a major portion of the body or frame from another vehicle; or

(c) Has had a major modification so that the VIN no longer properly describes the vehicle; or

(d) Is a motorcycle on which the frame and engine are of different make or model year. An assembled vehicle is made from parts produced by recognized manufacturers for commercially produced vehicles, and can be recognized as one produced by a particular manufacturer. Assembled vehicles do not include glider kits, custom built, replica, kit vehicles or trucks installed with a different bed.

(2) How is the model year determined for an assembled vehicle? The Washington state patrol will determine the model year of an assembled vehicle upon inspection of the vehicle.

(3) What constitutes a homemade vehicle? A homemade vehicle is one that cannot visually be identified as produced by a particular manufacturer and is made primarily from fabricated parts. The make will be identified as homemade.

(4) How is the model year determined for a homemade vehicle? The Washington state patrol will determine the model year of a homemade vehicle upon inspection of the vehicle.

(5) What documents must I submit with my application for a certificate of ownership for an assembled or homemade vehicle? The application for certificate of ownership must be accompanied by the following documents:

(a) The certificate of ownership or bills of sale for each vehicle or major component part used in the assembly or construction of the vehicle. The bills of sale must be notarized unless the seller is a licensed business. The bill(s) of sale must include:

(i) The names and addresses of the seller and purchaser;

(ii) A description of the part being sold, including the make, model and identification or serial number;

(iii) The date of sale;

(iv) The purchase price of the part; and

(v) The stock number if from a Washington licensed wrecker;

(b) A Washington state patrol inspection or inspection from other personnel authorized by the director verifying the vehicle identification number, make, model, and year; and

(c) A completed declaration of value form.

You may be required to apply for ownership in doubt as described in WAC 308-56A-210 if you do not have all the required documentation.

(6) What is required if I must remove, destroy or conceal a vehicle identification number plate on a vehicle or major component part to be used on my assembled or homemade vehicle? The vehicle or major component part containing the VIN plate must be presented to the Washington state patrol with the VIN plate intact. The WSP will remove the VIN plate and mark the vehicle or major compo-

nent part so it can be identified when the assembled or homemade vehicle is ready for inspection.

AMENDATORY SECTION (Amending WSR 02-19-016, filed 9/9/02, effective 10/10/02)

WAC 308-56A-460 Destroyed or wrecked vehicle—Reporting—Rebuilt. ~~((1) What is a destroyed or wrecked vehicle? For the purposes of this section:~~

(a) A destroyed vehicle means a vehicle of any age that has been reported wrecked or destroyed by an insurance company, licensed wrecker, scrap processor or the owner and includes a salvage vehicle as defined in RCW 46.12.005; and

(b) A wrecked vehicle is defined in RCW 46.80.010(6).

~~(2) Who may report destroyed or wrecked vehicles and how are those vehicles reported to the department? Destroyed vehicles may be reported to the department by:~~

(a) Insurance companies. A vehicle becomes insurance destroyed under RCW 46.12.070 when:

(i) An insurance company in possession of a certificate of ownership for a vehicle that has been destroyed submits to the department the current certificate of ownership indicating the vehicle is "destroyed," the insurance company name and address and the date of loss, and for a vehicle that is six years through twenty years old, a statement whether or not the vehicle meets the market value threshold amount. If this statement is not provided when required, the department will treat the report as if the insurance company indicated that the market value threshold was met; or

(ii) The Total Loss Claim Settlement form (TD 420-074) completed in its entirety is received by the department (settlement is defined in subsection (4) of this section); and

(iii) For a vehicle that is six years through twenty years old, a statement whether or not the vehicle meets the market value threshold amount as defined in subsection (3) of this section. If this statement is not provided when required, the department will treat the report as if the insurance company indicated that the market value threshold was met.

(b) Government or self insured entities: Any government agency or self insured entity reports the vehicle is a total loss under RCW 46.12.070 by indicating on the certificate of ownership or affidavit of loss/release of interest that the vehicle is "destroyed," the date of loss and a statement whether or not the vehicle meets the market value threshold amount as defined in subsection (3) of this section if the vehicle is six years through twenty years old. If this statement is not provided when required, the department will treat the reports as if the government or self insured entity stated that the market value threshold was met.

(c) Registered or legal owners:

(i) The registered or legal owner submits to the department the certificate of ownership under RCW 46.12.070, properly released, indicating on the face of the ownership document "destroyed," the date and location of destruction and whether or not the vehicle meets the market value threshold amount as defined in subsection (3) of this section if the vehicle is six years through twenty years old. If this statement is not provided when required, the department will treat the report as if the owner indicated that the market value threshold was met; or

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(ii) ~~The owner submits an affidavit of loss/release of interest with a notation on the document in the same manner as (e)(i) of this subsection and a written statement indicating the vehicle has been destroyed, to include year, make, model, and vehicle identification number.~~

(d) ~~Washington licensed vehicle wreckers. A vehicle becomes wrecker destroyed when the Washington licensed wrecker submits a written report to the department as required in RCW 46.80.090 including a statement whether or not the vehicle meets the market value threshold amount as defined in subsection (3) of this section if the vehicle is six years through twenty years old. If this statement is not provided when required, the department will treat the report as if the report indicated that the market value threshold was met.~~

(3) ~~What are the "market value threshold amount" and the criteria used to increase the amount? The "market value threshold amount" is six thousand five hundred dollars effective June 13, 2002, as set by RCW 46.12.005. The market value threshold amount will be increased based on an increase in the expenditure category "used cars and trucks" of the Consumer Price Index for all Urban Consumers compiled by the Bureau of Labor Statistics, United States Department of Labor, or its successor, for the West Region as provided by RCW 46.12.005.~~

(4) ~~Is the market value threshold applied to all motor vehicles that are reported destroyed, wrecked or damaged? No. The market value threshold is applied to motor vehicles that are at least six years old but not more than twenty years old and are incorporated into the Consumer Price Index expenditure category "used cars and trucks" which includes, but is not limited to, used passenger cars, light duty trucks with a gross weight of 12,000 pounds or less, and sport utility vehicles (SUVs).~~

(5) ~~After the certificate of ownership has been surrendered, how do I sell my destroyed vehicle? After the certificate of ownership has been surrendered, you may sell your destroyed vehicle in the following ways:~~

(a) ~~After the vehicle has been reported destroyed under RCW 46.12.070, the insurer using a bill of sale instead of a release of interest on a certificate of ownership may sell the vehicle. The bill of sale shall be signed by a representative of the insurer and provide their title of office. The representative's signature need not be notarized or certified.~~

(b) ~~After a vehicle has been reported destroyed under RCW 46.12.070 and the registered owner retains the vehicle, the vehicle may be sold in its present condition using a bill of sale. The owner must sign the bill of sale and the owner's signature must be notarized or certified.~~

(c) ~~A motor vehicle wrecker licensed under chapter 46.80 RCW may utilize a bill of sale issued in accordance with (a) and (b) of this subsection in lieu of a certificate of ownership to comply with RCW 46.80.090.~~

(6) ~~When is an insurance claim considered settled? For the purpose of this section, those vehicles described in RCW 46.12.070, the settlement of an insurance claim as a total loss, less salvage value shall mean the date on which an insurance company actually makes payment to the claimant for the damage.~~

(7) ~~If a vehicle has been reported to the department as destroyed or wrecked, may the license plate(s) remain with~~

~~the vehicle? Depending on the situation the vehicle license plates may stay with the vehicle:~~

(a) ~~If the vehicle has been reported insurance destroyed, regular vehicle license plates may remain with the vehicle unless the license plates assigned to the vehicle are severely damaged.~~

(b) ~~If the owner of record has reported the vehicle as destroyed, regular vehicle license plates may remain with the vehicle unless the license plates assigned to the vehicle are severely damaged.~~

(c) ~~If the vehicle has been reported destroyed by a Washington licensed wrecker, new vehicle license plates are required since the Washington licensed vehicle wrecker must remove the current license plates as required by WAC 308-63-070(7).~~

(8) ~~What is required of a Washington licensed vehicle dealer before they can sell a vehicle that has been reported destroyed or wrecked? Except as permitted by RCW 46.70-101 (1)(b)(viii) before a vehicle dealer may sell a destroyed or wrecked vehicle under their Washington vehicle dealer license, the dealer must:~~

(a) ~~Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and~~

(b) ~~Obtain a Washington state patrol inspection; and~~

(c) ~~Apply for and receive a certificate of ownership for the vehicle, issued in the name of the vehicle dealer.~~

(9) ~~What does "wa rebuilt" mean on a Washington certificate of ownership? The "wa rebuilt" designation, as required by RCW 46.12.075, on a vehicle certificate of ownership means that the vehicle:~~

(a) ~~Is of a model year that is less than six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged and has been reported as destroyed under RCW 46.12.070 or 46.80.090 and the vehicle has been rebuilt and inspected under RCW 46.12.030; or~~

(b) ~~Is a used car or truck with a model year at least six years but not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged and has been reported as destroyed under RCW 46.12.070 or 46.80.090 and the vehicle has been rebuilt and inspected under RCW 46.12.030 and the vehicle, just prior to the time it was wrecked, destroyed or damaged, met the value requirements as defined in RCW 46.12.005.~~

(10) ~~Will the certificate of ownership or vehicle registration always indicate "wa rebuilt" for a vehicle described in subsection (9) of this section? Yes, the certificate of ownership or vehicle registration certificate shall prominently display a "wa rebuilt" designation on the front of the document unless the brand was applied in error. This designation will continue to appear on every subsequent certificate of ownership or vehicle registration certificate issued for this vehicle.~~

(11) ~~If I purchase a vehicle that has been reported to the department as wrecked/destroyed/salvaged or a total loss and has not been retitled, what documentation and fees are required to obtain a certificate of ownership? The documentation required to obtain a certificate of ownership after the vehicle's destruction is:~~

(a) ~~All documents and fees required by chapters 46.01, 46.12, and 46.16 RCW; and~~

(b) A notarized/certified release of interest or a notarized/certified bill of sale from the owner of the vehicle transferring ownership, except that a bill of sale from a licensed vehicle wrecker or insurer need not be notarized or certified;

(c) An inspection by the Washington state patrol or other person authorized by the director to perform vehicle inspection;

Note: Receipts for all parts used for reconstruction of the vehicle need to be kept and made available upon request at the time of inspection.

(d) An odometer statement, if applicable.)) (1) **What are total loss, destroyed, salvage, and wrecked vehicles?** For the purposes of this section:

(a) A total loss vehicle is one whose destruction has been reported to the department as described in RCW 46.12.070 by an insurer (insurance companies and self-insurers as described in RCW 46.29.630);

(b) A destroyed vehicle is one whose destruction has been reported to the department as described in RCW 46.12.070 by the vehicle's owner;

(c) A salvage vehicle as defined in RCW 46.12.005;

Note: When used in this section, the terms "destroyed" and "destroyed vehicle" include total loss, destroyed, and salvage vehicles.

(d) A wrecked vehicle as defined in RCW 46.80.010(6).

Note: A vehicle may be considered destroyed or wrecked when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a destroyed vehicle not reported to the department.

(2) **How are vehicles reported to the department as total loss, destroyed, salvage, or wrecked?**

(a) Insurers may report total loss vehicles to the department:

(i) Electronically through the department's on-line reporting system. Insurers must destroy ownership documents for a vehicle reported this way; or

(ii) By submitting the certificate of ownership or affidavit in lieu of title indicating the vehicle is "DESTROYED"; or

(iii) By submitting a completed total loss claim settlement form (TD 420-074).

Note: Reports of total loss vehicles must include the insurer's name, address, and the date of loss.

(b) Registered or legal owners report a vehicle as destroyed by submitting the certificate of ownership or affidavit in lieu of title indicating the vehicle is "DESTROYED," and must include the registered owner's name, address, and date of loss.

(c) Licensed wreckers report wrecked vehicles as required in RCW 46.80.090.

(d) For vehicles six through twenty years old a statement whether or not the vehicle meets the market value threshold amount as defined in RCW 46.12.005 is also required.

(3) **What if the "market value threshold amount" is not provided as required?** If the market value threshold amount is not provided when required, the department would treat the report of destruction as if the market value threshold has been met. The certificate of ownership will be branded according to WAC 308-56A-530.

(4) **What documentation is required to obtain a certificate of ownership for a destroyed or wrecked vehicle?** Once a destroyed or wrecked vehicle has been rebuilt, you must submit the following documentation to the department in order to obtain a certificate of ownership:

(a) Application for certificate of ownership as described in RCW 46.12.030;

(b) Certificate of vehicle inspection as described in WAC 308-56A-150;

(c) Bill of sale from the insurer, owner, or wrecker who reported the vehicle's destruction to the department.

(i) Bills of sale from insurers must include a representative's signature and title of office;

(ii) Bills of sale from insurers and wreckers do not need to be notarized;

(iii) Bills of sale from owners shown on department records must be notarized or certified;

(iv) A bill of sale is not required when owners shown on department records retain a destroyed vehicle and apply for a new certificate of ownership.

(d) Odometer disclosure statement, if applicable.

(5) **What is required of a Washington licensed vehicle dealer prior to selling a destroyed or wrecked vehicle?** Except as permitted by RCW 46.70.101 (1)(b)(viii), before a dealer may sell a destroyed or wrecked vehicle under their Washington vehicle dealer license, the dealer must:

(a) Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and

(b) Obtain a vehicle inspection by the Washington state patrol; and

(c) Apply for and receive a certificate of ownership for the vehicle, issued in the name of the vehicle dealer.

(6) **Once a destroyed or wrecked vehicle is rebuilt, do the license plates remain with the vehicle?** Whether or not the license plates remain with the vehicle depends on the circumstance:

(a) Standard issue license plates may remain with a destroyed vehicle unless they are severely damaged or the vehicle was issued a department temporary permit described in WAC 308-56A-140;

(b) Replacement license plates are required for wrecked vehicles since Washington licensed wreckers are required by WAC 308-63-070 to remove them;

(c) Special license plates may remain with or be transferred to a destroyed or wrecked vehicle;

(d) Applicants may retain the current license plate number as provided for in RCW 46.16.233, unless the vehicle was issued a department temporary permit as described in WAC 308-56A-140.

(7) **Will the certificate of ownership or registration certificate indicate "WA REBUILT"?** Salvage or wrecked vehicles meeting the criteria described in WAC 308-56A-530 will be branded "WA REBUILT."

WSR 04-04-014
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Apprenticeship and Training Council)
 [Filed January 23, 2004, 9:46 a.m.]

Date of Intended Adoption: April 28, 2004.

January 24 [23], 2004

Lawrence "Pete" Crow, Chair
Apprenticeship and Training Council**Original Notice.**

Preproposal statement of inquiry was filed as WSR 03-21-160.

Title of Rule: Apprenticeship rules, chapter 296-05 WAC.

Purpose: This proposed rule making seeks to clarify the apprenticeship program standards objection process. These changes are consistent with the current policy adopted by the Washington State Apprenticeship and Training Council (WSATC), but propose to establish specific timeframes relating to objections of apprenticeship program standards. In addition, these proposed rules seek to clarify that it is the WSATC chair or "designee" that is allowed to preside over adjudicative proceedings, held before the WSATC.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: Chapter 49.04 RCW.

Name of Agency Personnel Responsible for Drafting: Nancy Mason, Tumwater, (360) 902-5321; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

Name of Proponent: Department of Labor and Industries.

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. WSATC has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the proposed rules are exempted by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) from the small business economic impact requirements.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does not apply to these rule changes because the exempt criteria outlined in RCW 34.05.328(5) was met.

Hearing Location: Department of Labor and Industries Building, S 119, 7273 Linderson Way S.W., Tumwater, WA, on March 9, 2004, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by February 24, 2004, at (360) 902-6411 or swaj235@LNI.wa.gov.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lmi.wa.gov, fax (360) 902-5292, by March 9, 2004. Comments submitted by fax must be ten pages or less.

AMENDATORY SECTION (Amending WSR 02-10-083, filed 4/29/02, effective 6/1/02)

WAC 296-05-007 Rules of procedure. All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapter 34.05 RCW, the Administrative Procedure Act and chapter 10-08 WAC, Model Rules of Procedure. The chair (or ~~((vice chair in the chair's absence))~~ designee) is the presiding officer for adjudicative proceedings, held before the WSATC. The WSATC may either adjudicate matter(s) themselves or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication has been held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five working days after the next regular quarterly meeting unless:

(1) The WSATC upon its own motion determines that the initial order should be reviewed; or

(2) A party to the proceedings files a petition for review of the initial order.

The WSATC may appoint a person to review the initial order and prepare and enter the final WSATC order.

NEW SECTION

WAC 296-05-008 Process for objections to apprenticeship program standards. (1) Objections to apprenticeship program standards shall be submitted to the department for WSATC consideration within fifteen days of the regularly scheduled or special WSATC meeting on a form provided by the department and approved by the WSATC.

(2) In accordance with WAC 296-05-007, the WSATC may either adjudicate matter(s) themselves or refer matter(s) to the office of administrative hearings for initial adjudication.

(a) If the WSATC decides to adjudicate all or part of the objections to the apprenticeship program standards, the individual(s) submitting the objections shall present the objections at the regularly scheduled or special WSATC meeting. The department shall notify the individual(s) within five days of the WSATC meeting for which the objections will be considered.

(b) If the WSATC decides to refer all or part of the objections to the office of administrative hearings, the WSATC may identify the specific matters that the WSATC is requesting the office of administrative hearings to provide findings and conclusions for the initial order.

Note: The department may attempt to facilitate a resolution to any objections during the process identified in this section.

PROPOSED

WSR 04-04-022

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 27, 2004, 1:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-021.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses and chapter 308-56A WAC, Certificates of title—Motor vehicles, etc.

Purpose: To meet the criteria set forth in Governor Locke's Executive Order 97-02 and to clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110, 46.16.060, 46.16.135, 46.16.225, 46.16.276, 46.16.490, 46.16.600, and 43.17.060.

Summary: Amending WAC 308-96A-026 Vehicle transit permit, 308-56A-150 Certificate of vehicle inspection, and 308-56A-450 Glider kits.

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 March 17, 2004, at 2:30 p.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by March 16, 2004, TTY (360) 664-8885 or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 16, 2004.

Date of Intended Adoption: March 23, 2004.

January 27, 2004

D. McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 01-17-017, filed 8/3/01, effective 9/3/01)**WAC 308-96A-026 Vehicle transit permit. (1) What is a vehicle transit permit?**

A vehicle transit permit is a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documentation to complete an application for a Washington certificate of ownership or registration. ~~((It does not allow unrestricted use of the vehicle.))~~ Use of the vehicle is restricted to the reason(s) indicated on the permit.

(2) How may a vehicle transit permit be used?

A vehicle transit permit may be used to obtain:

- (a) A Washington state patrol inspection;
- (b) A scale weight slip;
- (c) An emission test; or
- (d) Any other purpose that the department deems necessary.

(3) Where do I obtain a vehicle transit permit?

You may obtain a vehicle transit permit from:

- (a) Washington vehicle licensing offices; or
- (b) Washington drivers services-licensing services offices ~~((or~~
- ~~((Washington state patrol. (Only at weigh scales and for one day only))).~~

(4) How long is the vehicle transit permit valid?

The permit is valid only for ~~((a maximum of two days))~~ the days shown on the permit and may not exceed two days. The two days do not need to be consecutive.

(5) What information is required to issue the vehicle transit permit?

- (a) Description of the vehicle for which the permit is issued, which may include make, model, model year, and vehicle identification number;
- (b) Name and address of person obtaining the permit;
- (c) Specific purpose for which the permit is issued;
- (d) The date or dates on which the permit is valid, for a maximum of two days;
- (e) Applicant's signature; and
- (f) Signature of vehicle licensing agent or issuing authority.

(6) How much does a vehicle transit permit cost?

There is no fee for the vehicle transit permit, however vehicle-licensing subagents ~~((may))~~ charge a service fee.

AMENDATORY SECTION (Amending WSR 03-12-006, filed 5/22/03, effective 6/22/03)**WAC 308-56A-150 Certificate of vehicle inspection.**

(1) When is a certificate of vehicle inspection required? A certificate of vehicle inspection, completed by the Washington state patrol or other authorized inspector, must accompany the application for certificate of ownership and include the applicable statutory inspection fee whenever the applicant's vehicle is:

- (a) Reported destroyed since the last certificate of ownership was issued;
- (b) A homemade, assembled, or rebuilt vehicle not previously titled as such;

(c) One whose identification number needs verification as requested by the department, county auditor, or authorized agent;

~~(d) ((One with a structural change in, or modification of, body or frame changing the class designation or body type currently shown on the record;~~

(e)) A kit vehicle not previously titled as such (if no vehicle identification number (VIN) previously assigned);

~~((f)) (e) A street rod not previously titled as such;~~

~~((g)) (f) A glider kit not previously titled as such;~~

~~((h)) (g) Subject to ownership in doubt described in WAC 308-56A-210(1);~~

~~((i)) (h) One which the Washington crime information center (WACIC) or National Crime Information Center (NCIC) indicates may be stolen; or~~

~~((j)) (i) One for which the WACIC/NCIC has failed to respond to the stolen vehicle search required by chapter 46.12 RCW.~~

(2) **Is there a fee charged for a Washington state patrol VIN inspection?** Yes, the amount of the fee is established in RCW 46.12.040. The fee is not due when:

(a) The out-of-state fee authorized by chapter 46.12 RCW has been collected on the same application; or

(b) The Washington state patrol or department of licensing has determined that the fee is not due.

(3) **Who is authorized to perform a vehicle inspection?** Vehicle inspections may be performed by:

(a) The Washington state patrol;

(b) Other entities or individuals designated by the director if the vehicle is located in a foreign state or country and the requirement for inspection by the Washington state patrol will cause undue hardship.

(4) **How long is a vehicle certificate of inspection valid?** The vehicle certificate of inspection is valid for the following periods of time after the inspection date:

(a) Sixty days for vehicles:

(i) Reported destroyed;

(ii) Homemade, assembled, rebuilt, street rods, kit vehicles and glider kits;

(iii) If the identification number needs verification, has been removed, defaced, altered, destroyed, illegible or missing;

~~((iv)) ((With structural change in, or modification of, body or frame changing the class designation or body type;~~

~~((v)) Referred for inspection for any reason not listed.~~

~~((vi)) (v) With no Washington record or no manufacture certificate/statement of origin((/manufacture certificate of origin)) (MCO/MSO).~~

(b) ~~((One year for vehicles required to be inspected under subsection (1)(a) through (j) of this section and held for sale by a licensed dealer.)) Three hundred sixty-five days for a vehicle held in a licensed dealer inventory for resale.~~

AMENDATORY SECTION (Amending WSR 00-04-046, filed 1/27/00, effective 2/27/00)

WAC 308-56A-450 Glider kits. (1) **What is a glider kit?** A glider kit consists of a new cab, chassis, front axle, fenders and air-hose equipment designed for assembly with

an existing truck or truck-tractor's rear axle(s), and power train.

(2) **How are glider kits described on a certificate of ownership?** The following identifiers will be shown on the certificate of ownership:

(a) The model year of the vehicle as designated by the kit manufacturer or the Washington state patrol;

(b) The make of the vehicle will be the make of the kit;

(c) The series and body type will include the initials GL;

(d) The identification number of the vehicle as determined by an authorized vehicle identification inspector.

(3) **What documents ((shall)) must be submitted with an application for certification of ownership for glider kits?** The application for certificate of ownership ((shall)) must be accompanied by the following documents:

(a) The previously issued certificate of ownership, bill(s) of sale or manufacturer's certificate/statement of origin (MCO/MSO);

(b) The previously issued gross weight license when applying for credit against the registration fee, if applicable;

(c) A certificate of inspection by an authorized ~~((member of the Washington state patrol or other personnel authorized by the director))~~ inspector verifying the vehicle identification number and of component parts not included in the glider kit MCO/MSO;

(d) A certified weight slip showing the new scale weight of the vehicle;

(e) An MCO/MSO or bill of sale ((of)) for the kit;

(f) A declaration of value form provided by the department.

WSR 04-04-027

PROPOSED RULES

DEPARTMENT OF LICENSING

(Engineers and Land Surveyors)

[Filed January 27, 2004, 4:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-032.

Title of Rule: Chapter 196-20 WAC, Engineers-in-training.

Purpose: Amendments to the above listed WAC provide guidance to applicants with regard to the experience, education and examination application requirements to become enrolled as engineers-in-training. The WAC is also reorganized and clarified in accordance with the governor's directive for rule review.

Statutory Authority for Adoption: Chapters 18.43 and 18.235 RCW.

Statute Being Implemented: Chapters 18.43 and 18.235 RCW.

Summary: Overall the rule is reorganized to clarify and better explain the process and procedures for persons wishing to become registered as engineers-in-training. Experience evaluation criteria are also established for applicants.

Reasons Supporting Proposal: In accordance with the governor's directive regarding rule review, amendments to

these rules are necessary to reorganize the rules to make them easier to follow and comply with. It also eliminates old language that no longer applies due [to] examination procedural changes and changes in related WAC.

Name of Agency Personnel Responsible for Drafting: Joe Vincent Jr., 405 Black Lake Boulevard, Olympia, WA, (360) 664-1567; Implementation and Enforcement: George A. Twiss, 405 Black Lake Boulevard, Olympia, WA, (360) 664-1565.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Overall the rule is reorganized to clarify and better explain the process and procedures for persons wishing to become registered as engineers-in-training. Appropriate experience evaluation criteria are also established for applicants. It is anticipated that applicants will find the application process easier to follow and will better understand the necessary education and experience qualifications required.

Proposal Changes the Following Existing Rules: Existing rules are reorganized and clarified to allow applicants for enrollment as engineers-in-training to more easily understand the procedure and criteria to follow.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect individual licensees and do not create expense for businesses of any size and therefore do not disproportionately affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Neither the Department of Licensing nor the Board of Registration are one of the named agencies in this statute.

Hearing Location: Doubletree Inn SeaTac, 18740 Pacific Highway South, Seattle, WA 98188, on March 10, 2004, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by March 3, 2004, TDD (360) 586-2788 or (360) 664-1564.

Submit Written Comments to: Joe Vincent Jr., On-Site and Program Support Unit Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9025, Olympia, WA 98507-9025, fax (360) 664-2551, by April 14, 2004.

Date of Intended Adoption: April 29, 2004.

January 27, 2004

George A. Twiss
Executive Director

NEW SECTION

WAC 196-20-005 Declaration and purpose. This chapter contains rules and procedures for applications, eligibility and examinations to be enrolled as engineers-in-training.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-20-010 Eligibility and applications. The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-engineering examination must be completed sixty days prior to the date of the examination. All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee ~~((and charge)) as listed in WAC ((196-26-020))~~ 196-26A-025 is four months prior to the date of the examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college having achieved senior standing in a baccalaureate curriculum in engineering approved by the board will be eligible to take the fundamentals-of-engineering examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall submit a request in writing, accompanied by the applicable fee as listed in WAC 196-26A-025, to take or retake the examination, at least three months prior to the examination date. ~~((A written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 shall be submitted to the board's office.))~~

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-20-020 Experience. ~~((The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-engineering examination must be completed sixty days prior to the date of the examination.))~~

The board shall evaluate all experience on a case-by-case basis and approve such experience as appropriate. Partial credit may be granted for experience and/or education that does not fully meet the requirements. The board will use the following criteria in evaluating an applicant's education and experience:

(1) Graduation in an approved engineering curriculum of four years or more from a school or college recognized by the board, is equivalent to the four-year experience requirement.

(2) Four years or more of broad based progressive experience in the fundamental knowledge of engineering theory and practice, of a character acceptable to the board, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering is equivalent to the four-year experience requirement.

~~((3) The criteria established in WAC 196-12-020 will be used to evaluate the applicant's education and/or work experience.))~~ The experience shall not be limited to, but must include, the following:

(a) Preparation of technical reports and specifications, including graphics;

(b) Application of mathematical techniques to problem solving;

(c) Application of the basic physical sciences (chemistry, dynamics, statics, physics, etc.) in tasks;

(d) Performing assignments, experiments and tests to general specifications;

(e) Compilation and interpretation of data (statistical analysis, etc.);

(f) Executing complex engineering tasks according to instructions;

(g) Effective communication with associates and presenting recommendations and conclusions to supervisor;

(h) Knowledge of the impacts of the products of technology on society (i.e., energy/environmental considerations).

(3) In evaluating the four years of combined education and experience, the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (h) of this section.

(4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals-of-engineering examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-20-030 Examinations. (1) The fundamentals-of-engineering examination is given at times and places designated by the board. The schedule of future examinations and an examination syllabus may be obtained (~~from the board office~~) at the internet website of the National Council of Examiners for Engineering and Surveying (NCEES).

(2) An applicant passing the fundamentals-of-engineering examination will be enrolled as an engineer-in-training pursuant to RCW 18.43.020(3).

WSR 04-04-033

PROPOSED RULES

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

[Filed January 28, 2004, 2:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-124.

Title of Rule: Faculty and staff personnel.

Purpose: (1) RCW 28B.50.090 charges the State Board for Community and Technical Colleges with the responsibility to establish minimum standards for instructional personnel; and (2) to align certification requirements for professional-technical faculty with their published skill standards.

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

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

Summary: See Purpose above.

Reasons Supporting Proposal: To align certification requirements for professional-technical faculty with their published skill standards.

Name of Agency Personnel Responsible for Drafting: Jim Crabbe, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4333; Implementation and Enforcement: Jan Yoshiwara, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4353.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets forth the certification requirements for professional-technical faculty. It requires an assessment of faculty's mastery of the faculty skill standards and the development of a professional development plan. Clarifies and standardizes the professional-technical certification process for the community and technical college system.

Proposal Changes the Following Existing Rules: Aligns certification requirements for professional-technical faculty with their published skill standards.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: South Puget Sound Community College, 2011 Mottman Road, Olympia, WA 98512, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Del-Rae Oderman by March 4, 2004, fax (360) 586-6440.

Submit Written Comments to: Jan Yoshiwara, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-0050, by March 4, 2004.

Date of Intended Adoption: March 11, 2004.

January 28, 2004

DelRae Oderman

Executive Assistant

Agency Rules Coordinator

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

WAC 131-16-070 Adoption and publication of district personnel selection practices and standards (~~(required)~~). Each college district board of trustees shall

adopt and publish a statement of personnel selection practices and standards governing all nonclassified service personnel which are designed to ensure high standards of excellence in all phases of district operations, satisfy the standards of regional and national accrediting organization, and provide for a professional staff representing a wide range of educational and professional experience. Such personnel practices and standards shall be consistent with WAC 131-16-080.

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-091 Additional qualifications in areas of specialization. In addition to the general standards required by WAC 131-16-080 (~~and chapter 490-28A WAC in the case of vocational education personnel~~), the district board of trustees shall establish that candidates for appointment meet or exceed the following standards in their areas of specialization:

(1) Teaching personnel.

(a) Professional teaching personnel performing services for which advanced degrees are (~~normally~~) commonly available shall hold the equivalent of a master's degree in the field of their educational service from an accredited college or university or a bachelor's degree and (~~extensive~~) professional (~~experience~~) expertise in the field of their educational service(~~(~~

~~2)~~; or

(b) Professional teaching personnel (~~in vocational fields or other specialized areas for which advanced degrees are not normally available shall have sufficiently broad and comprehensive training and work experience that particularly qualifies them to provide instruction in their area of specialization.~~

(3) ~~All newly hired vocational education teaching personnel must have recent work experience beyond the learning period as a fully qualified worker in the occupation that will be taught. The minimum work experience shall be equal to the recognized learning period required to gain competence in the occupation, but shall be in no case less than two calendar years of full-time work or its equivalent beyond the learning experience. The number of hours worked shall be equivalent to the hours worked by full-time workers in the occupation to be taught.~~

(a) ~~Minimum work experience for apprenticeable occupations will be equal to the learning period then currently registered with the state department of labor and industries.~~

(b) ~~Minimum work experience in occupations requiring state or local licensing, certification, or registry will be two calendar years subsequent to receipt of license, unless the occupation is also an apprenticeable trade. Current licenses, registrations, and/or certifications shall be maintained as a requirement for teaching courses in the respective occupation.~~

(c) ~~Minimum work experience for all other trades and occupations will be two calendar years of full-time employment or the equivalent, subsequent to the required learning period, which shall be the number of hours worked by full-time workers during a two-year period in the occupation.~~

(d) ~~Recent work experience shall be defined as employment full-time for six months or the equivalent, within the~~

~~two years immediately preceding initial vocational certification, which shall be one-fourth of the hours required by (c) of this subsection.~~

(e) ~~One year full-time employment shall mean that which is the standard for the occupation.~~

(4) ~~All other vocational education teaching personnel including instructors of vocationally related courses, teachers' aides, lab assistants, and tutors, who do not meet the work experience and educational requirements specified above may be employed either on a full-time or part-time basis. Provided, That such individuals shall possess appropriate technical skills and knowledge in the specific program area assigned. And provided further, That such individuals shall work under the direct supervision of, or in direct coordination with, an appropriately certified professional. Each college district shall maintain job descriptions for each position in this category.~~

(5) ~~Vocational counselors shall meet the minimum work experience requirement by verifying work experience in one or more occupations other than professional education, which is cumulative to at least two years of full-time employment. Vocational counselors shall be certified only if they have had preparation in vocational counseling, testing, and occupational information.~~

(6) ~~General administrative personnel shall have advanced training or experience relevant to their assigned duties. The chief administrator shall hold an earned doctorate from an accredited university or have equivalent administrative expertise as demonstrated by successful performance of broad administrative responsibilities.~~

(7) ~~The vocational administrator and all other subordinate vocational education administrative personnel must have been employed as a full-time vocational education instructor, occupational information specialist, or vocational counselor for at least three academic years or have equivalent experience in industry or other public agencies and they must have had at least two calendar years of accumulated experience in the capacity of a supervisor in education, business, industry, a public agency, or an equivalent volunteer community service. In addition, such individuals must have demonstrated to the employing agency a commitment to and understanding of vocational education. Industry and public agency experience will be evaluated at no more than a one-to-one basis. The vocational administrator's personnel file must have verification that these standards have been met.~~

(8) ~~A current first aid certificate, including CPR, is required for those vocational instructors and counselors prior to the second quarter of employment in vocational programs where the instructional environment brings students into physical proximity with machinery, electrical circuits, biologicals, radioactive substances, chemicals, flammables, intense heat, gases under pressure, excavations, scaffolding, ladders, and other hazards.~~

(9) ~~Responsibility for ensuring that appropriate staff have first aid training will rest with the assigned vocational administrator as defined in subsection (7) of this section.~~

(10) ~~The specific type of first aid program, including CPR, required of vocational instructors and counselors shall be achieved by passing a course of first aid instruction and~~

participation in practical application of the following subject matter;

Bleeding control and bandaging.

Practical method of artificial respiration, including mouth to mouth and mouth to nose resuscitation.

Closed chest heart massage.

Poisons.

Shock, unconsciousness, stroke.

Burns, scalds.

Sunstroke, heat exhaustion.

Frostbite, freezing, hypothermia.

Strains, sprains, hernias.

Fractures, dislocations.

Proper transportation of the injured.

Bites, stings.

Subjects covering specific health hazards likely to be encountered by coworkers of first-aid students enrolled in the course.

(11) Specifically excluded from conformance to the first-aid requirement are:

(a) Those instructors who teach related subjects to vocational students, i.e., Mathematics, English, or communications skills, etc., when these subjects are taught in classrooms rather than shops or laboratories.

(b) Physicians, registered nurses, licensed practical nurses, and others when their occupational competencies and training include first-aid knowledge and skills equal to or superior to that represented by the first-aid certification being required under these regulations)) in professional-technical fields for which bachelor's or master's degrees are not commonly available shall be particularly qualified to provide instruction in their area of specialization as demonstrated by possession of the following:

(i) Sufficient broad and comprehensive training;

(ii) Industry recognized certification when available; and

(iii) Two years relevant work experience and/or relevant, current teaching experience that particularly qualifies them to provide instruction in their area of specialization.

(c) In extraordinary cases, the requirements in (a) and (b) of this subsection may be waived by the college president. For personnel under waiver, a professional development plan must be developed to meet criteria under (a) or (b) of this subsection. This plan must be completed during the initial certification process.

(d) Part-time professional-technical teaching personnel must meet minimum qualifications as defined by (a), (b), or (c) of this subsection and have verification on file. This record must be on file for each part-time instructor during each quarter of teaching employment.

(2) Other instructional personnel.

All other professional-technical instructional personnel, including teachers' aides, lab assistants, and tutors, who do not meet the work experience and educational requirements specified above, may be employed either on a full-time or part-time basis. Such individuals shall possess appropriate technical skills and knowledge in the specific program area assigned; and such individuals shall work under the direct supervision of, or in direct coordination with, an appropriately qualified professional. Each college district shall maintain job descriptions for each position in this category.

(3) Chief professional-technical administrator.

The chief professional-technical administrator shall have:

(a) Earned an advanced degree, masters or doctorate, in a professional-technical area or have equivalent administrative expertise as demonstrated by successful performance of broad administrative responsibilities; and

(b) Been employed as a full-time professional-technical instructor or have the equivalent experience in business or industry or other public agencies; and

(c) Supervisory/administrative experience.

The chief professional-technical administrator must understand and have the ability to assess professional-technical faculty's ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments. The chief professional-technical administrator must keep a copy of his/her current certificate in his/her personnel file.

(4) Other professional-technical administrators.

Other administrators who oversee professional-technical programs, must demonstrate to the employing agency a commitment to and understanding of professional-technical education, and their ability to use the professional-technical faculty skills standards to guide and support the professional development of the professional-technical instructors they supervise.

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-092 Maintaining and improving ((occupational and teaching)) certification competencies for ((vocational)) professional-technical administrators((s)) and instructors ((and counselors)). It shall be the responsibility of the president of each institution or district to assure compliance with the following standards, which must be met or exceeded by all districts:

(1) The institution or district will certify, through the ((assigned vocational)) chief professional-technical administrator or designee, each full-time professional-technical instructor and ((vocational counselor)) administrator and maintain documentation of such certification. The certificate and the documentation on file shall specify the function and/or the specific occupational area for which the individual is certified.

(2) Each full-time contracted ((vocationally certified)) professional-technical instructor ((or counselor)) shall have ((an individual improvement plan which covers the time interval of the current certification developed in consultation with and approved by the vocational administrator or designee. The vocational administrator shall maintain a file of all such plans, which shall be reviewed annually.

(3) Part-time vocational teaching and counseling personnel must be certifiable and have a verification of work experience related to instructional assignment record on file in the individual's personnel folder. This record must be on file for each part-time instructor/counselor during each quarter of teaching employment. Part-time instructors must have teaching competencies reviewed every five years. "Teaching competencies" refers to (a) currency in the occupation and (b)

teaching skills. Part-time vocational counselors must have records in their file indicating compliance with WAC 131-16-091(5).

~~(4) Full-time professional personnel may not be employed on the basis of a temporary certificate for a period of more than one year.~~

~~(5) Certification under the above standards is a condition of continued employment for all vocational education personnel.~~

~~(6) Safety and occupational health practice standards are met by satisfying OSHA and WISHA requirements-) a professional development plan, approved by the supervising professional-technical administrator or designee. The professional development plan shall be developed in collaboration with the instructor in accordance with local bargaining agreements. The chief professional-technical administrator or designee shall maintain a file of all such plans. Such plans shall be reviewed periodically, as determined by the institution.~~

~~(3) Full-time professional-technical instructors must complete the requirements of the initial certification within three years to attain standard certification. Standard certificates must be renewed every five years.~~

~~(4) Part-time professional-technical instructors teaching a two-thirds full-time load for more than the equivalent of three quarters must complete the requirements of the initial certification within three years, to attain standard certification. Standard certificates must be renewed every five years.~~

~~(5) All other part-time professional-technical instructors must be assessed as to their ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments.~~

~~(6) The chief professional-technical administrator shall be certified by the president, who will maintain the chief professional administrator's professional development plan.~~

~~(7) Certification under the standards specified in WAC 131-16-070 through 131-16-094 is a condition of continued employment for all professional-technical education personnel.~~

~~(8) Safety and occupational health practices standards are met by meeting the requirements as set down by OSHA and WISHA. (As referenced in WAC 296-800-100 to 296-800-370.)~~

AMENDATORY SECTION (Amending WSR 93-14-008, filed 6/24/93, effective 7/25/93)

WAC 131-16-093 Types of (~~vocational~~) professional-technical education certificates. In issuing certificates for (~~vocational education personnel~~) full-time and part-time professional-technical instructors, as identified in WAC 131-16-092 (3) and (4), the college district shall utilize the following nomenclature and shall meet the standards set forth below as a minimum:

(1) (~~Temporary certificate.~~)

~~(a) Full-time vocational instructors shall be issued a temporary certificate provided that such individuals shall be required to complete an orientation to begin no later than the first day of employment. An orientation outline must be on file at each campus. A temporary certificate is not renewable for full-time instructors and counselors.~~

~~(b) Full-time vocational counselors shall be issued a temporary certificate provided that such individuals have met the requirements set forth in WAC 131-16-091(5).~~

~~(2) One-year certificate.~~

~~(a) Instructional personnel who have completed the minimum requirements for a temporary certificate and who, in addition, provide documentation of teaching competency as demonstrated by having satisfactorily completed a minimum of three credits in courses concentrated upon the elements of teaching, or the equivalent, shall be issued a one-year certificate. A one-year certificate may be renewed once.~~

~~(b) (Vocational) Counselors may be issued a one-year certificate upon completion of the minimum requirements for a temporary certificate and who, in addition, have completed a minimum of three credits or thirty clock hours in course(s) in accordance with the individual's professional improvement plan. A one-year certificate may be renewed no more than once.~~

~~(3) Three-year certificate. May be used as a temporary with part-time instructors. (Optional with the local district for full-time instructors.)~~

~~(4) Five-year certificate (initial).~~

~~(a) Instructional personnel, occupational information specialists, and vocational counselors who have met the requirements of WAC 131-16-070 through 131-16-092 and who have earned a master's degree or doctorate in their professional career field or in the field of education from a recognized college or university accredited by a group recognized by the council on postsecondary accreditation (COPA), and who have completed the minimum requirements for a temporary certificate, may be issued a five-year certificate.~~

~~(b) Instructional personnel and vocational counselors who have not earned a master's degree or doctorate in their professional career field or in the field of education from an accredited college or university shall be issued a five-year certificate upon completion of at least two years of teaching service, who have, in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits or thirty clock hours in courses dealing with the techniques of occupational analysis, or equivalent, a minimum of three credits in courses concentrated upon the principles of vocational course organization or equivalent, and who have completed a minimum of three additional professional improvement units in accordance with the individual's professional improvement plan.~~

~~(c) Vocational counseling personnel who do not have a master's degree shall be issued a five-year certificate upon:~~
~~(i) Completion of at least two years of counseling service, (ii) in addition to the one-year certificate requirements, documentation of competency as demonstrated by having satisfactorily completed a minimum of three credits or thirty clock hours in courses dealing with advanced or graduate level counseling theories and/or techniques, or equivalent, and (iii) completion of a minimum of six additional professional improvement units in accordance with the individual's professional improvement plan.~~

~~(5) Five-year certificate (renewal). A five-year renewable certificate shall be issued to professional personnel who have completed a minimum of fifteen professional improve-~~

ment units during the previous five-year period in accordance with the individual's improvement plan, documenting currency in teaching skills. Professional improvement plans shall, if deemed appropriate, include work experience as defined in WAC 131-16-094(1), and no more than ten professional units in any one category as defined in WAC 131-16-094 shall apply.

~~(6) The assigned vocational administrator shall be responsible for the designation of approved course equivalents.)) Teaching personnel.~~

Initial certification.

(a) Upon hire, teaching personnel will be issued initial certification by the chief professional-technical administrator. Initial certification lasts three years. The initial certification process includes documentation of a professional development plan which identifies priorities for professional growth as specified in WAC 131-16-094. An initial certificate is not renewable for professional-technical instructors.

Standard certification.

(b) Standard certification will be issued by the chief professional-technical administrator upon completion of the requirements for initial certification. Standard certification must be renewed on a five-year cycle. To maintain standard certification, professional-technical instructors must develop and complete a professional development plan as specified in WAC 131-16-094.

(c) The hiring institution shall hold an orientation for all new full-time professional-technical instructors. The orientation outline must be on file at each campus.

First aid and CPR.

(d) A current first-aid certificate, including CPR and bloodborne pathogens, must be earned by professional-technical instructors prior to the second quarter of employment in professional-technical programs where the instructional environment brings students into physical proximity with machinery, electrical circuits, biologicals, radioactive substances, chemicals, flammables, intense heat, gases under pressure, excavations, scaffolding, ladders, and/or other hazards. Responsibility for ensuring that appropriate staff has first-aid training will rest with the assigned chief professional-technical administrator. The specific type of first-aid program, including CPR, required of professional-technical instructors shall be achieved by passing a course of first-aid/CPR/bloodborne pathogen instruction and participation in practical application of subject matter determined and required by the department of labor and industries. Specifically excluded from conformance to the first-aid requirement are:

(i) Those instructors who teach related subjects to professional-technical students, i.e., mathematics, English, or communications skills, etc., when such subjects are taught in classrooms rather than shops or laboratories.

(ii) Physicians, registered nurses, licensed practical nurses, and others when their occupational competencies and training include first-aid knowledge and skills equal to or superior to that represented by the first-aid certification being required under these regulations.

(2) Chief professional-technical administrators.

Upon hire, the chief professional-technical administrators will be issued initial certification. To maintain certifica-

tion, the chief professional-technical administrator must develop and complete a professional development plan that includes as a minimum his/her ability to use the professional-technical faculty skill standards to guide and support the professional development of the professional-technical instructors they supervise.

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

WAC 131-16-094 ((Definition of professional improvement units.)) Certification process for professional-technical instructors. ((The following standards shall be used in the determination of professional improvement unit values for vocational certification by the college districts:

(1) Each forty hours of planned, preapproved, work experience outside of regular college teaching or counseling assignments shall be equal to one professional improvement unit.

(2) Ten clock hours or one credit on the quarter system or two-thirds credit on the semester system earned in accredited programs at colleges or universities shall be equal to one professional improvement unit provided it is in compliance with the professional improvement plan.

(3) Each accumulated twenty hours of preplanned participation in activities, such as conferences, seminars, workshops, or symposiums shall be equal to 1.0 professional improvement unit.

(4) Each forty hours of independent preplanned or preapproved research and other individual development activities in excess of normal contracted obligations shall be equal to one professional improvement unit.

(5) ~~The assigned vocational administrator shall be responsible for the approval of professional improvement plans, equivalencies, and units as stated in WAC 131-16-092, 131-16-093, and 131-16-094.)) The certification process for professional-technical instructors includes assessing the attainment of the standards contained in the professional-technical skill standards and the completion of a professional development plan. The professional development plan identifies priorities for professional growth. The priorities should address, at a minimum, the professional-technical faculty's ability to provide student instruction, supervise learning environments and implement curriculum, outcomes, and assessments. The professional development plan shall be developed in collaboration with the instructor and will include, based on local bargaining agreements, at least five professional development activities, linked to the professional-technical faculty skill standards.~~

The professional development plan includes:

(1) Faculty (self) and administrator identification of professional development activities for professional growth.

(2) Measurable outcomes and objective standards for measurement of skill standard achievement.

(3) A timeline for successful achievement of outcomes. Examples of professional development activities include, but are not limited to, workshops, courses of instruction, conferences, industry experiences and projects. The assigned professional-technical administrator supervisor

shall be responsible for the approval of the professional development plan. The chief professional-technical administrator shall be responsible for the approval of professional development activities.

AMENDATORY SECTION (Amending Order 134, Resolution No. 91-27, filed 10/4/91, effective 11/4/91)

WAC 131-16-095 Defining reciprocity ((defined)). The following standards describe the recognition of professional-technical or vocational teaching certification issued by a community or technical college or the superintendent of public instruction.

(1) ~~Instructors ((or counselors)) issued a ((vocational)) professional-technical education certificate that meets the standards specified in WAC ((131-16-091 through 131-16-095 by any community or technical college shall be recognized by all community or technical colleges)) 131-16-080 through 131-16-094 by any community or technical college under the jurisdiction of the state board ((for community and technical colleges)) shall be recognized as certified by all colleges in the community and technical (CTC) system.~~

(2) It is also recognized that a vocational teaching ((or counselor)) certificate issued by the office of the superintendent of public instruction will be recognized by the community and technical colleges as fulfilling the minimum requirements for the specific subjects contained in the certification.

~~((3) All instructors or counselors hired by a community or technical college will be required to have on file a professional improvement plan as specified in WAC 131-16-092 through 131-16-094.~~

~~(4) All current technical college instructors or counselors may have their certification renewed under the requirements in effect for vocational technical institutes prior to September 1, 1991. After September 1, 1996, all technical college personnel must meet the standards set forth in chapter 131-16 WAC.)~~

WSR 04-04-034

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed January 28, 2004, 3:43 p.m.]

The Economic Services Administration requests the withdrawal of WAC 388-450-0005 from proposed rule-making notices filed as WSR 03-23-112 and 04-02-058.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

**WSR 04-04-036
PROPOSED RULES**

GAMBLING COMMISSION

[Filed January 28, 2004, 4:54 p.m.]

Continuance of WSR 03-17-102.

Preproposal statement of inquiry was filed as WSR 03-16-034.

Title of Rule: Increasing betting limits for house-banked card rooms, WAC 230-40-120 Limits on wagers in card games.

Purpose: To increase betting limits for house-banked card rooms.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

Summary: At the August 2003, commission meeting, the commissioners filed a petition for rule change submitted by the Recreational Gaming Association (RGA). The RGA represents numerous card rooms. The petitioner requested that betting limits for house-banked card rooms be increased from \$100 to \$300. At the October 2003 commission meeting, Commissioner Orr proposed an amendment that would raise the betting limit to \$200 rather than \$300, and have it be based on the number of tables authorized in a card room: Five or fewer tables would have one table at the higher limit; six to ten tables, would have two tables at the higher limit; eleven to fifteen tables would have three tables at the higher limit. The proposal would also have the increased betting limits run only through 2004, and sunset (end) after that. In order for it to continue, another rule proposal would have to be made.

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, a small business economic impact statement is not required.

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

Hearing Location: Red Lion Hotel - Olympia, 2300 Evergreen Park Drive, Olympia, WA 98502, (360) 943-4000, on March 11, 2004, at 9:30 a.m.

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

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

Date of Intended Adoption: March 11, 2004.

January 27, 2004

Susan Arland
Rules Coordinator

PROPOSED

Alternative #1

AMENDATORY SECTION (Amending Order 422, filed 8/15/03, effective 9/15/03)

WAC 230-40-120 Limits on wagers in card games.

Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

Nonhouse-banked card games.

(1) Poker:

(a) There shall be no more than five betting rounds in any one game;

(b) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and

(c) The maximum amount of a single wager shall not exceed twenty-five dollars(-);

(2) Games based on achieving a specific number of points - each point shall not exceed five cents in value(-);

(3) An ante, except for panguingue (pan), shall not be more than the maximum wager allowed for the first betting round for any game. The ante may, by house rule, be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round. An ante, by house rule, may be used as part of a player's wager(-);

(4) Panguingue (pan) - the maximum value of a chip for a payoff shall not exceed ten dollars. An ante will not exceed one chip. Doubling of conditions is prohibited. Players going out may collect not more than two chips from each participating player(-);

House-banked card games.

(5) Licensees authorized to conduct house-banked card games shall not allow a single wager to exceed one hundred dollars, except that during the period from January 1, 2004, through December 31, 2004, such licensees may allow a single wager of up to two hundred dollars on a limited number of tables as follows:

(a) Licensees authorized to operate five tables or fewer may operate one table at the two hundred dollar limit;

(b) Licensees authorized to operate from six to ten tables may operate two tables at the two hundred dollar limit; and

(c) Licensees authorized to operate more than ten tables may operate three tables at the two hundred dollar limit;

(6) A single wager may be made on each separate element of chance. In addition, for blackjack, an additional wager may be placed for doubling down or splitting pairs; and

(7) Bonus wagers for house-banked progressive jackpots shall not exceed one dollar. Bonus wagers with a predetermined prize amount based upon a separate element of chance within the same game shall not exceed the authorized maximum table limits as described in subsection (5) of this section.

WSR 04-04-044

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed January 29, 2004, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-15-050.

Title of Rule: WAC 388-105-0005 Daily Medicaid payment rates for contracted adult family home (AFH), adult residential care (ARC) and enhanced adult residential care (EARC) services, 388-105-0030 Daily Medicaid payment rates for contracted assisted living facilities (ALF) not receiving a capital rate add-on and 388-105-0040 Capital add-on rates for ALF and the ALF daily payment rates with a capital add-on rate, and new WAC 388-105-0045 Medicaid payment rates for bed or unit holds - Medicaid resident discharged for a hospital or nursing home stay from an AFH or a boarding home with an ARC, EARC, or AL contract.

Purpose: To adopt permanently July 1, 2003, rate increase and to implement SSB 5579 (chapter 231, Laws of 2003) granting of payments to providers to hold a bed or unit when a Medicaid resident temporarily leaves the facility for a hospital or nursing home stay.

Statutory Authority for Adoption: RCW 74.39A.030 Medicaid payment rate increases.

Statute Being Implemented: RCW 18.20.290 Bed or unit hold payments.

Summary: Proposed rules permanently adopt rate increases adopted into WAC by emergency adoption effective July 1, 2003, and permanently adopt the bed or unit hold policy adopted into WAC by emergency adoption effective July 1, 2003.

Reasons Supporting Proposal: RCW 74.39A.030 and 18.20.290.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia Hague, 640 Woodland Square Loop S.E., Lacey, WA 98503, (360) 725-2447.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-105-0005 Permanent adoption of daily Medicaid payment rates for contracted adult family home (AFH), adult residential care (ARC), and enhanced adult residential care (EARC) services that were emergency adopted effective July 1, 2003.

WAC 388-105-0030 Permanent adoption of the daily Medicaid payment rates for contracted assisted living facilities (ALF) not receiving a capital rate add-on that were emergency adopted effective July 1, 2003.

WAC 388-105-0040 Permanent adoption of the capital add-on rates for assisted living facilities (ALF) and the ALF daily payment rates with a capital add-on rate that were emergency adopted effective July 1, 2003.

New WAC 388-105-0045 Permanent adoption of the bed or unit hold payment policy for Medicaid resident dis-

charged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home with an adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) contract that were emergency adopted effective July 1, 2003.

Proposal Changes the Following Existing Rules: Proposed rules: Increase the Medicaid payment rates for AFHs, ARCs, EARCs, and AL facilities effective July 1, 2003; and implement a bed or unit hold payment policy for Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home with an adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) contract.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), this chapter does not apply to the adoption of a rule described in RCW 34.05.310(4). The unit or bed hold rule in WAC 388-105-0045 is exempted by RCW 34.05.310 (4)(e) (rules the content of which is explicitly and specifically dictated by statute). The rate rules in WAC 388-105-0005, 388-105-0030, and 388-105-0040 are exempted by RCW 34.05-310 (4)(f) (rules that set or adjust fees or rates pursuant to legislative standards).

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(v) and (vi), rules that the content of which is explicitly and specifically dictated by statute; or set or adjust fees or rates pursuant to legislative standards are exempt from RCW 34.05.328. The proposed rules were specifically dictated by statute and set or adjust rates in accordance with legislative standards.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 5, 2004, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 9, 2004.

Date of Intended Adoption: Not earlier than March 10, 2004.

January 28, 2004
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0005 What are the daily Medicaid payment rates for contracted adult family home (AFH), adult residential care (ARC), and enhanced adult residential care (EARC) services? For contracted AFH, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

Four level payment system rates for AFHs, ARCs, & EARCs			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((46.06)) 45.70	\$ ((44.79)) 44.43	\$ ((44.79)) 44.43
Level 2	\$ ((49.28)) 48.65	\$ ((51.52)) 50.89	\$ ((56.97)) 56.34
Level 3	\$ ((57.07)) 56.32	\$ ((59.51)) 58.76	\$ ((65.76)) 65.01
Level 4	\$ ((68.15)) 67.75	\$ ((72.07)) 71.67	\$ ((78.31)) 77.91

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0030 What are the daily Medicaid payment rates for contracted assisted living facilities (~~((ALF))~~ (AL) not receiving a capital rate add-on? For contracted ALF services for care of a Medicaid resident, the department pays the following daily rates:

COPES (((ALF)) (AL) Daily Payment Rates w/o Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((54.84)) 54.48	\$ ((56.35)) 55.99	\$ ((61.03)) 60.67
Level 2	\$ ((61.14)) 60.51	\$ ((62.92)) 62.29	\$ ((68.52)) 67.89
Level 3	\$ ((67.54)) 66.79	\$ ((69.90)) 69.15	\$ ((76.46)) 75.71

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0040 What are the daily capital add-on rates for assisted living facilities (~~((ALF))~~ (AL) and the (~~((ALF))~~ (AL) daily payment rates with a capital add-on rate? For an (~~((ALF))~~ (AL) that qualifies for a capital add-on rate, the department will add the following amount to the per resident day payment rates in WAC 388-105-0030:

COPES (((ALF)) (AL) Add-on Rate July 1, 2002		
Non-metropolitan	Metropolitan*	King Co.
\$ 4.68	\$ 4.39	\$ 4.84

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COPEs ((ALF) <u>AL</u>) Daily Payment Rates with a Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((59.52)) <u>59.16</u>	\$ ((60.74)) <u>60.38</u>	\$ ((65.87)) <u>65.51</u>
Level 2	\$ ((65.82)) <u>65.19</u>	\$ ((67.34)) <u>66.68</u>	\$ ((73.36)) <u>72.73</u>
Level 3	\$ ((72.22)) <u>71.47</u>	\$ ((74.29)) <u>73.54</u>	\$ ((81.30)) <u>80.55</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

NEW SECTION

WAC 388-105-0045 Bed or unit hold Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home with an adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) contract. (1) When an AFH, ARC, EARC, or AL contracts to provide services under chapter 74.39A RCW, the AFH, ARC, EARC, and AL provider must hold a Medicaid eligible resident's bed or unit when:

- (a) Short-term care is needed in a nursing home or hospital;
 - (b) The resident is likely to return to the AFH, ARC, EARC, or AL; and
 - (c) Payment is made under subsection (3) of this section.
- (2) When the department pays the provider to hold the Medicaid resident's bed or unit during the resident's short-term nursing home or hospital stay, the provider must hold the unit or bed for up to twenty days.
- (3) The department will compensate the provider for holding the bed or unit for the:
- (a) First through seventh day at seventy percent of the daily rate paid for care of the resident before the hospital or nursing home stay; and
 - (b) Eighth through the twentieth day, at ten dollars and forty-three cents a day.
- (4) The AFH, ARC, EARC, and AL provider may seek third-party payment to hold a bed or unit for twenty-one days or longer. The provider may only collect from the third-party a payment not exceeding eighty-five percent of the average Medicaid daily rate paid to the facility. To compute the average Medicaid daily rate, the provider will add the highest Medicaid daily rate for each Medicaid resident residing in the facility for any part of the month in which the unit or bed hold began and divide the total by the number of Medicaid residents residing in the facility in the month in which the bed hold began.
- (5) If third-party payment is not available and the returning Medicaid resident continues to meet the admission criteria under chapter 388-71-WAC, the Medicaid resident may return to the first available and appropriate bed or unit.

(6) The department's social worker or case manager determines whether the:

- (a) Care given in a nursing home or hospital will be short-term; and
 - (b) Resident is likely to return to the AFH, ARC, EARC, or AL facility.
- (7) When the department's social worker or case manager determines that the Medicaid resident's stay in the nursing home or hospital is not short-term and the resident is unlikely to return to the AFH, ARC, EARC, or AL facility, then this section does not apply to any private contractual arrangements that the provider may make with a third party in regard to the discharged resident's unit or bed.

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

**WSR 04-04-045
PROPOSED RULES
HORSE RACING COMMISSION**

[Filed January 29, 2004, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-077.

Title of Rule: WAC 260-24-650 Clockers.

Purpose: To amend WAC 260-24-650 to establish a clockers license to permit clocking of timed workouts during the off-season at approved training centers.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: Amends WAC 260-24-650 to provide an approval and licensing process for clockers to perform off-season clocking at approved training centers.

Reasons Supporting Proposal: Meets the needs expressed by the horse racing industry to be able to obtain official workouts during the off-season.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; Implementation and Enforcement: Robert Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment if adopted would create a requirement that off-season official workouts can only be performed at approved training centers by licensed clockers.

Proposal Changes the Following Existing Rules: Adds a new subsection (5) to WAC 260-24-650 requiring off-season clocking of workouts to be conducted by licensed clockers at approved training centers.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Sorby at the Washington Horse Racing Commission by March 10, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 10, 2004.

Date of Intended Adoption: March 12, 2004.

January 28, 2004

R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 00-20-028, filed 9/27/00, effective 10/28/00)

WAC 260-24-650 Clocker(s). (1) The clocker(s) shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

(2) Each day, the clocker(s) shall prepare a list of workouts that describes the name of each horse which worked, along with the distance and time of each horse's workout.

(3) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

(4) The clocker(s) and his/her representative shall report the time and distance of the horse that best represents the workout which is in the best interest of the public.

(5) Whenever training occurs at other than a racing association within its scheduled race meet and training dates, only individuals licensed by the commission may clock workouts. Off-season clocking can only be performed at approved training centers, in the method prescribed by the commission, and in compliance with WAC 260-40-100. Prior to conducting off-season clocking, all clockers must be approved and licensed by the commission. Approval shall be based on the clockers' knowledge of and proficiency in performing clocking activities.

WSR 04-04-046

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 29, 2004, 1:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-125.

Title of Rule: WAC 260-36-120 Denial, suspension and revocation—Grounds.

Purpose: To amend the existing rule to assist our stewards in making decisions whether or not to approve or deny a license to meet the commission's mandate to protect the integrity of horse racing in Washington.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: The proposed amendment sets out clear criteria when a license may and when a license shall be denied, suspended or revoked.

Reasons Supporting Proposal: Not only does the proposed language assist the agency in protecting the integrity of horse racing, it also provides consistency with other racing jurisdictions by paralleling the national model rule.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; Implementation and Enforcement: Robert Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment sets out specific criteria when a license shall be denied, suspended or revoked by the commission. This criteria includes convictions for felonies and suspensions in other racing jurisdictions. The amendment is intended to provide specific guidance to our stewards whether or not to approve a license.

Proposal Changes the Following Existing Rules: The proposal amends the existing rule by setting out specific criteria when the commission "may" and when the commission "shall" deny, suspend or revoke a license.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Sorby at the Washington Horse Racing Commission by March 10, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 10, 2004.

Date of Intended Adoption: March 12, 2004.

January 28, 2004

R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-36-120 Denial, suspension, and revocation—Grounds. (1) The commission or its designee may refuse to issue or may deny ((or revoke a license or permit to any person who shall have been refused)) a license ((or permit by any other state racing commission or racing authority: Provided, however, That the state racing commission or racing authority of such other state extends to the state racing commission of Washington reciprocal courtesy to maintain the disciplinary control; the commission may deny or revoke any license or permit where the holder thereof has violated the rules and regulations of the commission governing the conduct of persons connected with the race tracks)) to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant or licensee:

(a) Has been convicted of a felony;

(b) Has been convicted of violating any law regarding gambling or a controlled substance;

(c) Has pending misdemeanor or gross misdemeanor criminal charges;

(d) Has failed to meet the minimum qualifications required for the license for which they are applying;

(e) Has failed to disclose or states falsely any information required in the application;

(f) Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

(g) Has disciplinary charges pending in this state or other racing jurisdiction;

(h) Has been or is currently excluded from association grounds by a recognized racing jurisdiction;

(i) Has had a license denied, by any racing jurisdiction;

(j) Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;

(k) Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

(l) Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

(m) Has violated any of the provisions of chapter 67.16 RCW; or

(n) Has violated any provisions of Title 260 WAC.

~~(2) ((The commission may refuse to issue or renew a license, or may suspend or revoke a license issued pursuant to the rule, if it shall find that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is or has been associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, touts, or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the commission, or shall have violated any rule of racing which shall have been approved or adopted by the commission, or has been guilty of or engaged in similar, related or like practices.))~~ The commission or its designee shall deny the application for license or suspend or revoke an existing license if the applicant or licensee:

(a) Has been convicted of any felony crimes against a person;

(b) Has been convicted of any felony property crime within the past ten years;

(c) Has five or more convictions for gross misdemeanors within the last three years;

(d) Is subject to current prosecution or pending charges for any felony crime;

(e) Has a felony conviction under appeal;

(f) Is currently suspended or revoked in Washington or by another racing jurisdiction;

(g) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order; or

(h) Has any outstanding arrest warrants.

(3) An appeal of a license denial based on this policy shall be filed as outlined in WAC 260-88-010.

(4) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International, Inc. whereby other member racing jurisdictions shall be advised.

WSR 04-04-047

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 29, 2004, 1:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-056.

Title of Rule: WAC 260-40-160 Horses owned or managed by a disqualified person.

Purpose: To clarify when the spouse of a disqualified person may own or manage a horse.

Other Identifying Information: In 1987 the Washington State Court of Appeals ruled that the "blanket regulation" in WAC 260-40-160 violated the constitutional requirement that an infringement on the right to marry be narrowly tailored to meet the state interests. The amendment is intended to comply with the court's ruling.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: The proposed amendment to WAC 260-40-160 makes a horse ineligible to run in a race if the horse is owned or managed by the spouse of a disqualified person when the spouse and the disqualified person constitute a single financial entity.

Reasons Supporting Proposal: Complies with the 1987 Washington State Court of Appeals decision.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; Implementation and Enforcement: Robert Lechner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

Rule is necessary because of state court decision, *Levinson v. Horse Racing Commission*, 48 Wn.App. 822 (1987).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment makes a horse ineligible to start in a race when it is owned by the spouse of a disqualified person or is under the management of a spouse of a disqualified person when the spouse and disqualified person constitute a single financial entity. The proposed amendment is intended to not only meet the requirements of the court in *Levinson v. Horse Racing Commission*, but also mirrors the national model policy.

Proposal Changes the Following Existing Rules: Amends WAC 260-40-160(3) by not restricting ownership or management of a horse by a spouse of a disqualified person,

unless the spouse and the disqualified person own or manage the horse as a single financial entity.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Sorby at the Washington Horse Racing Commission by March 10, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 10, 2004.

Date of Intended Adoption: March 12, 2004.

January 28, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-40-160 Horse owned or managed by disqualified person. (1) A horse shall not be qualified to be entered or to start in any race, if owned in whole or in part, or if under the management, directly or indirectly, of a disqualified person.

(2) If any entry from any disqualified person or a disqualified horse is received, such entry shall be void and any money paid for such entry shall be returned if the disqualification is disclosed forty-five minutes before post time for the race. Otherwise, any such money shall be paid to the winner.

(3) ~~((No entry shall be accepted from husband or wife, while either is disqualified.))~~ A horse is ineligible to start in a race when it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

WSR 04-04-048

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 29, 2004, 1:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-05-068.

Title of Rule: WAC 260-48-620 Pools dependent upon betting interest, 260-48-890 Trifecta pools, 260-48-900 Twin trifecta pools, and 260-48-910 Superfecta pools.

Purpose: To allow a racing association greater flexibility when offering exotic wagering and to bring WAC 260-48-620 in line with the national model rules.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: The proposed amendment to WAC 260-48-620 brings our rule in line with the national model rule by establishing the minimum number of betting interests required for win, place and show wagering and for quinella, exacta, trifecta, twin trifecta and superfecta wagering. The amendments to WAC 260-48-890, 260-48-900, and 260-48-910 prohibit mutuel fields and the number of coupled entries in trifecta, twin trifecta and superfecta wagering.

Reasons Supporting Proposal: The amendments allow greater flexibility in offering exotic wagering.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462; Implementation and Enforcement: Robert Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment to WAC 260-48-620, align Washington rule with the national model rule on pools dependent upon betting interest. Amendments to WAC 260-48-890, 260-48-900, and 260-48-910, prohibit trifecta, twin trifecta and superfecta wagering on any race with more than one coupled entry and a race where there is a mutuel field. These amendments will create greater flexibility to a racing association in offering exotic wagering.

Proposal Changes the Following Existing Rules: Amends WAC 260-48-620 to require the following wagering on all races when the corresponding number of betting interests exists: Win wagering - three betting interests; Place wagering - four betting interests; and Show wagering - five betting interests. In addition the amendment allows for the following exotic wagering when the corresponding minimum number of betting interests exist: Quinella - three betting interests; Exacta - two betting interests; Trifecta - three betting interests; Twin trifecta - seven betting interests; and Superfecta - four betting interests.

The proposal also amends WAC 260-48-890, 260-48-900, and 260-48-910, by allowing no more than one coupled entries and no mutuel fields in trifecta, twin trifecta or superfecta races.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Sorby at the Washington Horse Racing Commission by March 10, 2004.

Submit Written Comments to: Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 10, 2004.

Date of Intended Adoption: March 12, 2004.

January 28, 2004

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 00-06-070, filed 3/1/00, effective 4/1/00)

WAC 260-48-620 Pools dependent upon betting interests. Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

(1) Shall offer win(~~(, place, and show))~~ wagering on all races with ~~((five))~~ three or more betting interests.

(2) ~~((May be allowed to prohibit show wagering on any race with four or fewer betting interests-~~

~~(3) May be allowed to prohibit place wagering on any race with three or fewer betting interests-))~~ Shall offer place wagering on all races with four or more betting interests.

(3) Shall offer show wagering on all races with five or more betting interests.

(4) May ~~((be allowed to prohibit))~~ offer quinella wagering on ~~((any))~~ all races with three or ~~((fewer))~~ more betting interests.

(5) May ~~((be allowed to prohibit))~~ offer exacta wagering on ~~((any))~~ all races with ~~((three))~~ two or ~~((fewer))~~ more betting interests.

(6) ~~((Shall prohibit))~~ May offer trifecta wagering on ~~((any))~~ all races with ~~((five))~~ three or ~~((fewer))~~ more betting interests ~~((scheduled to start when the trifecta pool opens for wagering in Washington)).~~

(7) ~~((Shall prohibit))~~ May offer twin trifecta wagering on ~~((any))~~ all races with seven or ~~((fewer))~~ more betting interests ~~((scheduled to start when the twin trifecta pool opens for wagering in Washington)).~~

(8) ~~((Shall prohibit))~~ May offer superfecta wagering on ~~((any))~~ all races with ~~((seven))~~ four or ~~((fewer))~~ more betting interests ~~((scheduled to start when the superfecta pool opens for wagering in Washington)).~~

AMENDATORY SECTION (Amending WSR 98-01-148, filed 12/19/97, effective 1/19/98)

WAC 260-48-890 Trifecta pools. (1) The trifecta requires selection of the first three finishers, in their exact order, for a single race.

(2) The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool shall be refunded on trifecta wagers for that race.

(3) If less than three betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(7) ~~((There shall be only one instance of two horses having common ties in any trifecta race, stakes races are excepted with permission of the stewards-))~~ Trifecta wagering is prohibited on any race in which there is more than one coupled entry.

(8) Trifecta wagering is prohibited on any race in which there is a mutuel field.

AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96, effective 6/11/96)

WAC 260-48-900 Twin trifecta pools. (1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. Winning first-half wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

(2) Twin trifecta wagering may be conducted by Class A and B licensees at the discretion of the commission upon written application by an association.

(3) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: The first-half twin trifecta pool and the second-half twin trifecta pool. The percentage allocated to each pool must be approved by the commission.

(4) In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interest; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be ~~((anceled))~~ canceled.

(5) If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carry-over pool.

(6) Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

(a) As a single price pool, including any existing carry-over monies, to those whose combination finished in correct sequence as the first three betting interest; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that race shall be added to any existing carry-over monies and retained for the corresponding second-half twin trifecta pool of the next consecutive race card.

(7) Subject to subsection 19(e) of the twin trifecta rules, if a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

~~(8) ((Coupled entries and mutuel fields shall be prohibited in twin trifecta races.~~

~~(9) There shall be only one instance of two horses having common ties through a trainer in any twin trifecta race.))~~
Twin trifecta wagering is prohibited on any race in which there is a mutuel field.

(9) Twin trifecta wagering is prohibited on any race in which there is more than one coupled entry.

(10) Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

(11) Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(12) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of dead heat occurring in:

(a) The first-half of the twin trifecta, the payoff shall be calculated as a profit split

(b) The second-half of the twin trifecta, the payoff shall be calculated as a single price pool.

(13) If either of the twin trifecta races are ~~((canceled))~~ canceled prior to the first twin trifecta race, or the first twin trifecta race is declared "no race," the entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be ~~((canceled.))~~ canceled

(14) If the second-half twin trifecta race is ~~((canceled))~~ canceled or declared "no race," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be enti-

led to the net twin trifecta pool for that race as a single price pool, but not the twin trifecta carry-over. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subsections (4) of the twin trifecta rules.

(15) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than 6, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin pool for that race as a single price pool, but not the twin trifecta carry-over.

(16) If it be determined by the stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open (nonstarter) in the second-half of the twin trifecta only, there will be no refund or consolation payoff. The official order of finish as posted shall be used to determine payoffs. This will not affect other pools for this race.

(17) A written request for permission to distribute the twin trifecta carry-over on a specific race card may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of race card for the distribution.

(18) Contrary to subsection (5) of the twin trifecta rules, during a race card designated to distribute the twin trifecta carry-over, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations as described in subsection (4) of the twin trifecta rules.

(19) Should the twin trifecta carry-over be designated for distribution on a specified date, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) As a single price pool to holders of valid exchange tickets.

(e) As a single price pool to holders of outstanding first-half winning tickets.

(20) The twin trifecta carry-over shall be designated for distribution on a specified date and race card only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (17) of the twin trifecta rules.

(b) On the closing race card of the meet or split meet.

(21) If, for any reason, the twin trifecta carry-over must be held over to the corresponding twin trifecta pool of the association's subsequent meet, the carry-over shall be deposited in an interest-bearing account approved by the commis-

sion. The twin trifecta carry-over plus accrued interest shall then be added to the second-half twin trifecta pool of the association's following meet.

(22) If racing is ~~((cancelled))~~ canceled prior to the first-half of the twin trifecta on the closing race card of the meet or split meet, the carry-over will be held over in accordance with subsection (20) of the twin trifecta rules.

(23) If racing is ~~((cancelled))~~ canceled after the running of the first-half but before the running of the second-half on the closing race card of the meet or split meet, the carry-over pool will be paid as a single price to holders of exchange tickets or outstanding winning tickets from the first-half.

(24) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communications between totalisator and parimutuel department employees for processing of pool data.

(25) The acceptance of a twin trifecta ticket by taking an issued ticket away from the window of the terminal from which it was issued shall constitute an acknowledgment by the bettor that the ticket is correct. Exchange tickets may not be canceled and/or reissued except as provided by these rules. The association, totalisator company, and state may not be liable to any person for a twin trifecta ticket which is not:

(a) A winning ticket in accordance with the provisions of this rule; or

(b) Delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, phone line failure, or other cause.

(26) Twin trifecta tickets shall be sold and exchanged only by the association through parimutuel machines.

(27) The twin trifecta carry-over may be capped at a designated level approved or set by the commission so that if, at the close of any race card, the amount in the twin trifecta carry-over equals or exceeds the designated cap, the twin trifecta carry-over will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carry-over is frozen, 100 percent of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

AMENDATORY SECTION (Amending WSR 99-06-026, filed 2/23/99, effective 3/26/99)

WAC 260-48-910 Superfecta pools. (1) The superfecta requires selection of the first four finishers, in their exact order, for a single race.

(2) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) The entire pool shall be refunded on superfecta wagers for that race.

(3) If less than four betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5) If there is a dead heat for second involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(b) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(8) ~~((There shall be only one instance of two horses having common ties through a trainer in any superfecta race; stakes races are excepted with permission of the stewards.))~~
Superfecta wagering is prohibited on any race in which there is more than one coupled entry.

(9) Superfecta wagering is prohibited on any race in which there is a mutuel field.

WSR 04-04-049

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 29, 2004, 1:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-068.

Title of Rule: Chapter 308-56A WAC, Certificate 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.

Summary: Amending WAC 308-56A-500 Definitions and 308-56A-505 Elimination of manufactured home title—Eligibility.

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 March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by March 10, 2004, TTY (360) 664-8885 or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 10, 2004.

Date of Intended Adoption: April 6, 2004.

January 29, 2004

D. McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 02-19-016, filed 9/9/02, effective 10/10/02)

WAC 308-56A-500 Definitions. The definitions set forth in RCW 65.20.020 shall apply to WAC 308-56A-505. Terms used in chapters 46.12 and 46.16 RCW and this chapter shall have the following meanings except where otherwise defined, and unless where used the context thereof clearly indicates to the contrary:

(1) "Affidavit in lieu of title" is a written declaration made under oath that the certificate of ownership, registration certificate, gross weight license certificate or validation tab or decal are unavailable, lost, stolen, destroyed or mutilated. The signature on the affidavit in lieu of title must be notarized or certified in accordance with WAC 308-56A-270.

(2) "Affixed" means attached.

~~((2))~~ (3) "Brands" means a permanent notation on the certificate of ownership and vehicle registration certificate that records a special circumstance or condition involving a vehicle that stays with the vehicle registration or certificate of ownership.

~~((3))~~ (4) "Certificate of ownership" (or "title") is a legal document indicating proof of ownership.

~~((4))~~ (5) "Comment" means an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type or a previous condition of the vehicle.

~~((5))~~ (6) "Commercial parking company" means any business directly engaged in providing vehicle parking upon property owned or controlled by the business and approved for public parking of vehicles.

~~((6))~~ (7) "Current license plate registration" means the current registration or one that has been expired less than one year.

(8) "Department" means the same as described in RCW 46.04.162.

~~((7))~~ (9) "Department temporary permit" is a permit temporarily issued in lieu of permanent registration and license plates when required documentation is unavailable.

~~((8))~~ (10) "Electronic filing" is the use of an electronic method to transmit information to the department that may include, but is not limited to, the use of the internet and facsimile.

(11) "Involuntary divestiture" means a change in vehicle ownership without the registered owner's involvement.

~~((9))~~ (12) "Joint tenancy with rights of survivorship" (JTWROS) means ~~((owners))~~ two or more people who own a vehicle in joint tenancy with the right to own individually if one of them dies.

~~((10))~~ (13) "Jurisdiction code" means an abbreviation assigned by the department generally based on the U.S. Postal Service designation that indicates state, province, district, or country.

~~((11))~~ (14) "Legal owner" means the same as described in RCW 46.04.270.

~~((12))~~ (15) "Lien holder" means an entity who has a legal right or interest in another's property until a debt or duty that it secures is satisfied.

(16) "Not eligible for road use" (NEFRU) means a vehicle that does not meet Federal Motor Vehicle Safety standards, other federal and/or state standards for public road use as adopted, applied, and enforced by the Washington state patrol described in RCW 46.37.005.

~~((13))~~ (17) "Person" means the same as described in RCW 46.04.405.

~~((14))~~ (18) "Personal representative" means:

(a) An individual appointed by the court; or

(b) An individual named in the last will and testament and confirmed by the court to manage the estate of a deceased person.

Personal representative may also include executor, administrator, special administrator, and guardian or limited guardian and special representative as defined in RCW 11.02.005(1).

~~((15))~~ (19) "Registered owner" means the same as described in RCW 46.04.460.

~~((16))~~ (20) "Security interest" means a property interest created by agreement or by operation of law to secure performance of an obligation (repayment of a debt).

(21) "Security interest holders" means in this instance, the same as "lien holder" above.

(22) "Secured party" means in this instance the same as "lien holder" above.

(23) "Transferee" means a person to whom a vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee, when applicable.

~~((17))~~ (24) "Transferor" means a person who transfers ownership in a vehicle by sale, gift, or any means other than by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor, when applicable.

(25) "Washington vehicle licensing office" means a vehicle license office as an agent or subagent appointed under RCW 46.01.140.

AMENDATORY SECTION (Amending WSR 01-11-069, filed 5/14/01, effective 6/14/01)

WAC 308-56A-505 Elimination of manufactured home certificate of ownership (title)—Eligibility. (1) **May I eliminate the ~~((vehicle))~~ certificate of ownership (title) on my manufactured home?** You may eliminate the ~~((vehicle))~~ certificate of ownership (title) on your manufactured home provided you own or are purchasing the manufactured home and the land to which it is affixed as defined in RCW 65.20.020 and 65.20.030.

(2) **How do I apply to eliminate the ~~((vehicle title))~~ certificate of ownership on my manufactured home?** You must complete ~~((and))~~, record and submit a manufactured home ~~((title elimination))~~ application. The application to eliminate ~~((title))~~ the certificate of ownership under chapter 46.12 RCW, and record ownership as real property under chapter 65.20 RCW or to transfer ownership in real property to a title under chapter 46.12 RCW, must be signed by all persons having an interest in the land and ~~((it))~~ the manufactured home as defined in RCW 65.20.020.

(3) **What conditions must be met before the certificate of ownership can be eliminated?** The following conditions must be met before the certificate of ownership will be eliminated:

(a) The manufactured home must be affixed or be in the process of being affixed to the land.

(b) The building permit office certification box on the elimination application must be completed by the issuing authority stating that the home was affixed or that a building permit has been issued for this purpose as described in RCW 65.20.040(3).

(c) If ~~((the))~~ a title company is involved in the elimination transaction, they must certify that the legal description of the land is true and correct per real property records.

(d) The county auditor's recording office must certify that the manufactured home ~~((title elimination))~~ application

has been completed correctly and that the applicant has sufficient documentation to proceed with recording the application.

(e) The completed application must be recorded ~~((in))~~ with the county auditor's office in the county ~~((in which))~~ where the manufactured home and land are located.

If an applicant fails to complete the elimination process once it has been recorded with the county, the elimination will not be accomplished.

(4) **How do I ~~((record))~~ complete the elimination of my manufactured home ~~((title elimination))~~ certificate of ownership with the department?** ~~((To record your manufactured home title elimination))~~ You must ~~((-e))~~ submit the recorded manufactured home ~~((title elimination))~~ application to the department for processing; and ~~((b))~~ pay the applicable fees ~~((-and -e))~~. After it has been processed, you will receive a confirmation letter from the department that your manufactured home ~~((title))~~ certificate of ownership has been eliminated.

~~((If an applicant fails to complete the elimination process after the documents are recorded, the elimination may be void.))~~

(5) **What are the fees for elimination of a manufactured home title?** The fees for elimination of a manufactured home title are as follows:

(a) Fees as provided in RCW 46.01.140 for each application.

(b) Fees as provided in RCW 46.12.040 for each application.

(c) A fee ~~((of fifteen dollars))~~ for each application to transfer a new or used manufactured home as provided in RCW 59.22.080.

(d) A fee ~~((of twenty five dollars))~~ for each application to defray the cost of processing documents and performing services as required by chapter 65.20 RCW.

WSR 04-04-074
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed February 2, 2004, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-12-054.

Title of Rule: WAC 388-416-0030 Certifications for the medically indigent (MI) program, 388-438-0100 Medically indigent (MI) program, and 388-503-0505 General eligibility requirements for medical programs.

Purpose: The medically indigent program ended June 30, 2003, as operating funds were not appropriated under the state's 2003-2005 omnibus operating budget.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090, 74.09.530; Part II Section 209, 2003-2005 Omnibus Operating Budget (chapter 25, Laws of 2003 1st sp.s.).

Summary: The 2003 Washington state legislature ended the medically indigent program effective June 30, 2003.

Reasons Supporting Proposal: No funding for this program has been appropriated beyond June 30, 2003.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, P.O. Box 5534, Olympia, WA 98504-5534, (360) 725-1343.

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

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

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

Proposal Changes the Following Existing Rules: The medically indigent program ended June 30, 2003, and the information about this program must be removed from rules.

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

RCW 34.05.328 does not apply to this rule adoption. This rule revision is exempt from the provisions of RCW 34.05.328 per RCW 34.05.328 (5)(b)(vii), "rules of the department of social and health services relating to client medical or financial eligibility."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 9, 2004, at 10:00.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 5, 2004, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 9, 2004.

Date of Intended Adoption: Not sooner than March 10, 2004.

January 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-503-0505 General eligibility requirements for medical programs. (1) Persons applying for benefits under the medical coverage programs established under chapter 74.09 RCW must meet the eligibility criteria established by the department in chapters 388-400 through 388-555 WAC.

(2) Persons applying for medical coverage are considered first for federally funded or federally matched programs. State-funded programs are considered after federally funded programs are not available to the client except for brief periods when the state-funded programs offer a broad scope of care which meet a specific client need.

(3) Unless otherwise specified in program specific WAC, the eligibility criteria for each medical program is as follows:

(a) Verification of age and identity (chapters 388-404, 388-406, and 388-490 WAC); and

(b) Residence in Washington state (chapter 388-468 WAC); and

(c) Citizenship or immigration status in the United States (chapter 388-424 WAC); and

(d) Possession of a valid Social Security Account Number (chapter 388-476 WAC); and

(e) Assignment of medical support rights to the state of Washington (WAC 388-505-0540); and

(f) Cooperation in securing medical support (chapter 388-422 WAC); and

(g) Countable resources within program limits (chapters 388-470 and 388-478 WAC); and

(h) Countable income within program limits (chapters 388-450 and 388-478 WAC).

(4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.

(5) Persons living in a public institution, including a correctional facility, are not eligible for the department's medical coverage programs. ~~((A person living in a city or county jail may be considered only for the medically indigent (MI) program.))~~ For a person under age twenty or over age sixty-five who is a patient in an institution for mental disease see WAC 388-513-1315(13) for exception.

(6) Persons terminated from SSI or TANF cash grants and those who lose eligibility for categorically needy (CN) medical coverage have their CN coverage continued while their eligibility for other medical programs is redetermined. This continuation of medical coverage is described in chapter 388-434 WAC.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-438-0100 Medically indigent (MI) program.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-416-0030 Certification periods for the medically indigent (MI) program.

WSR 04-04-075
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed February 2, 2004, 4:06 p.m.]

Original Notice.

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

Title of Rule: WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?

Purpose: The Division of Employment and Assistance Programs is amending the rule to be consistent with a change in federal requirements related to the excess shelter deduction for Basic Food.

Other Identifying Information: The proposed rule is exempt from filing a CR-101 preproposal statement of inquiry under RCW 34.05.310 (4)(c), exempting "Rules adopting or incorporating without material change federal statutes or regulations..." See Rule is Necessary and RCW 34.05.328 Applies to This Section below.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510.

Summary: The amended rule explains how the department determines a client's excess shelter deduction for WASHCAP and the Washington Basic Food program.

Reasons Supporting Proposal: The United States Department of Agriculture, Food and Nutrition Services (FNS) publishes requirements for the food stamp program in the United States Code of Federal Regulations and also provides administrative guidance through FNS Administrative Notices. This revision is necessary to meet with program requirements outlined in FNS administrative notice 04-07 regarding the excess shelter deduction. The department must revise WAC 388-450-0190 to be consistent with this requirement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 413-3232.

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

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations 273.9 (d)(6) and USDA notice FSP-AN 04-07.

Explanation of Rule, its Purpose, and Anticipated Effects: See Title of Rule, Purpose, Summary, and Reasons Supporting Proposal above.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients by setting requirements on how the department determines the excess shelter deduction. This deduction is used when calculating benefits for Basic Food and WASHCAP benefits.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule adopts federal requirements mandated by Title 7 of the Code of Federal Regulations Part 273, 273.9 (d)(6) as well as AN 04-07 for federal food stamp benefits. The department uses the same requirements for Basic Food and WASHCAP.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 5, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 9, 2004.

Date of Intended Adoption: Not earlier than March 10, 2004.

January 28, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-030, filed 10/7/03, effective 12/1/03)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or any amount you pay ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) ((Ongoing)) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of three hundred seventy-eight dollars if no one in your AU is elderly or disabled and you were found eligible for benefits or were recertified for benefits either on or after March 1, 2001; or

(b) The entire amount if someone in your AU is elderly or disabled, even if the amount is over three hundred seventy-eight dollars.

WSR 04-04-076

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 2, 2004, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-09-074 on April 16, 2002.

Title of Rule: WAC 388-414-0001 Some food assistance units do not have to meet all eligibility requirements.

Purpose: Amending the rule to update program language, reflect categorical eligibility criteria consistent with federal requirements for the food stamp program, and extend categorical eligibility status to Basic Food assistance units who have income at or under the monthly gross income limit for Basic Food.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, and 74.08.025.

Summary: This rule explains how clients who are eligible for benefits in another program may not have to meet all eligibility requirements to receive Basic Food. It also explains which clients cannot be considered categorically eligible for Basic Food.

Reasons Supporting Proposal: The proposed amendments are necessary to be consistent with federal regulations for the food stamp program and extend categorical eligibility status to individuals and families who are not over the gross income standard for the Washington Basic Food program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 413-3232.

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

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations, Part 273 - 273.2(j).

Explanation of Rule, its Purpose, and Anticipated Effects: See Title of Rule, Purpose, Summary, and Reasons Supporting Proposal above.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses; it only affects DSHS clients by clarifying who does not have to meet certain eligibility requirements for food benefits based on eligibility for another program.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule adopts federal requirements mandated by Title 7 of the Code of Federal Regulations Part 273, 273.2(j) regarding categorical eligibility status for food stamp benefits. The department also applies federal food stamp requirements other than citizenship and alien status for the state-funded portion of the Basic Food program.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 9, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 5, 2004, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 9, 2004.

Date of Intended Adoption: Not earlier than March 10, 2004.

January 28, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-07-054, filed 3/16/01, effective 3/29/01)

WAC 388-414-0001 ((Some food assistance units do not)) Do I have to meet all eligibility requirements(+) for Basic Food? (1) What is "categorical eligibility" (CE)?

(a) ~~((Some food assistance units do not have to meet all of the eligibility requirements for food assistance. The department calls this CE. If your food assistance unit is CE, you do not have to meet the following food assistance requirements because you have met them for another program:~~

- ~~(i) Resources;~~
- ~~(ii) Gross and net income standards;~~
- ~~(iii) Residency; and~~
- ~~(iv) Sponsored alien information.~~

(b) If you are a CE food assistance unit, you will still have your income budgeted to determine the amount of food stamps your assistance unit is eligible for.

(2) Who is CE for food assistance?

Your household is CE when:

(a) All members of your food assistance unit are getting general assistance (GA) and/or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) A member of your food assistance unit is getting or is authorized to get payments from the following programs and you all benefit from the assistance:

(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA); or

(iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the food assistance unit.

(c) You are receiving TANF/SFA cash assistance and no longer get assistance because your earnings are over the earned income limit in WAC 388-478-0035. You are CE for twenty-four months after your TANF/SFA cash assistance ends as long as you have one adult relative caretaker with a dependent child in the food assistance unit.

(3) Who are not considered CE even though the above criteria is met?

(a) A member of your food assistance unit is not CE who:

(i) Is not eligible because of his/her alien or student status;

(ii) Fails to follow work requirements;

(iii) Fails to provide or apply for a Social Security Number;

(iv) Is a SSI recipient in a cash-out state (state where SSI payments are increased to include the value of the food stamp allotment);

(v) Is not eligible for SSI on his/her own behalf since he/she is getting SSI as an essential person or as an ineligible spouse; or

(vi) Is living in an institution.

(b) If a person is not CE, he/she is not included as member in your CE food assistance unit.

(c) Your entire food assistance unit is not CE when your assistance unit:

(i) Is not eligible because of striker provisions;

(ii) Knowingly transferred resources for the purpose of qualifying for benefits;

(iii) Refuses to cooperate in providing information that is needed to determine your eligibility;

(iv) Has a head of the household that failed to meet work requirements; or

(v) Has a member that is not qualified because of an intentional program violation)) **Categorical eligibility (CE)**

means that you have already met requirements for a program. If you are CE, you do not have to meet every program requirement to be eligible for Basic Food. If your assistance unit (AU) is CE, you automatically meet the following requirements for Basic Food:

(i) Countable resource limit under WAC 388-470-0005;

(ii) Maximum gross monthly income under WAC 388-478-0060; and

(iii) Maximum net monthly income under WAC 388-478-0060.

(b) Being CE does not mean that your AU is guaranteed to get Basic Food benefits. If your AU is CE:

(i) You must still meet the other Basic Food program requirements under WAC 388-400-0040; and

(ii) If you meet the other program requirements, we must budget your AU's income to determine the amount of benefits your AU will receive.

(2) Who is categorically eligible for Basic Food?

Your Basic Food AU is CE when:

(a) **Every member** of your AU gets either general assistance (GA), Alcohol and Drug Abuse Treatment Support Act (ADATSA), or Supplemental Security Income (SSI) cash benefits on their own behalf;

(b) Any member of your AU gets or is authorized to get payments from the following programs because we have determined that the entire AU benefits from someone receiving the assistance:

(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA); or

(iii) Diversion cash assistance (DCA). You are CE for the month you receive DCA and the three following months as long as you have one adult relative caretaker with a dependent child in the Basic Food AU.

(3) Who is not CE even if my AU meets the above criteria?

(a) Even if your AU is CE, members of your AU are not eligible for Basic Food if they:

(i) Are not eligible because of their alien or student status;

(ii) Were disqualified from Basic Food under WAC 388-444-0055 for failing work requirements;

(iii) Are not eligible for failing to provide or apply for a Social Security number;

(iv) Receive SSI in a cash-out state (state where SSI payments are increased to include the value of the client's food stamp allotment); or

(v) Live in an institution not eligible for Basic Food under WAC 388-408-0040.

(b) If a person in your AU is not eligible for Basic Food, we do not include them as an **eligible member** of your CE AU.

(c) Your AU is not CE if:

(i) Your AU is not eligible because of striker requirements under WAC 388-480-0001;

(ii) Your AU is ineligible for knowingly transferring resources in order to qualify for benefits under WAC 388-488-0010;

(iii) Your AU refused to cooperate in providing information that is needed to determine your eligibility;

(iv) The head of household for your AU failed to meet work requirements; or

(v) Anyone in your AU is disqualified because of an intentional program violation under WAC 388-446-0015; or

(vi) Anyone in your AU is ineligible for Basic Food under WAC 388-442-0010 because of a conviction for a drug-related felony.

WSR 04-04-078
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
 (By the Code Reviser's Office)
 [Filed February 3, 2004, 8:05 a.m.]

WAC 246-919-330, proposed by the Department of Health in WSR 03-15-068 appearing in issue 03-15 of the State Register, which was distributed on August 6, 2003, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 04-04-083
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed February 3, 2004, 11:07 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Sections 1.07, 3.04, 6.03, 6.09, 9.03, 9.04, 9.08, 12.03 (Regulation I); Section 2.07 (Regulation III). Adopt Section 6.01 (Regulation I). Repeal Sections 6.06, 6.07, 6.08 (Regulation I).

Purpose: The purpose of this proposal is to create a more consistent Notice of Construction process throughout the state of Washington and to facilitate the United States Environmental Protection Agency's approval of the state implementation plan.

Other Identifying Information: 1.07 Definitions; 3.04 RACT; 6.03 Notice of Construction; 6.09 Notice of Completion; 9.03 Emission of Air Contaminant: Visual Standard; 9.04 Opacity Standards for Equipment w/Continuous Opacity Monitoring Systems; 9.08 Fuel Oil Standards; 12.03 Continuous Emission Monitoring Systems; 2.07 Evaluating the Impacts of TAC; 6.01 Components of New Source Review Program; 6.06 Public Notice; 6.07 Order of Approval—Order to Prevent Construction; 6.08 Emission Reduction Credit Banking.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Statute Being Implemented: RCW 70.94.141.

Summary: The agency is proposing to repeal its Notice of Construction program and to adopt by reference components of the Department of Ecology's program from chapters 173-400 and 173-460 WAC. Defined terms would be made consistent with those in the WAC. Cross references to the repealed sections would be amended. These proposed changes should be imperceptible to applicants.

Reasons Supporting Proposal: The federal preconstruction review requirements from 40 C.F.R. 51.160 through 51.164 and the state Notice of Construction requirements from RCW 70.94.152 through 70.94.153 are complex and difficult to rewrite without altering their meaning or deviating from the underlying statutory authority. The Washington Department of Ecology must submit a state implementation plan revision containing new source review programs for the entire state to the United States Environmental Protection Agency for their approval. Adoption by reference of ecology's rules will facilitate this process.

A consistent statewide review program is also considered beneficial to the business community.

Name of Agency Personnel Responsible for Drafting: Gerry Pade, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4065; 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.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

Rule is necessary because of federal law, FCAA Sec. 110.(a)(2)(C), 40 C.F.R. 51.160 through 51.164.

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

Proposal Changes the Following Existing Rules: See Summary 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 March 25, 2004, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 18, 2004, 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 March 25, 2004.

Date of Intended Adoption: March 25, 2004.

February 2, 2004

Gerry Pade
 Engineer

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-05 issue of the Register.

WSR 04-04-085
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-016.

Title of Rule: WAC 180-85-105 Initial notice to certificate holders of continuing education requirement.

Purpose: The purpose of the proposed amendment to this rule is to modify the manner in which the Professional Education and Certification Office notifies a holder of a certificate requiring clock hours for maintenance of the lapse date of the certificate and the requirement for maintaining the certificate with clock hours.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District Administration Building, 1113 Legion Way S.E., Olympia, WA 98501-1967, on March 18, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by March 4, 2004, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 4, 2004.

Date of Intended Adoption: March 19, 2004.

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 90-12-076, filed 6/1/90, effective 7/2/90)

WAC 180-85-105 SPI initial notice to certificate holders of continuing education requirement. Upon issuance or reinstatement of an affected professional certificate, the superintendent of public instruction shall notify the holder of the lapse date and ~~((shall provide such holder with a written explanation of))~~ the continuing education requirements of this chapter and the holder's responsibility to keep accurate records demonstrating attendance at approved in-service education programs. In addition, the superintendent of public instruction shall ~~((provide))~~ **make available to** the certificate holder ~~((with))~~ a form ~~((to be completed by the~~

~~certificate holder))~~ which indicates compliance with the continuing education requirements and which includes instruction for filing the report with the superintendent of public instruction.

WSR 04-04-086

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-045.

Title of Rule: WAC 180-50-320 Equivalency course of study—National Guard high school career training and approval procedures and 180-50-300 Equivalency course of study—Credit for learning experiences conducted away from school by persons not employed [by the school district].

Purpose: In the 2002 legislative session, legislation was passed to establish a National Guard youth challenge program in Washington state (see RCW 28A.305.170). State and federal dollars will support the program. The target date to begin serving students is January 2005. The authorizing legislation directs the state board to adopt implementing rules.

Statutory Authority for Adoption: RCW 28A.305.130.

Summary: See Purpose above.

Reasons Supporting Proposal: Legislative mandate.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: The proposed language will allow students participating in the National Guard youth challenge program to receive high school credits in the same manner as credits are awarded under WAC 180-50-310.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District Administration Building, 1113 Legion Way S.E., Olympia, WA 98501-1967, on March 18, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by March 4, 2004, TTY (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 4, 2004.

Date of Intended Adoption: March 19, 2004.

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 00-19-106, filed 9/20/00, effective 10/21/00)

WAC 180-50-300 Equivalency course of study—Credit for learning experiences conducted away from school or by persons not employed by the school district.

(1) Credit, including high school graduation credit, may be granted for school planned or approved learning experiences primarily conducted away from the facilities owned, operated, or supervised by the district or conducted primarily by individuals not employed by the district.

(2) School planned or approved learning experiences such as, but not limited to, travel study, work study, private lessons, National Guard youth challenge program and educational programs sponsored by governmental agencies may be accepted for credit upon compliance with written policies established by the district.

(3) Written policies which permit the granting of credit for such out-of-school learning activities shall be adopted by the district board of directors and shall be available to students, parents, and the public upon request. Such policies shall include at least the following provisions:

(4) A proposal for approval of credit for such learning experiences shall be submitted to the personnel designated in the written policy for review, revision, and approval or disapproval prior to the experience and shall include at least the following information:

- (a) Name of program or planned learning experience;
- (b) Length of time for which approval is desired;
- (c) Objectives of the program or planned learning experience;

(d) Which one or more of the state learning goals and related essential academic learning requirements are part of the program or planned learning experience;

(e) Description of how credits shall be determined in accord with WAC 180-51-050(1);

(f) Content outline of the program and/or major learning activities and instructional materials to be used;

(g) Description of how student performance will be assessed;

(h) Qualifications of instructional personnel;

(i) Plans for evaluation of program; and

(j) How and by whom the student will be supervised.

(5) The reasons for approval or disapproval shall be communicated to the students and parents or guardians.

AMENDATORY SECTION (Amending Order 12-84, filed 10/4/84)

WAC 180-50-320 Equivalency course of study—National Guard high school career training—Approval procedures—Credit—National Guard youth challenge program—Approval procedures—Credit. (1)(a) School districts may accept National Guard high school career training in lieu of either required or elective high school credits.

Students who are enrolled in such a National Guard program with the approval of the school district of last attendance shall be considered enrolled in such district for state equalization apportionment and other appropriate purposes.

(b) Approval by the district shall be obtained prior to a student's participation in a National Guard career training program as follows:

~~((1))~~ (i) MIL Form 115 or an equivalent form now or hereafter provided by the National Guard shall be completed and filed with the school district; and

~~((2))~~ (ii) The number of credits toward high school graduation to be granted shall be calculated, agreed upon by the student and an authorized representative of the school district, and such agreement noted on MIL Form 115 or such equivalent form.

(c) Credit toward high school graduation may be granted by the school district upon certification by a National Guard training unit commander on the completion component of MIL Form 115 or such equivalent form that the student has met all program requirements.

(2)(a) School districts may accept National Guard youth challenge program participation in lieu of either required or elective high school credits. Students who are enrolled in such a National Guard program shall not be considered enrolled in a school district for state equalization apportionment and other appropriate purposes.

(b) Upon successful completion of the National Guard youth challenge program, verified on a written form by the National Guard youth challenge program administrator and instructor, the student shall be granted high school credits in the same manner as credits are awarded under WAC 180-50-310.

WSR 04-04-087

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-24-073.

Title of Rule: Chapter 180-20 WAC, School bus driver qualifications.

Purpose: Update the definitions section, modify the process for a temporary authorization, add new language regarding the training and qualifications of school bus driver instructors, and more clearly define the minimum requirements of school bus drivers.

Statutory Authority for Adoption: RCW 28A.160.210.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

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

PROPOSED

Proposal Changes the Following Existing Rules:
Amends, repeals and adds language to chapter 180-20 WAC.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Administration Building, 113 Legion Way S.E., Olympia, WA, on March 18, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by March 4, 2004, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 4, 2004.

Date of Intended Adoption: March 19, 2004.

February 2, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-055, filed 8/28/02, effective 9/28/02)

WAC 180-20-009 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) ~~("Student" means the following:~~

~~(a) Any person enrolled in a school program who is under the supervision, direction, or control of the motor vehicle operator authorized under this chapter;~~

~~(b) Any person enrolled in a school program in any public school served by the motor vehicle operator;~~

~~(c) Any person enrolled in a school program in any public school while attending a school related activity at which the motor vehicle operator is performing professional duties; or~~

~~(d) Any former student who is under eighteen years of age and who has been under the supervision, direction, or control of the motor vehicle operator. Former student, for the purpose of this section, includes, but is not limited to, drop-outs, graduates, and students who transfer to other districts or schools.~~

(2)) "School bus driver" means a person, who is employed by a school district including contracted drivers under WAC 180-20-031 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, as well as other motor vehicles for the regularly scheduled transportation of students between home and school, and for school related activities on routinely scheduled routes. School buses shall be operated by authorized drivers when transporting students. An authorized school bus driver may also transport students on field trips and other school related activities.

((3)) (2) "A school bus driver's authorization" means an authorization issued by the superintendent of public instruction indicating that the person has met state board of education requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and/or school activities.

((4)) (3) "School bus driver instructor's ~~((endorsement))~~ authorization" means an ~~((endorsement))~~ authorization issued by the superintendent of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This ~~((endorsement))~~ authorization qualifies a person to train and verify the training of school bus drivers. This ~~((endorsement))~~ authorization shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.

((5)) (4) "School bus driver training course" means a course established by the superintendent of public instruction and taught by ~~((a-qualified))~~ an authorized school bus driver instructor. This course shall be successfully completed by all applicants for a continuing school bus driver's authorization.

((6)) (5) "School bus driver annual in-service training course" means an annual course taught by ~~((a-qualified))~~ an authorized school bus driver instructor. The content and minimum time requirements of such course shall be annually determined by the superintendent of public instruction and shall be required to be completed by the end of the school year by all authorized school bus drivers.

((7)) (6) "School bus driver instructor's course" means a training program authorized by the superintendent of public instruction to qualify a person as a school bus driver instructor.

((8)) (7) "Instructor's annual in-service course" means an annual required course, the content of which shall be determined by the superintendent of public instruction. Successful completion of this course prevents the instructor's ~~((qualification))~~ authorization from lapsing.

((9)) (8) "Serious behavioral problem" includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student.

NEW SECTION

WAC 180-20-021 Training and qualifications of school bus driver instructors—Administration. It shall be the responsibility of the superintendent of public instruction to administer the program of training and qualifications of school bus driver instructors consistent with the provisions of this chapter. The superintendent of public instruction shall determine the qualifications necessary for applicants for the school bus driver instructor course and qualifications necessary for continuation of the school bus driver instructor authorization. Each school bus driver instructor shall verify annually that they continue to meet said qualifications. Intentional falsification of school bus driver training records shall result in permanent disqualification. In the case of denial of authorization or disqualification, the superintendent of public instruction shall provide an appeal process consistent with the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 02-18-055, filed 8/28/02, effective 9/28/02)

WAC 180-20-101 Minimum qualifications of school bus drivers. (1) Every school bus driver must meet and continue to meet the following minimum requirements:

- (a) Be at least twenty-one years of age.
- (b) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.
- (c) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.
- (d) Hold a current and valid first-aid card or equivalent which certifies that the applicant has completed a course in the basic principles of first aid.
- (e) Submit to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial of authorization under (h), (i), and (j) of this subsection.
- (f) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for denial of an authorization.
- (g) Shall not have misrepresented or concealed a material fact in obtaining a school bus driver's authorization or in reinstatement thereof in the previous five years.
- (h) Shall not have had a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding three years or have had their commercial driver's license suspended or revoked within the preceding three years; a certified copy of the suspension or revocation order issued by the department of licensing being conclusive evidence of the suspension or revocation.
- (i) Shall not have incurred three or more speeding tickets (~~in excess~~) of ten miles per hour or more over the speed limit within (~~any twelve-month period, within~~) the last thirty-six months.
- (j) Shall not have been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or nolo contendere is the basis for the conviction) nor under a deferred prosecution under chapter 10.05 RCW where the conduct or alleged conduct is related to the occupation of a school bus driver, including but not limited to the following:
 - (i) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, sexual exploitation of a child under chapter 9.68A RCW; sexual offenses under chapter 9A.44 RCW where a minor is the victim; promoting prostitution of a minor under chapter 9A.88 RCW; the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction;
 - (ii) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription

within the last seven years: Provided, That in the case of felony convictions, the applicable time limit shall be ten years;

(iii) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last three years;

(iv) Any crime against children or other persons as defined in RCW 43.43.830(5) when the date of the conviction or prison release, which ever is more recent, is within ten years of the date of the job application for felonies and within seven years for other crimes.

(k) Shall not have been found in any dependency action under RCW 13.34.030 to have sexually assaulted or exploited any minor or to have physically abused any minor, within the last seven years.

(l) Shall not have been found by a court in a domestic relation proceeding under Title 26 RCW, to have sexually abused or exploited any minor or to have physically abused any minor, within the last seven years.

(m) Shall not have been found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person, within the last seven years.

(n) Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with an expired, lapsed, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter. Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended driver's license.

(o) Shall not have a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues. This subsection shall not be applied so as to deny, revoke, or suspend authorizations to any individual for the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

(2) Every school bus driver must also meet and continue to meet the following requirements:

(a) Verification by a local school district that the person seeking a school bus driver authorization:

(i) Is physically able to maneuver and control a school bus under all driving conditions; and

(ii) Is physically able to use all hand/or foot operated controls and equipment found on state minimum specified school buses; and

(iii) Is physically able to perform daily routine school bus vehicle safety inspections and necessary emergency roadside services; and

(iv) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds.

(b) Provide verification of passing a medical examination every twenty-four months in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. School bus drivers must continue to meet these medical examination requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

(c) Satisfactorily complete a (~~comprehensive~~) school bus driver training course and each year thereafter, satisfactorily complete a school bus driver in-service training course.

AMENDATORY SECTION (Amending WSR 02-18-055, filed 8/28/02, effective 9/28/02)

WAC 180-20-111 Authorization required—Duration—Issuing procedures—Temporary authorizations.

(1) Every school bus driver shall meet the requirements for a school bus driver's authorization or temporary school bus driver's authorization issued in accordance with the provisions of this chapter. An authorization is no longer valid if suspended, lapsed, or revoked.

(2) A school bus driver's authorization shall continue in effect from year to year as long as the person continues to meet the requirements of this chapter or until the authorization lapses or is suspended or revoked.

(3) School bus driver authorizations shall be issued by the superintendent of public instruction upon request by an authorized representative of the employing school district. The employing school district shall forward to the superintendent of public instruction an application for a school bus driver authorization prior to issuance.

(4) The following verifications relating to the applicant must be provided by the employing school district:

(a) Verification by a school bus driver instructor of successful completion of the school bus driver training course as required by this chapter.

(b) Verification that it has on file a medical health certification as required by this chapter.

(c) Verification that it has on file a current five-year complete driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days of the date the application is being submitted for authorization.

(d) Verification that the applicant has a current and valid first-aid card or equivalent.

(e) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC 180-20-101 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that it has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter.

(g) Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.

(h) Verification that the applicant complies with all of the requirements for school bus drivers set forth in this chapter.

(5)(a) Upon approval of an application, the superintendent of public instruction shall issue a notice of school bus driver authorization to the employing school district.

(b) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent of public instruction to such districts prior to the operation of any motor vehicle for the transportation of children.

(6) On or before August 15 of each year, the superintendent of public instruction will provide each school district with a list of authorized drivers and their status.

(7) A temporary authorization may be issued (~~by an educational service district superintendent~~) upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(a) Issuing procedure.

(i) Application for a temporary authorization must be approved by an authorized representative of the employing school district, verified by said school official that the applicant meets the qualification requirements set forth in WAC 180-20-101 (except for a course in first aid and/or the results of a requested criminal record check), and further verified by a school bus driver instructor that the applicant has satisfactorily completed the school bus driver training course, as defined in this chapter. (~~The application shall be submitted to the educational service district superintendent for approval.~~)

(ii) Upon approval (~~of the application by the educational service district superintendent~~;) the temporary authorization will be transmitted to the employing school district.

(b) Effective period. The temporary authorization shall be valid for a period of sixty calendar days and shall be non-renewable: Provided, That the (~~issuing educational service district superintendent may extend such period~~) temporary authorization may be extended for a reasonable number of days when extenuating circumstances exist.

WSR 04-04-105
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 4, 2004, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-128.

Title of Rule: Title 181 WAC.

Purpose: Recommendations regarding exemption to the passage of a basic skills test (WEST-B) required for teachers from out-of-state applying for a Washington state residency teaching certificate.

Statutory Authority for Adoption: RCW 28A.410.210, 28A.410.220.

Statute Being Implemented: RCW 28A.410.210, 28A.410.220.

Summary: The proposed rule will grant out-of-state certified teachers applying for a Washington state residency teaching certificate an exemption from the WEST-B (basic skills test) requirement if they have passed the CBEST or Praxis I tests.

Reasons Supporting Proposal: Both the California Basic Educator Skills Test (CBEST) required in California and Oregon and the Praxis I required by over thirty other states are basic skills tests for prospective teachers. Certified teachers who have passed the CBEST (in California or Oregon) or the Praxis I will have already demonstrated proficiency in basic skills before applying for a Washington state teaching certificate. Allowing this exemption will facilitate the teacher certification process for these teachers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Wallace, Professional Educator Standards Board, (360) 725-6275.

Name of Proponent: Professional Educator Standards Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule change will allow out-of-state certified teachers to exempt the WEST-B basic skills requirement if they have passed the CBEST or Praxis I basic skills test. This exemption will facilitate the teacher certification process for these out-of-state candidates.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Semiahmoo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, on March 23, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Pam Abbott by March 19, 2004, TDD (360) 664-3631 or (360) 725-6275.

Submit Written Comments to: Professional Educator Standards Board, P.O. Box 47236, Olympia, WA 98504-7236, fax (360) 586-4548, by March 19, 2004.

Date of Intended Adoption: March 24, 2004.

February 4, 2004

David W. Anderson
 Assessment Director

NEW SECTION

WAC 181-01-002 WEST-B exemptions. Individuals applying for a Washington State residency teaching certificate who are certified in another state, in lieu of passing the WEST-B, may provide official documentation of passing scores from California or Oregon on the CBEST or scores on the Praxis I of 177 for the reading subtest, 176 for the mathematics subtest and 174 for the writing subtest.

WSR 04-04-106
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 4, 2004, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-129.

Title of Rule: Title 181 WAC.

Purpose: Recommendations regarding proposed time extension for passage of a subject knowledge test (WEST-E/Praxis II) required for an endorsement on a Washington state teaching certificate beginning September 1, 2005.

Statutory Authority for Adoption: RCW 28A.410.210, 28A.410.220.

Statute Being Implemented: RCW 28A.410.210, 28A.410.220.

Summary: The proposed rule will grant out-of-state certified teachers applying for a Washington state residency teaching certificate up to one year to take and pass the WEST-E/Praxis subject knowledge test for an initial endorsement.

Reasons Supporting Proposal: Certified teachers from out-of-state may not have taken the Washington state required Praxis II subject knowledge test or may not have met the Washington state required passing score. Since out-of-state teachers often seek and obtain a teaching position in Washington prior to relocating, the district should be allowed to provisionally employ these teachers according to the State Board of Education rules regarding provisional employment (WAC 79A-128 [180-79A-128]) until they have adequate opportunity to take the test.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Wallace, Professional Educator Standards Board, (360) 725-6275.

Name of Proponent: Professional Educator Standards Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule change will allow out-of-state certified teachers applying for a Washington state residency

PROPOSED

certificate up to one year to take and pass the WEST-E/Praxis II subject knowledge test and, consistent with existing State Board of Education rules (WAC 79A.128 [180-79A-128]) which allows district to provisionally employ these teachers if all other requirements for residency certification have been met.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Semiahmoo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, on March 23, 2004, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Pam Abbott by March 19, 2004, TDD (360) 664-3631 or (360) 725-6275.

Submit Written Comments to: Professional Educator Standards Board, P.O. Box 47236, Olympia, WA 98504-7236, fax (360) 586-4548, by March 19, 2004.

Date of Intended Adoption: March 24, 2004.

February 4, 2004
David W. Anderson
Assessment Director

NEW SECTION

WAC 181-01-003 WEST-E time extension. Individuals applying for a Washington State teaching certificate from another state or country have up to one calendar year from issuance of temporary permit to pass the WEST-E subject knowledge test, provided they are eligible for a temporary permit under WAC 180-79A-128.

WSR 04-04-107

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 4, 2004, 10:37 a.m.]

Original Notice.

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

Title of Rule: Dry peas and lentils (Washington Dry Pea and Lentil Commission), chapter 16-536 WAC.

Purpose: This rule-making proposal makes amendments to sections within the Washington Dry Pea and Lentil Commission's marketing order, chapter 16-536 WAC, to reflect recent statutory changes, while improving readability and clarity and eliminating outdated sections, as well as, increase the current assessment rate.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: During the past three legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.65 RCW. These statutory changes prompted proposed amendments to chapter 16-536 WAC. Proposed amendments expand the commission's policy and purpose statements, update the definitions, update the

commission member selection process, add additional powers and duties to benefit the industry, update meeting and administrative procedures, and expand the commission's information and education role. These amendments achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order. In addition, a proposed amendment will increase the current assessment rate to expand varietal and end-use research, generate new crop protection labels, continue market development, and generate federal matching dollars.

Name of Agency Personnel Responsible for Drafting: Lynn Briscoe, Olympia, Washington, (360) 902-2043; Implementation and Enforcement: Tim McGreevy, Moscow, Idaho, (208) 882-3023.

Name of Proponent: Washington Dry Pea and Lentil Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule-making proposal makes amendments to sections within the Washington Dry Pea and Lentil Commission's marketing order, chapter 16-536 WAC. During the past three legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.65 RCW. These statutory changes prompted proposed amendments to chapter 16-536 WAC to achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order. See Summary above. In addition, a proposed amendment will increase the current assessment rate from one percent of the net receipts at the first point of sale to one and one-half percent to expand varietal and end-use research, generate new crop protection labels, continue market development, and generate federal matching dollars. The following are the proposed amendments:

- New section WAC 16-536-005 Marketing order for Washington dry peas and lentils—Policy statement.
- New section WAC 16-536-006 Marketing order purposes.
- Amend WAC 16-536-010 Definitions.
- Amend WAC 16-536-020 The dry pea and lentil board.
- Repeal WAC 16-536-030 Marketing order purposes.
- Amend WAC 16-536-040 Assessments and collections.
- Amend WAC 16-536-060 Termination of the order.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 15.65.570, the adoption of the final amendments to chapter 16-536 WAC will be determined by a referendum vote of the affected parties.

RCW 34.05.328 does not apply to this rule adoption. Washington State Department of Agriculture is not a named agency, therefore, exempt from this provision.

Hearing Location: Whitman County Public Service Building, Downstairs Auditorium, North 310 Main, Colfax, WA 99111, on March 10, 2004, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Virginia Walsh at (360) 902-1976, by March 3, 2004, TDD (360) 902-1996.

Submit Written Comments to: Lynn Briscoe, Commodities Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, fax (360) 902-2092, e-mail lbriscoe@agr.wa.gov, by March 11, 2004, 5:00 p.m.

Date of Intended Adoption: August 9, 2004.

February 4, 2004

William E. Brookreson
Deputy Director

NEW SECTION

WAC 16-536-005 Marketing order for Washington dry peas and lentils—Policy statement. (1) The marketing of dry peas and lentils within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its dry peas and lentils be properly promoted by:

(a) Enabling producers of dry peas and lentils to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the dry peas and lentils they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of dry peas and lentils within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the dry peas and lentils industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that dry peas and lentils be promoted individually, and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's dry peas and lentils.

(b) Increase the sale and use of Washington state's dry peas and lentils in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's dry peas and lentils.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's dry peas and lentils and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of dry peas and lentils produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state dry pea and lentil commodity board exists primarily for the benefit of the people of the state of Washington and its economy, and with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to dry peas and lentils under the provisions of this marketing order.

NEW SECTION

WAC 16-536-006 Marketing order purposes. This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creat-

ing new or larger local, domestic, and foreign markets; or increasing production efficiency, ensuring a fair regulatory environment; or increasing per capita consumption of dry peas and lentils in Washington state. The Washington state dry pea and lentil commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To carry out the purposes of the order, the board shall provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion and/or other programs for maintaining present markets and/or creating new or larger markets for dry peas and/or lentils. Such programs shall be directed toward increasing the sale of dry peas and/or lentils without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of dry peas and/or lentils nor disparage the quality, value, sale or use of any other agricultural commodity.

(b) Provide for research in the production, processing, irrigation, transportation, handling, and/or distribution of dry peas and/or lentils and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(c) Provide by rules for:

(i) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for dry peas and/or lentils or any products thereof.

(ii) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of dry peas and/or lentils and/or in offering, advertising and/or delivering it therefor.

(iii) Providing for inspection and enforcement to ascertain and effectuate compliance.

(iv) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(d) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services for producers of dry peas and/or lentils for the verification of grades, standards, weights, tests, and sampling of quality and quantity of dry peas and/or lentils purchased by handlers from affected producers.

(ii) Information and services enabling producers to meet their resource conservation objectives.

(iii) Dry peas and lentils-related education and training.

(e) Subject to the provisions of the act, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses

of dry peas and/or lentils produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of dry peas and/or lentils; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that marketing and utilization of dry peas and/or lentils may be encouraged, expanded, improved, or made more efficient.

AMENDATORY SECTION (Amending Order 1768, filed 7/13/82)

WAC 16-536-010 Definitions (~~of terms~~). Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agricultural Commodity Boards Act. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative.

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

(3) "Act" means the Washington State Agriculture (~~Enabling Act of 1961~~) Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any (~~person~~) individual, firm, (~~association or~~) corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local or state government.

(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, dry peas and/or lentils in the state of Washington.

(6) "Commercial quantity" means all the dry peas and/or lentils produced for market in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing dry peas and/or lentils not produced by him or her. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Dry pea and lentil commodity board" hereinafter referred to as "board" or "commission" means the dry pea and lentil commodity board formed under the provisions of WAC 16-536-020.

(9) "Dry peas" means and includes all kinds and varieties of dry peas grown in the state of Washington, including chick peas/garbanzo beans and commercially grown wrinkled peas raised for seed: Provided, That it shall not include dry peas used by the producer thereof on his or her premises for feed, seed and personal consumption: Provided further, That the inclusion of commercially grown wrinkled peas raised for seed will not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(10) "Lentils" means and includes all kinds and varieties of lentils grown in the state of Washington: Provided, That it shall not include lentils used by the producers thereof on his or her premises for feed, seed, and personal consumption.

(11) "Marketing season" or "fiscal year" means the twelve month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to dry peas and/or lentils. A producer-handler shall be deemed to be a producer with respect to the dry peas and/or lentils which he or she produces, and a handler with respect to the dry peas and/or lentils which he or she handles, including those produced by himself or herself. "To produce" means to act as a producer. For purposes of the dry peas and lentils marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(13) "Affected area" means (~~that portion of~~) the state of Washington (~~located east of the summit of the Cascade Mountains~~).

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means one hundred pounds of (~~cleaned~~) dry peas and/or lentils.

AMENDATORY SECTION (Amending Order 5079, filed 8/23/95, effective 9/23/95)

WAC 16-536-020 The dry pea and lentil board. (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of ten members. Eight members shall be affected producers (~~elected~~) appointed as provided in this (~~article~~) marketing order. One member shall be an affected handler (~~elected~~) appointed as provided in this (~~article~~) marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the (~~department and the public~~) director. The position representing the director shall be a voting member.

(b) For the purpose of nomination and (~~election~~) appointment of producer members of the board, the affected area of the state of Washington shall be divided into four representative districts as follows:

(i) District I shall have three board members, being positions 1, 2 and 3 and shall include the county of Whitman.

(ii) District II shall have two board members, being positions 4 and 5 and shall include the county of Spokane.

(iii) District III shall have one board member being position 6 and shall include the counties of Walla Walla, Garfield, Columbia and Asotin.

(iv) District IV shall have two board members, being positions 7 and 8 and shall include all other counties of the state of Washington (~~located east of the summit of the Cascade Mountains~~): Provided, That the addition of another

PROPOSED

member, being position 8, shall not become effective until approved by a referendum vote of the affected commercial wrinkled pea seed producers.

(3) Board membership qualifications.

(a) The ~~((affected))~~ producer members of the board ~~((shall))~~ must be practical producers of dry peas and/or lentils in the district in and for which they are nominated and ~~((elected))~~ appointed and each shall be a citizen~~((s))~~ and resident~~((s))~~ of the state ~~((of Washington))~~, over the age of ~~((twenty-five))~~ eighteen years ~~((each of whom is and has))~~. Each producer board member must be and have been actually engaged in producing dry peas and/or lentils within the state of Washington for a period of five years and has during that time derived a substantial portion of his or her income therefrom and ((who)) is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The ~~((affected))~~ handler member of the board ~~((shall))~~ must be a practical handler of dry peas and/or lentils and shall be a citizen and resident of the state ~~((of Washington))~~, over the age of ~~((twenty-five))~~ eighteen years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership, association or cooperative actually engaged in handling dry peas and/or lentils within the state of Washington for a period of five years and has during that period derived a substantial portion of his or her income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be ~~((elected))~~ appointed each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((seven))~~ eight, the affected handler shall have position ~~((eight))~~ nine and the member ~~((appointed by))~~ representing the director position ~~((nine))~~ ten.

(c) The term of office for the initial board members shall be as follows:

Positions ~~((one, two and three))~~ seven, eight, nine, and ten - one year

Positions four, five and six - two years

Positions ~~((seven, eight, nine, and ten))~~ one, two, and three - three years

~~((No elected))~~ (d) Except for the director's representative, no appointed member of the board may serve more than two full consecutive three-year terms.

(e) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

(5) Nomination ~~((and election))~~ of director-appointed board members.

(a) For the purpose of nominating candidates for ~~((election))~~ appointment to board membership the director shall call separate meetings of affected producers and affected handlers.

(b) Each year the director shall call ~~((for))~~ a nomination meeting~~((s))~~ for director-appointed board members in those districts whose board members term is about to expire. ~~((Such))~~ The meeting~~(s)~~ shall be held at least thirty days in advance of the date set by the director for the ~~((election))~~ advisory vote of board members.

(c) Notice of ~~((every such))~~ a nomination meeting shall be published in newspapers of general circulation within the affected district not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district and handlers according to the list maintained by the ~~((director pursuant to RCW 15.65.200 of the act))~~ board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at ~~((such))~~ a nomination meeting.

(e) Any qualified affected producer or handler may be nominated orally for membership on the board at ~~((such))~~ a nomination meeting~~((s))~~. Nominations may also be made within five days after ~~((any such))~~ the meeting by written petition filed with the director signed by not less than five affected producers or affected handlers.

(f) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the ~~((vacancy))~~ open board position~~(s)~~ by mail to all affected producers and handlers. Nominating petitions for producers and handlers shall be signed by not less than five affected producers and handlers. Final date for filing nominations shall be not less than twenty days after the notice was mailed.

(g) When only one nominee is nominated for a director-appointed position, RCW 15.65.250 shall apply.

(6) ~~((Election))~~ Advisory vote of board members.

(a) ~~((Members of the board shall be elected by secret mail ballot within the month of May))~~ An advisory vote shall be conducted by secret ballot under the supervision of the director within the month of May. Each affected producer and affected handler shall be entitled to one vote. ~~((Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer shall be entitled to one vote. The affected handler member of the board shall be elected by a majority of votes cast by the affected handlers. Each affected handler shall be entitled to one vote.))~~

(b) ~~((If a nominee does not receive a majority of the votes on the first ballot a runoff election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.))~~ An advisory vote shall be conducted for board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(c) Notice of every ~~((election))~~ advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in

advance of the date of ~~((such election))~~ the advisory vote. Not less than ten days prior to every ~~((election))~~ advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer and affected handler entitled to vote whose name appears upon the list of such affected producers and affected handlers maintained by the ~~((director in accordance with RCW 15.65.200))~~ board pursuant to RCW 15.65.295. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(d) Nonreceipt of a ballot by an affected producer or affected handler shall not invalidate the ~~((election))~~ advisory vote of any board member.

(7) Vacancies ~~((prior to election))~~. ~~((In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.))~~ In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) Board compensation. No member of the board shall receive any salary or other compensation, but each member ~~((shall receive ten dollars for each day in actual attendance on or traveling to and from meetings of the board or on special assignment for the board, together with subsistence and traveling expense at the rate allowed by law to state employees. Provided, That the method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the board in advance of the incurrence of such expenses by a board member))~~ may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) Powers and duties of the board. The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order: Provided, That the total reimbursement to all applicants shall not exceed two thousand dollars.

(f) To establish a "dry pea and lentil board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules ~~((and regulations))~~ of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(q) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(r) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(s) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of dry peas and lentils.

(t) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of dry peas and lentils including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(w) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of persons who handle dry peas and lentils within the affected area and data on the amount and value of the dry peas and lentils handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(y) To maintain a list of the names and addresses of all affected persons who produce dry peas and lentils and the amount, by unit, of dry peas and lentils produced during the past three years pursuant to RCW 15.65.295.

(z) To maintain a list of all persons who handle dry peas and lentils and the amount of dry peas and lentils handled by each person during the past three years pursuant to RCW 15.65.295.

(aa) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(11) Procedures for board.

(a) The board shall hold regular meetings(~~(,at least quarterly,)~~) with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). The notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days

prior to the meeting through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver (~~(thereof by each)~~) from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending Order 1895, filed 7/3/86, effective 8/4/86)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be one and one-half percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That (~~(such)~~) an assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) (~~(Such)~~) Assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of (~~(the)~~) this order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of (~~(such)~~) this marketing (~~(agreement or)~~) order, to all persons from whom (~~(such)~~) moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate (~~(such)~~) the policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and (~~(the)~~) this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the (~~(same)~~) unpaid assessment to defray the cost of enforcing the collecting of (~~(the same)~~) it. In the event of failure of such person or persons to pay any (~~(such)~~) due and payable assessment or other such sum, the board may bring a civil action against (~~(such)~~) the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent (~~(thereon)~~), and (~~(such)~~) the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Marketing Order Article VI, filed 3/26/65)

~~WAC 16-536-060 Termination of the order. ((The order shall be terminated if the director finds that fifty one percent by numbers and fifty one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.))~~ Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-536-030 Marketing order purposes.

WSR 04-04-109
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed February 4, 2004, 11:18 a.m.]

Original Notice.

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

Title of Rule: WAC 357-10-005 Definitions, 357-10-010 Classification plan—Framework and general direction, and 357-10-020 Classification plan—Implementation—Appeal.

Purpose: To implement the provisions of RCW 41.06136 [41.06.136] and 41.06.139.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These rules are a result of the passage of SHB 1268 during 2003 legislative session. RCW 41.06.136 and 41.06.139, as adopted under SHB 1268, require the board to adopt rules regarding the framework of the new classification plan for state employees and provide an appeal right of the classification plan.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 357-10-005, gives definitions that should be applied for this chapter of rules.

WAC 357-10-010, develops the framework for the classification plan, which will be adopted by the director.

WAC 357-10-020, provides employees the right to appeal the classification plan adopted by the director if they feel it does not adhere to the criteria listed in WAC 357-10-010.

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 11, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by March 5, 2004, TDD (360) 753-4107 or (360) 586-8260.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by March 5, 2004.

Date of Intended Adoption: March 11, 2004.

February 3, 2004

E. C. Matt
Secretary

NEW SECTION

WAC 357-10-005 Definitions. The following definitions apply to the rules in chapter 357-10 WAC:

- (1) Board is the Washington personnel resources board.
- (2) Class is the level of work within an occupational category.
- (3) Director is the director of department of personnel.
- (4) Employee is a person working in the classified service who is subject to chapter 41.06 RCW and the civil service rules as codified in Title 357 WAC.
- (5) Employer is a state agency or higher education institution or related board.
- (6) Occupational category is a grouping of job functions having similar purpose and knowledge requirements.
- (7) Position is a group of duties and responsibilities to be performed by an employee. A position may be filled or vacant and full time or part time.

NEW SECTION

WAC 357-10-010 Classification plan—Framework and general direction. (1) Beginning January 1, 2005, the director must implement a comprehensive classification plan. The plan must support state government's efforts to deliver effective and efficient services to the citizens of the state. To achieve this goal, the classification plan, and any modifications to it, shall be designed in accordance with the following guiding criteria:

- (a) The plan shall be modern, simple, and streamlined, with the number of job classifications and administrative processes kept to a reasonable minimum;
- (b) It must be flexible and able to quickly respond to a dynamic workplace and workforce, changing technologies, varying economic and social conditions, and citizen needs;
- (c) It must facilitate the reorganization and decentralization of government services;

(d) It must enhance employee mobility and career advancement opportunities; and,

(e) It must support the value state government places on workplace diversity.

(2) The plan shall be prepared in consultation with employers, employee organizations, and other interested parties. Following twenty calendar days' notice, the director shall hold open public hearings prior to adoption or revision of the plan.

(3) Subsequent revisions to the classification plan that are initiated by the director, employers, employees, and/or employee organizations must adhere to the guiding criteria listed in subsection (1), and any other provisions adopted by the director.

NEW SECTION

WAC 357-10-020 Classification plan—Implementation—Appeal. Any employee who believes that the new comprehensive classification plan adopted by the director does not adhere to the guiding criteria listed in WAC 357-10-010 may appeal to the board by filing written notice within thirty calendar days of notification of the director's action. The board's decision is final and not subject to further appeal.



NO EXPEDITED RULE MAKINGS FILED IN THIS ISSUE

EXPEDITED



WSR 04-04-001
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 21, 2004, 3:04 p.m.]

Date of Adoption: January 21, 2004.

Purpose: The purpose of amending these rules is to provide guidance to applicants with regard to the experience, education and examination application requirements to become licensed professional engineers, professional land surveyors, or land surveyors in training. In addition, they provide guidance to licensed engineers, land surveyors and on-site wastewater treatment system designers on requirements and process for adjudicative proceedings and the business procedures of the board. It also reorganizes and clarifies additional existing rules in accordance with the governor's directive for rule review.

Citation of Existing Rules Affected by this Order: Repealing WAC 196-24-041, 196-24-080, 196-24-085, 196-24-100, 196-24-105, 196-25-020, 196-25-030 and 196-25-100; and amending WAC 196-12-010, 196-12-020, 196-12-030, 196-12-045, 196-12-050, 196-16-007, 196-16-010, 196-16-020, 196-16-031, 196-21-010, 196-21-020, 196-21-030, 196-23-070, 196-25-001, 196-25-005, 196-25-010, and 196-25-050.

Statutory Authority for Adoption: Chapters 18.43 and 18.235 RCW.

Adopted under notice filed as WSR 03-16-112 and 03-16-113 on August 6, 2003.

Changes Other than Editing from Proposed to Adopted Version: Amendments to WAC 196-24-110, 196-25-002, 196-25-040, and 196-27A-025 filed under WSR 03-16-113 are not adopted at this time and will be acted upon at a later date under a supplemental CR-102 filing.

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 12, Amended 18, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 18, Repealed 8.

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 12, Amended 18, Repealed 8.

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

January 21, 2003
 George A. Twiss
 Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 196-24-041	Brief adjudicative proceedings—Denials based on failure to meet prerequisites for licensure, temporary permit, or examination.
WAC 196-24-080	Fees.
WAC 196-24-085	Temporary permits—Information required of nonresidents intending to practice thirty days or less in a calendar year.
WAC 196-24-100	Meetings and officers.
WAC 196-24-105	Examination review.

Chapter 196-09 WAC

BOARD PRACTICES AND PROCEDURES

AMENDATORY SECTION (Amending WSR 98-12-045, filed 5/29/98, effective 7/1/98)

WAC 196-09-010 Declaration of purpose. This chapter contains rules and administrative procedures for ((~~all adjudicative~~)) proceedings held by the board in executing its responsibilities under chapter 18.43 RCW. ((~~This chapter replaces all rules previously codified in chapter 196-08 WAC.~~))

NEW SECTION

WAC 196-09-050 Brief adjudicative proceedings. The board will conduct brief adjudicative proceedings as provided for in RCW 34.05.482 through 34.05.494 of the Administrative Procedure Act. Such proceedings may be held at the request of the applicant/registrant/board (petitioner) for the following purposes:

(1) To appeal a determination that an applicant for certification as an engineer-in-training or land surveyor-in-training does not meet the minimum certification requirements as provided in chapter 18.43 RCW and/or chapters 196-20 and 196-21 WAC; or

(2) To appeal a determination that a professional engineer or professional land surveyor applicant does not meet the minimum licensing requirements as provided in chapter 18.43 RCW and/or chapter 196-12 WAC (PE) and chapter 196-16 WAC (PLS); or

(3) To determine whether a licensee requesting renewal or reinstatement has submitted all required information and has met the minimum criteria for renewal or restatement; or

(4) To determine whether an individual, named in default of student loan payments under RCW 18.43.160, holds a certification or license issued under chapter 18.43 RCW.

NEW SECTION

WAC 196-09-055 Records required for brief adjudicative proceeding. The records for the brief adjudicative proceeding shall include:

(1) Applicants for certification/licensing: Original complete application with all attachments required by the board; all documents relied upon in reaching the determination of ineligibility; and all correspondence between the applicant and the board about the application or the appeal.

(2) License renewal or reinstatement: Copy(ies) of original renewal notice(s) sent by the department of licensing to the licensee; all documents received by the board from or on behalf of the licensee relating to information, payments or explanations that have been provided to the board.

(3) Default of student loan payments: Copy(ies) of notice(s) to the board showing the name and other identification information of the individual claimed to be in default on student loan payments; copies of identification information corresponding to the person(s) who is (are) certified/licensed by the board that relate to the identity of the individual in default; and all documents received by the board from or on behalf of the licensee relating to rebutting such identification.

NEW SECTION

WAC 196-09-060 Procedures for brief adjudicative proceedings. A brief adjudicative proceeding shall be held under the supervision of a presiding officer as designated by the board chair. The presiding officer shall have knowledge and experience in the administrative processes of the board and the requirements of the provisions for a brief adjudicative proceeding as provided for in chapter 34.05 RCW and WAC 196-09-050 through 196-09-060, but shall not have participated in the determination or action under review. Except as may be otherwise required by the presiding officer, the following procedures shall apply:

(1) The petitioner shall present petitioner's position in writing in accordance with the process and schedule established by the presiding officer.

(2) The presiding officer may accept oral testimony and/or argument.

(3) No witnesses may appear to testify.

(4) In addition to the written record, the presiding officer may employ agency expertise as a basis for the decision.

(5) The presiding officer will not issue an oral order at the time of the brief adjudicative proceeding. Within ten days of the final date established by the presiding officer for receipt of additional materials and/or oral arguments, if any, the presiding officer will enter a written initial order.

NEW SECTION

WAC 196-09-100 Investigative cost reimbursement. The reimbursement of investigative costs may be ordered by the board if the adjudicative process has resulted in a finding by the board that identifies conduct which is considered misconduct or malpractice and has resulted in the suspension or revocation of the license to practice. Costs subject to reimbursement are those expenses paid by the board during the

investigation process, such as expert or consultant witness contracts.

NEW SECTION

WAC 196-09-110 Cooperation with board investigation. In the course of an investigation and request by the board under its authority in chapter 18.43 RCW, a licensee or registrant must provide any papers, records, or documents in their possession or accessible to them that pertain to the allegations in a complaint or investigation, and a written explanation addressing such complaint/investigation or other information requested by the board. A facility related to a complaint or investigation shall be made accessible by the licensee during regular business hours.

NEW SECTION

WAC 196-09-120 Meetings and officers. The Washington state board of registration for professional engineers and land surveyors shall hold its regular public meeting annually in June. Special public meetings may be held at such times and places as the board may deem necessary. Public notice of all public meetings shall be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.

At the regular annual meeting the board shall elect a chair and vice-chair to hold office for one year commencing July 9. The executive director of the board shall serve as secretary. A vacancy in any office shall be filled for the remainder of the term by special election at the next special public meeting.

NEW SECTION

WAC 196-12-005 Declaration and purpose. This chapter contains rules and procedures for applications, eligibility and examinations to be licensed as professional engineers.

AMENDATORY SECTION (Amending WSR 98-12-052, filed 5/29/98, effective 7/1/98)

WAC 196-12-010 Eligibility and applications. The law requires eight years of experience in engineering work of a character satisfactory to the board and passing the fundamentals-of-engineering examination to be eligible for the second stage (PE) engineer examination. These eight years must be of broad based, progressive experience to include gaining knowledge and comprehension of engineering subjects and applying engineering principles. The eight years of experience must be completed sixty days prior to the date of the examination.

A professional engineer (PE) applicant must have passed the first stage examination (the fundamentals-of-engineering (FE) examination) and be enrolled as an engineer-in-training (EIT), or qualify to waive the FE examination in accordance with WAC 196-12-050, before he or she can take the second stage (PE) examination. If the applicant has at least eight years of qualifying engineering experience, the PE examination may be applied for at the same time that he or she applies for the FE examination. The PE application may also be sub-

mitted before the results of the FE examination have been received, provided the application is submitted at least four months before the second stage examination date.

All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee (~~and charge~~) as listed in WAC (~~(196-26-020)~~) 196-26A-025 is four months prior to the date of the examination. Late applications will be considered for a later examination. Supporting documents such as college transcripts and experience verification forms must be (~~submitted in a timely manner~~) received by the board three months prior to the date of the examination in order for the board to determine eligibility prior to (~~meet~~) examination (~~preparation~~) deadlines. (~~An applicant will be notified what documents are missing, and a date set by the board by which these documents must be received.~~) Failure to have the (~~missing~~) supporting documents sent to the board by the defined deadline will result in the applicant being delayed until a later examination.

To reschedule the taking of an examination, a written request accompanied by the applicable fee (~~and charge~~) as listed in WAC (~~(196-26-020)~~) 196-26A-025 is required at least three months prior to the examination date. Once an application has been approved, no further application is required.

AMENDATORY SECTION (Amending WSR 02-01-071, filed 12/14/01, effective 1/30/02)

WAC 196-12-020 Experience records. (~~The law requires eight years of experience in engineering work of a character satisfactory to the board and passing the fundamentals of engineering examination to be eligible for the second stage (PE) engineer examination. These eight years must be of broad-based, progressive experience to include gaining knowledge and comprehension of engineering subjects and applying engineering principles. The eight years of experience must be completed sixty days prior to the date of the examination.~~)

The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record:

(1) Education experience will be based on transcripts. Therefore, any transcripts not previously sent to the board's office should be submitted for maximum experience credit. Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in engineering approved by the engineer accreditation commission (EAC) of the accreditation board for engineering and technology (ABET, Inc.) shall be equivalent to four years of required experience. Satisfactory completion of each year of such an approved engineering curriculum is equivalent to one year of experience.

(b) Graduation with a baccalaureate degree in a program in engineering technology approved by the technology accreditation commission (TAC) of the accreditation board for engineering and technology (ABET, Inc.) is equivalent to

three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.

(c) Graduation in an approved four year non-ABET, Inc. accredited engineering curriculum will be given a maximum of three years of experience.

(d) A maximum of one year may be granted for post-graduate engineering courses approved by the board for those applicants having earned degrees in accordance with (a), (b) or (c) of this subsection.

(e) A nonengineering bachelor of science program can be given a maximum of two years of experience. If the degree is followed by a master of science in engineering from a school that has an ABET, Inc. accredited undergraduate program in the same discipline as the master's degree, a maximum of four years of experience may be granted for this combination of education.

(f) Graduation with an associate degree in engineering from an approved curriculum may be equivalent of up to two years of required experience.

(g) Education gained in a piecemeal fashion over time where no degree is conferred will be granted up to a maximum of two years of experience. For the purpose of this subsection, education in a "piecemeal fashion" means: One or two classes taken at a time, often at different schools; seminars; workshops; and classes taken through industry and the military. In order to determine the appropriate amount of experience, this type of education will be compared to college coursework in a baccalaureate of engineering technology degree program.

(h) The board may approve engineering degree programs from other countries.

(i) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET, Inc. with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated in accordance with (a) and (b) of this subsection. A list of those approved mutual recognition degree programs is maintained in the board office.

(ii) Applicants having engineering degrees from programs in countries that are not on the mutual recognition list will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. (~~If the evaluation service says that~~) The board will use the evaluation to determine if the foreign degree is equivalent to an ABET, Inc. accredited degree. If the board determines that the degree is equivalent, experience will be granted in accordance with (a) or (b) of this subsection. If the (~~evaluation says~~) board determines that the foreign degree is not equivalent to an ABET, Inc. accredited degree, then a maximum of three years of experience may be granted in accordance with (c) of this subsection.

(iii) An applicant with an undergraduate foreign degree from a program that is not on the mutual recognition list, can waive the requirement for a degree evaluation if they have a master of science in engineering from a school that has an ABET, Inc. accredited undergraduate engineering degree

program in the same discipline as the master's degree. A maximum of four years of experience can be granted for this combination of education.

(i) Any other education will be taken into account and evaluated on its merits.

(j) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.

(2) Work experience will be approved based on a demonstration of competency and progressive responsibility in the analysis, synthesis and evaluation of engineering concepts and data, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering. Under the general guidance and direct supervision of an authorized professional, the applicant must be in a position of making independent judgments and decisions in the following experience areas:

- (a) Formulating conclusions and recommendations;
- (b) Identifying design and/or project objectives;
- (c) Identifying possible alternative methods and concepts;
- (d) Defining performance specifications and functional requirements;
- (e) Solving engineering problems;
- (f) Interacting with professionals from other areas of practice;
- (g) Effectively communicating recommendations and conclusions;
- (h) Demonstrating an understanding and concern for energy/environmental considerations, and sustainability of resources.

(3) The branch of structural engineering requires specialized work experience to protect the public safety. To be eligible to take the structural license examination, an applicant must have at least two years of progressive responsibility in structural engineering experience. These two years of structural experience are in addition to the eight years of engineering experience required to be registered as a professional engineer and must be documented in the application in accordance with subsection (2) of this section. The structural engineering experience must be supervised by a licensed professional engineer in the branch of structural engineering or a licensed professional engineer with significant structural engineering work experience.

(4) Engineering teaching character may be considered satisfactory experience up to a maximum of two years.

(5) Applied research is considered satisfactory experience when it meets the following conditions:

(a) The research must be conducted under the guidance or supervision of a licensed engineer. For the purposes of this subsection, guidance or supervision means being cognizant of all applicable aspects of the work and a reviewer of all applicable reporting documentation.

(b) The principle result(s) of the research are in a published report or a recognized engineering journal article in which the applicant is the first author or the work is adequately documented and available to the board upon request.

(6) For military engineering experience to be considered acceptable, it should be similar to engineering experience that would be gained in a nonmilitary environment as defined in subsection (2) of this section, and such experience must be verified.

(7) Any work experience gained without the supervision of a professional engineer authorized to practice under chapter 18.43 RCW or an individual authorized by another statute to practice engineering, or any work experience gained in any other situation which violates the provisions of chapters 18.43 and 18.235 RCW or Title 196 WAC will not be counted toward the statutory experience requirement.

AMENDATORY SECTION (Amending WSR 02-01-071, filed 12/14/01, effective 1/30/02)

WAC 196-12-030 Examinations. (1) Except as provided in WAC 196-12-050, to become licensed as a professional engineer the candidate must pass two stages of examination. The first stage is the fundamentals-of-engineering examination. The second stage examination consists of multiple parts including the principles and practice (branch) examination and law and ethics examination. The law and ethics exam is a take-home examination covering chapters 18.43 and 18.235 RCW and Title 196 WAC. The fundamentals-of-engineering examination must be passed, or waived in accordance with WAC 196-12-050, before taking the second stage examination.

Examinations are given at times and places designated by the board. ~~((The schedule of future examinations and examination syllabi may be obtained from the board office.))~~ Refer to the respective Internet websites of the National Council of Examiners for Engineering and Surveying (NCEES), and the board for future examination schedules and syllabi. Examinees will not be allowed to view any examination material prior to taking the examination other than syllabi available to the public or sample examination booklets published by the National Council of Examiners for Engineering and Surveying. If one examination part is failed, only that examination part must be retaken.

(2) If a professional engineer holding a current registration in the state of Washington wants to become licensed in multiple branches of engineering, an additional principle and practice examination must be taken in each branch.

(3) The branch of structural engineering requires a series of examinations, as determined by the board, to protect the public safety. To become licensed as a professional engineer in the branch of structural engineering, the candidate must pass: The stage 1 fundamentals-of-engineering examination; the stage 2 principles and practice of engineering (PE) and the take-home law and ethics examinations; and the stage 3 examination comprised of examinations in the principles and practice of structural engineering and structural engineering issues important to Washington state.

AMENDATORY SECTION (Amending WSR 98-12-052, filed 5/29/98, effective 7/1/98)

WAC 196-12-045 Comity registration of applicants qualified in other jurisdictions. (1) Applicants for registra-

tion as a professional engineer by comity must meet the following criteria:

(a) The applicant must complete an application on forms provided by the board and filed with the executive director at the board's address accompanied by the appropriate fee (~~and charge~~) pursuant to WAC (~~(196-26-020)~~) 196-26A-035.

(b) The applicant's qualifications must meet the requirements of chapter 18.43 RCW and this chapter.

(c) The applicant is in good standing with the licensing agency in a state, territory, possession, district, or foreign country. Good standing shall be defined as a currently valid license in the jurisdiction of original registration or the jurisdiction of most recent practice if different from the jurisdiction of original registration.

(d) The applicant has been qualified by written examinations determined by the board to adequately test the fundamentals and principles and practice of engineering.

(2) The applicant will be required to pass the law and ethics examination and may be required to take and pass state specific examinations to demonstrate competency in issues specific to Washington.

(3) The original application for comity may be for multiple branches of engineering provided that the applicant has passed an examination in each branch equivalent to the examination given in the state of Washington. Licenses will be issued only in the branches of engineering offered by the board. Additional branches may be added at a later time; however, this will require submitting a new application and fee.

AMENDATORY SECTION (Amending WSR 98-12-052, filed 5/29/98, effective 7/1/98)

WAC 196-12-050 Waiving the fundamentals-of-engineering examination. An applicant who has at least twelve years of experience satisfactory to the board as identified in WAC 196-12-020(2) after obtaining a baccalaureate degree in an approved engineering curriculum as defined in WAC 196-12-020 (1)(a), (e) and (h)(i) and (ii), may request that the stage 1 fundamentals-of-engineering (FE) examination be waived and that permission be granted to take the stage 2 examination (principles and practice and law and ethics) only: Provided, That the applicant has not failed the FE examination within the last ten years.

The opportunity to waive the stage 1 examination is based on the premise that the demonstration of a solid experience record is a better measure of engineering competency than the passage of the stage 1 examination at this point in the applicant's career. It is the board's discretion, based on information provided in the application, as to whether to grant a waiver.

Teaching experience is not limited to two years for the purposes of qualifying for this waiver.

The applicant should take note that a license granted based on waiving the fundamentals exam may not be accepted by other licensing jurisdictions.

NEW SECTION

WAC 196-12-055 Temporary permits—Information required of nonresidents intending to practice thirty days

or less in a calendar year. Every nonresident engineer who intends to conduct professional practice under the exemption of RCW 18.43.130(2), shall furnish the board, a minimum of three months prior to the commencement of such work with the following information:

(1) A properly completed application as prescribed by the board.

(2) Jurisdiction where currently registered.

(3) Imprint of professional seal.

(4) Dates work is to be started and terminated in the state of Washington. If the time differential between the starting and terminating date is in excess of thirty days in any calendar year, applicant must specify the days (totaling no more than thirty) on which the practice of engineering is to be performed in Washington.

(5) Name and address of client.

(6) Description and location (address) of project and regulating authority (if applicable).

(7) Application fee as determined by the director of the department of licensing.

Upon approval of the information submitted, the board shall issue a permit to the nonresident engineer for the temporary practice of engineering in Washington.

Plans, specifications, and reports prepared by the nonresident engineer shall be signed, dated, and stamped with their professional seal. A copy of the permit issued by this board shall be attached to the engineering documents submitted for approval or building permit.

The exemption contained in RCW 18.43.130(2) shall only apply to individuals. Corporations and partnerships shall not practice in Washington unless authorized to do so under RCW 18.43.130 (8) and (9).

NEW SECTION

WAC 196-12-065 Retired status certificate of registration. In accordance with RCW 18.43.075, any individual who has been issued a certificate of registration, in accordance with chapter 18.43 RCW, as a professional engineer having reached at least the age of sixty-five and having discontinued active practice as an engineer may be eligible to obtain a "retired certificate of registration." If granted, further certificate of registration renewal fees are waived. For the purpose of this provision, "active practice" is defined as exercising direct supervision and control over the development and production of an engineering document as provided in RCW 18.43.070 and/or any related activities pertaining to the offer of and/or the providing of professional engineering services as defined in RCW 18.43.020.

(1) Applications. Those persons wishing to obtain the status of a retired registration shall complete an application on a form as provided by the board. Applications shall be sent to the executive director at the address of the board. Upon receipt of said application and, if deemed eligible by the board, the retired status would become effective on the first scheduled renewal date of the certificate of registration that occurs on or after the applicant reaches the age of sixty-five. It shall not be necessary that an expired certificate of registration be renewed to be eligible for this status. The board will not provide refund of renewal fees if the applica-

tion for "retired" status is made and granted before the date of expiration of the certificate of registration.

(2) Privileges. In addition to the waiver of the renewal fee, a retired registrant is permitted to:

(a) Retain the board issued wall certificate of registration;

(b) Use the title professional engineer (PE), provided that it is supplemented by the term retired, or the abbreviation "ret";

(c) Work as an engineer in a volunteer capacity, provided that the retired registrant does not create an engineering document, and does not use their seal, except as provided for in (d) of this subsection;

(d) Provide experience verifications and references for persons seeking registration under chapter 18.43 RCW. If using their professional seal the retired registrant may place the word "retired" in the space designated for the date of expiration;

(e) Serve in an instructional capacity on engineering topics;

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering work performed by the registrant before they were granted a retired registration;

(g) Serve in a function that supports the principles of registration and/or promotes the profession of engineering, such as members of commissions, boards or committees;

(h) Serve in an engineering capacity as a "good samaritan," as set forth in RCW 38.52.195 and 38.52.1951, provided said work is otherwise performed in accordance with chapter 18.43 RCW.

(3) Restrictions. A retired registrant is not permitted to:

(a) Perform any engineering activity, as provided for in RCW 18.43.020, unless said activity is under the direct supervision of a Washington state professional engineer who has a valid/active registration in the records of the board;

(b) Act as the designated engineer or the engineer in responsible charge for a Washington engineering corporation or Washington engineering limited liability company;

(c) Apply their professional engineers seal, as provided for in RCW 18.43.070, to any plan, specification, plat or report, except as provided for in subsection (2)(d) of this section.

(4) Certificate of registration reinstatement. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active engineering practice. At that time the retired registrant shall be removed from retired status and placed on valid/active status in the records of the board. All rights and responsibilities of a valid/active registration will be in effect. At the date of expiration of the reinstated certificate of registration, the registrant may elect to either continue active registration or may again apply for retired registration in accordance with the provisions of this chapter.

(5) Exemptions. Under no circumstances shall a registrant be eligible for a retired registration if their certificate of registration has been revoked, surrendered or in any way permanently terminated by the board under RCW 18.43.110. Registrants who are suspended from practice and/or who are subject to terms of a board order at the time they reach age

sixty-five shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

(6) Penalties for noncompliance. Any violations of this section shall be considered "misconduct and/or malpractice" as defined in RCW 18.43.105. Such violations are subject to penalties as provided for in RCW 18.235.110 and 18.43.120.

NEW SECTION

WAC 196-16-006 Declaration and purpose. This chapter contains rules and procedures for applications, eligibility and examinations to be licensed as professional land surveyors.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-16-007 Eligibility and applications. The law requires eight years of experience in land surveying work of a character satisfactory to the board and passing the fundamentals-of-land surveying examination to be eligible for the professional land surveyor examination. The eight years of experience must be completed sixty days prior to the date of the examination.

All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee (~~and charge~~) as listed in WAC (~~196-26-020~~) 196-26A-025 is four months prior to the date of the examination. Late applications will be considered for a later examination. Supporting documents such as college transcripts and experience verification forms must be received by the board three months prior to the date of the examination in order for the board to determine eligibility prior to examination deadlines. Failure to have the supporting documents sent to the board by the defined deadline will result in the applicant being delayed until a later examination.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall request to take or retake the examination at least three months prior to the examination date. A written request accompanied by the applicable fee (~~and charge~~) as listed in WAC (~~196-26-020~~) 196-26A-025 is required to reschedule for an examination.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-16-010 Experience records. (~~The law requires eight years of experience in land surveying work of a character satisfactory to the board and passing the fundamentals-of-land surveying examination to be eligible for the professional land surveyor examination. The eight years of experience must be completed sixty days prior to the date of the examination.~~)

The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experi-

ence as appropriate. The board will use the following criteria in evaluating an applicant's experience record.

(1) Education experience will be based on transcripts. Therefore, any transcripts not previously sent to the board's office should be submitted for maximum experience credit. Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in land surveying from an approved curriculum shall be equivalent to four years of required experience.

(b) Graduation with an associate degree in land surveying from an approved curriculum shall be equivalent to two years of required experience.

(c) Each year completed of an approved curriculum without graduation shall be granted up to a year of required experience.

(d) A maximum of one year may be granted for post-graduate college courses approved by the board. Postgraduate education will count toward the eight years of required experience as described in subsection (2) of this section.

(e) Any other education will be taken into account and evaluated on its merits.

(f) Experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.

(2) In evaluating work experience, the board will be looking for eight years of broad based, progressive field and office experience in surveying work under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice land surveying, a minimum of four years of which shall be in a position of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional except as provided for in subsections (1)(d) and (3) of this section. This latter experience shall not be limited to, but must include the following:

(a) Applying state, federal and case law;

(b) Exercising sound judgment when making independent decisions regarding complex boundary, topographic, horizontal and vertical control, and mapping issues;

(c) Field identification and evaluation of boundary evidence, including monumentation, and the ability to use that evidence for boundary determination;

(d) Conducting research;

(e) Preparing and analyzing complex property descriptions; and

(f) Interacting with clients and the public in conformance with chapter ~~((196-27))~~ 196-27A WAC.

The board may grant partial credit for experience that does not fully meet the requirements in (a) through (f) of this subsection.

(3) Teaching of a character satisfactory to the board may be recognized as surveying experience up to a maximum of two years.

(4) In evaluating combined education and experience the board will be looking at transcripts and work experience to

determine knowledge in subsection (2)(a) through (f) of this section.

(5) Any work experience gained in a situation which violates the provisions of chapters 18.43 and 18.235 RCW or Title 196 WAC will not be credited towards the experience requirement.

(6) A registered professional engineer who applies to become registered as a professional land surveyor must meet the requirements stated within this section.

~~((7) An applicant meeting the requirements for six years of experience before the effective date of the law change on July 1, 1996, may be approved by the board to take the examination based on the rules in effect on January 1, 1996. This subsection expires on July 1, 1999.))~~

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-16-020 Examinations. (1) To become licensed as a professional land surveyor the candidate must pass the fundamentals-of-land surveying examination, principles and practice examination, and law and ethics examination. A candidate must pass the fundamentals-of-land surveying examination before taking the principles and practice examination ~~((except a candidate approved under the six year requirement in accordance with WAC 196-16-010(7) may elect to take the principles and practice and fundamentals examinations on two consecutive days))~~. The fundamentals and principles and practice examinations are given at times and places designated by the board. ~~((The schedule of future examinations and an examination syllabus may be obtained from the board office.))~~ See the respective Internet websites of the National Council of Examiners for Engineering and Surveying (NCEES), and the board for future examination schedules and syllabi. The law and ethics exam is a take-home examination covering chapters 18.43 and 18.235 RCW and Title 196 WAC. If one of these examinations is failed, only that examination must be retaken.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-16-031 Comity—Registration of applicants qualified in other jurisdictions. (1) Applicants for registration as a land surveyor by comity must meet the following criteria:

(a) The applicant must complete an application on forms provided by the board and filed with the executive director at the board's address accompanied by the appropriate fee pursuant to WAC 196-26A-035;

(b) The applicant's qualifications meet the requirements of chapter 18.43 RCW and this chapter;

~~((b))~~ (c) The applicant is in good standing with the licensing agency in a state, territory, possession, district, or foreign country. Good standing shall be defined as a currently valid license in the jurisdiction of original registration or the jurisdiction of most recent practice, if different from the jurisdiction of original registration~~((-)); and~~

~~((e))~~ (d) The applicant has been qualified by a written examination determined by the board to adequately test the fundamentals and principles and practice of land surveying

and whose experience includes WAC 196-16-010 (2)(a) through (f).

(2) The applicant will be required to pass examinations to demonstrate competency in land surveying issues important to Washington, and law and ethics. Comity applicants will not be required to take the fundamentals-of-land surveying and full principles and practice examinations administered by the board.

NEW SECTION

WAC 196-16-035 Retired status certificate of registration. In accordance with RCW 18.43.075, any individual who has been issued a certificate of registration, in accordance with chapter 18.43 RCW, as a professional land surveyor, having reached at least the age of sixty-five and having discontinued active practice as a land surveyor, may be eligible to obtain a "retired certificate of registration." If granted, further certificate of registration renewal fees are waived. For the purpose of this provision, "active practice" is defined as exercising direct supervision and control over the development and production of a land surveying document as provided in RCW 18.43.070 and/or any related activities pertaining to the offer of and/or the providing of professional land surveying services as defined in RCW 18.43.020.

(1) Applications. Those persons wishing to obtain the status of a retired registration shall complete an application on a form as provided by the board. Applications shall be sent to the executive director at the address of the board. Upon receipt of said application and, if deemed eligible by the board, the retired status would become effective on the first scheduled renewal date of the certificate of registration that occurs on or after the applicant reaches the age of sixty-five. It shall not be necessary that an expired certificate of registration be renewed to be eligible for this status. The board will not provide refund of renewal fees if the application for "retired" status is made and granted before the date of expiration of the certificate of registration.

(2) Privileges. In addition to the waiver of the renewal fee, a retired registrant is permitted to:

(a) Retain the board issued wall certificate of registration;

(b) Use the title professional land surveyor (PLS), provided that it is supplemented by the term retired, or the abbreviation "ret";

(c) Work as a land surveyor in a volunteer capacity, provided that the retired registrant does not create a land surveying document, and does not use their seal, except as provided for in (d) of this subsection;

(d) Provide experience verifications and references for persons seeking registration under chapter 18.43 RCW. If using their professional seal the retired registrant may place the word "retired" in the space designated for the date of expiration;

(e) Serve in an instructional capacity on land surveying topics;

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to land surveying work performed by the registrant before they were granted a retired registration;

(g) Serve in a function that supports the principles of registration and/or promotes the profession of land surveying, such as members of commissions, boards or committees;

(h) Serve in a land surveying capacity as a "good samaritan," as set forth in RCW 38.52.195 and 38.52.1951, provided said work is otherwise performed in accordance with chapter 18.43 RCW.

(3) Restrictions. A retired registrant is not permitted to:

(a) Perform any land surveying activity, as provided for in RCW 18.43.020, unless said activity is under the direct supervision of a Washington state professional land surveyor who has a valid/active registration in the records of the board;

(b) Act as the designated land surveyor or land surveyor in responsible charge for a Washington land surveying corporation or Washington land surveying limited liability company;

(c) Apply their professional land surveyors seal, as provided for in RCW 18.43.070, to any plan, specification, plat or report, except as provided for in subsection (2)(d) of this section.

(4) Certificate of registration reinstatement. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active land surveying practice. At that time the retired registrant shall be removed from retired status and placed on valid/active status in the records of the board. All rights and responsibilities of a valid/active registration will be in effect. At the date of expiration of the reinstated certificate of registration, the registrant may elect to either continue active registration or may again apply for retired registration in accordance with the provisions of this chapter.

(5) Exemptions. Under no circumstances shall a registrant be eligible for a retired registration if their certificate of registration has been revoked, surrendered or in any way permanently terminated by the board under RCW 18.43.110. Registrants who are suspended from practice and/or who are subject to terms of a board order at the time they reach age sixty-five shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

(6) Penalties for noncompliance. Any violations of this section shall be considered "misconduct and/or malpractice" as defined in RCW 18.43.105. Such violations are subject to penalties as provided for in RCW 18.235.110 and 18.43.120.

NEW SECTION

WAC 196-21-005 Declaration and purpose. This chapter contains rules and procedures for applications, eligibility and examinations to be enrolled as land surveyors-in-training.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-21-010 Eligibility and applications. The law requires completing four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-land surveying examination. If the applicant has achieved senior standing, that status must be certified by said school or college. The

four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-land surveying examination must be completed sixty days prior to the date of the examination.

All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee ((and charge)) as listed in WAC ((196-26-020)) 196-26A-025 is four months prior to the date of examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college that have achieved senior standing in a baccalaureate curriculum in land surveying approved by the board will be eligible to take the fundamentals-of-land surveying examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall submit a request in writing, accompanied by the applicable fee as listed in WAC 196-26A-025, to take or retake the examination, at least three months prior to the examination date. ((A written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 shall be submitted to the board's office.))

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

~~WAC 196-21-020 Experience. ((The law requires completing four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-land surveying examination. If the applicant has achieved senior standing, that status must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-land surveying examination must be completed sixty days prior to the date of the examination.))~~

The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record.

(1) Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in land surveying from an approved curriculum shall be equivalent to four years of required experience.

(b) Graduation with an associate degree in land surveying from an approved curriculum shall be equivalent to two years of required experience.

(c) Each year completed of an approved curriculum without graduation shall be granted up to a year of required experience.

(d) A maximum of one year may be granted for post-graduate college courses approved by the board.

(e) Any other education will be taken into account and evaluated on its merits.

(f) Experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.

(2) In evaluating four years of work experience, the board will be looking for broad based, progressive experience in the fundamental knowledge of surveying theory and practice under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice land surveying. This experience shall not be limited to, but must include the following:

(a) Performing complex survey calculations;

(b) Conducting boundary and corner research;

(c) Preparing and using property descriptions;

(d) Understanding and applying fundamental boundary and topographic principles;

(e) Making and/or analyzing horizontal and vertical control measurements; and

(f) Being skilled in survey equipment care and usage.

The board may grant partial credit for experience that does not fully meet the requirements in (a) through (f) of this subsection.

(3) In evaluating the four years of combined education and experience the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (f) of this section.

(4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals-of-land surveying examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.

AMENDATORY SECTION (Amending WSR 96-11-086, filed 5/14/96, effective 7/1/96)

WAC 196-21-030 Examinations. (1) The fundamentals-of-land surveying examination is given at times and places designated by the board. The schedule of future examinations and an examination syllabus may be obtained ((from the board office)) at the Internet website of the National Council of Examiners for Engineering and Surveying (NCEES).

(2) An applicant passing the fundamentals-of-land surveying examination will be enrolled as a land surveyor-in-training pursuant to RCW 18.43.020(8).

AMENDATORY SECTION (Amending WSR 01-09-017, filed 4/6/01, effective 5/7/01)

WAC 196-23-070 Signature. The terms "signature or signed", as used in chapter 18.43 RCW and/or Title 196 WAC, shall mean the following:

(1) A handwritten identification that represents the act of putting one's name on a document to attest to its validity. The handwritten identification must be:

- (a) Original and written by hand;
- (b) Permanently affixed to the document(s) being certified;
- (c) Applied to the document by the identified registrant.

(2) A digital identification that is an electronic authentication process attached to or logically associated with an electronic document. The digital identification must be:

- (a) Unique to the registrant using it;
- (b) Capable of independent verification;
- (c) Under the exclusive control of the registrant using it;
- (d) Linked to a document in such a manner that the digital identification is invalidated if any data in the document is changed(;

(e) ~~In conformance with the definition of "digital signature" as it appears in chapter 19.34 RCW, Washington Electronic Authentication Act).~~

AMENDATORY SECTION (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

WAC 196-25-001 Purpose. The purpose of this chapter is to provide clarification on how businesses are authorized to provide engineering or land surveying services in Washington and to implement that part of chapter 18.43 RCW related to corporations and limited liability companies offering engineering and land surveying services, as enacted by the 1997 legislature.

AMENDATORY SECTION (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

WAC 196-25-005 Businesses that must be authorized by the board. Except for professional service (PS) corporations and professional service limited liability companies (PLLC's), all corporations, joint stock associations and limited liability companies (LLC's) that offer engineering or land surveying services must ((apply to)) obtain from the board ((for)) a certificate of authorization to practice engineering or land surveying or both in the state of Washington.

~~((Effective July 1, 1998, engineering partnerships currently registered with the board will no longer be required to pay an annual renewal fee. Also effective July 1, partnerships and limited liability partnerships offering engineering and/or land surveying services will not be required to apply for a certificate of authorization from the board. However, the))~~ A general partnership must employ at least one person currently registered pursuant to chapter 18.43 RCW for each profession for which services are offered.

AMENDATORY SECTION (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

WAC 196-25-010 Applications. All applications must be completed on forms provided by the board and ((filed with the executive director at the board's address and be accompanied by the appropriate fee as listed in WAC 196-26-020)) submitted to the offices of the board. A complete application requires the following: Payment of the appropriate fee as

listed in chapter 196-26A WAC: affidavit of professional engineer and/or land surveyor; and, certified copy of resolution naming the designated engineer, or land surveyor, or both.

AMENDATORY SECTION (Amending WSR 99-15-053, filed 7/15/99, effective 8/15/99)

WAC 196-25-050 Branch offices ((and places of business)). (1) An engineering ((firm)) business or land surveying ((firm)) business maintaining branch offices shall have a resident ((professional)) engineer or resident ((professional)) land surveyor, as applicable, ~~((for each branch office as well as the parent location. A branch office of an engineering or land surveying firm shall be defined as an office established to solicit and/or provide engineering and/or land surveying services. A resident professional engineer or professional land surveyor shall be defined as a person who:~~

- ~~(a) Holds a valid license in this state;~~
- ~~(b) Maintains said branch office or parent location as his/her normal place of employment; and~~
- ~~(c) Is in responsible charge of said engineering and/or land surveying services.~~

(2) A project office shall be defined as an extension of a firm that is used:

(a) For supervision for construction of a project designed elsewhere.

(b) ~~As a convenient workplace for a specific land surveying or engineering project. A project office is not allowed to offer services and shall not be required to have a resident professional engineer or resident land surveyor))~~ in responsible charge of said engineering and/or land surveying services.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-25-020	Corporations or joint stock associations.
WAC 196-25-030	Limited liability companies.
WAC 196-25-100	Retired status certificate of registration.

WSR 04-04-009
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed January 23, 2004, 9:01 a.m.]

Date of Adoption: January 16, 2004.

Purpose: Amendments to this rule will require individuals applying from out-of-state for a Washington residency teacher certificate to meet all requirements for the residency certificate including testing requirements. They will also require individuals from out-of-state applying for a professional teacher certificate to meet all requirements for the residency certificate including all testing requirements.

Citation of Existing Rules Affected by this Order:
Amending WAC 180-79A-257.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-23-033 on
November 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 Nongov-
ernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify,
Streamline, or Reform Agency Procedures: New 0,
Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule
Making: New 0, Amended 1, Repealed 0; Pilot Rule Mak-
ing: New 0, Amended 0, Repealed 0; or Other Alternative
Rule Making: New 0, Amended 0, Repealed 0.

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

January 22, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-18-043,
filed 8/29/01, effective 9/29/01)

WAC 180-79A-257 Out-of-state candidates. Candi-
dates for certification from other states who meet the general
certificate requirements described in WAC 180-79A-150 (1)
and (2) shall be eligible for Washington certificates as fol-
lows:

(1) **Initial and residency certificates.** The initial certi-
ficate (residency certificate for teachers after August 31,
2000,) shall be issued by the superintendent of public instruc-
tion to any candidate who meets requirements for the resi-
dency certificate including testing requirements as described
in RCW 28A.410.220, and who meets one of the following:

(a) Qualifies under provisions of the interstate compact.

(b) Holds the appropriate degree and, if applicable, credit
hours and/or licensing as set forth in this chapter and has
completed a state approved preparation program at a region-
ally accredited college or university in the professional field
for which the certificate is to be issued and such additional
professional fields as required by WAC 180-79A-150(4).

(c) Provided, That if a candidate for administrator or
educational staff associate certification does not meet the
qualifications described in (a) or (b) of this subsection, an ini-
tial/residency certificate shall be issued to a candidate who
holds an appropriate degree from a regionally accredited col-
lege or university and also holds or has held a certificate in
the role, comparable to an initial/residency certificate, issued
by another state and has practiced at the P-12 level in that
respective role outside the state of Washington for three
years.

(d) Provided further, That if a candidate for a teacher's
certificate would qualify under (b) of this subsection, but for
the fact that he or she has completed an approved teacher

preparation program in a subject area that is not listed in
chapter 180-82 WAC as a Washington endorsement, the can-
didate shall be issued a certificate that bears the out-of-state
area of program preparation. It shall be noted on the certi-
ficate so issued that the subject area listed is not a Washington
state endorsement.

(e) Holds an appropriate degree from a regionally
accredited college or university and has practiced three years
as an educational staff associate in that role in a state where
such certificate was not required.

(f) Holds a valid Nationally Certified School Psycholo-
gist (NCSP) certificate issued by the National School Psy-
chology Certification Board (NSPCB) after December 31,
1991, and applies for an initial educational staff associated
school psychologist certificate.

(2) Continuing certificate. The continuing certificate
shall be issued to administrators and educational staff associ-
ates on verification that the candidate has met all require-
ments for initial and continuing certification in the state of
Washington.

(3) Professional certificate. After August 31, 2000, the
professional certificate shall be issued to out-of-state candi-
dates if the candidate meets requirements for the residency
certificate including testing requirements as described in
RCW 28A.410.220, meets the child abuse course work
requirement as described in WAC 180-79A-206 (3)(b), and if
one of the following conditions is met:

(a) The candidate has completed an advanced level certi-
fication procedure approved by the state board of education
as equivalent to the approved program procedure required in
Washington; or

(b) The candidate holds a valid teaching certificate
issued by the National Board for Professional Teaching Stan-
dards; or

(c) A Washington state college or university with an
approved professional certificate program verifies that the
candidate has met all the requirements of that institution's
approved program. The college/university shall evaluate the
candidate's background to determine whether or not course
work or certification activities are equivalent to that college/
university's approved program.

WSR 04-04-010

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 23, 2004, 9:03 a.m.]

Date of Adoption: January 16, 2004.

Purpose: The proposed amendments to this rule will
clarify the requirements for the program administrator pro-
fessional certificate.

Citation of Existing Rules Affected by this Order:
Amending WAC 180-79A-507.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-23-032 on
November 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 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.

January 22, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-78A-507 Overview—Principal/program administrator professional certificate program. By September 1, 2004, all colleges and universities offering a professional certificate program for principals/program administrators must be in compliance with the new program standards. To obtain a professional certificate, the residency principal(~~/program administrator~~) will need to complete a state board of education approved professional certificate program, have satisfactory district evaluations for an administrator role, and document three contracted school years of employment as a principal or assistant principal; the residency program administrator will need to complete a state board of education approved professional certificate program and have satisfactory district evaluations for an administrator role.

The professional certificate requires successful demonstration of six standards at the professional certification benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration with his/her professional growth team. The individual growth plan shall address the six knowledge and skills standards, focus on activities that enhance student learning, and be informed by the performance evaluation process, and an analysis of the administrative context and assignment.

WSR 04-04-011

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 23, 2004, 9:04 a.m.]

Date of Adoption: January 16, 2004.

Purpose: The proposed amendments to these rules will clarify and align requirements for study in issues of abuse in

the chapter definition, for all certificated roles (teacher, administrator, and educational staff associates) and with other references to issues of abuse in the Washington Administrative Code.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-030, 180-79A-206, 180-79A-213, and 180-79A-226.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-23-036 on November 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 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.

January 22, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-015, filed 1/24/02, effective 2/24/02)

WAC 180-79A-030 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," "interstate compact," "college or university," and "regionally accredited institution of higher education," as defined in WAC 180-78-010 and 180-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended or regained.

(4) "Classroom teaching" means instructing pupils in an instructional setting.

(5) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from a regionally accredited college or university in any of the subject areas of the endorsement listed in chapter 180-82 WAC as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 180-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 180-79A-302. Such degrees

shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 180-82 WAC: Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field.

(6) "~~(Child)~~ Issues of abuse course work requirement" means completion of course work or an in-service program (~~(including a minimum of ten clock hours of instruction)~~) on issues of abuse. The content (~~(of the course work or in-service program)~~) shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(7) "Approved master's degree" for the purpose of this chapter, means a master's or doctorate degree from a regionally accredited college or university.

(8) "Credit hour(s)" means credit (normally 100 level or above) awarded by a regionally accredited institution of higher education.

(9) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

(10) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 180-79A-157) by the applicant. Such application shall be considered valid for two years from the date of receipt by the superintendent of public instruction, or its designee.

AMENDATORY SECTION (Amending WSR 02-14-111, filed 7/2/02, effective 8/2/02)

WAC 180-79A-206 Academic and experience requirements for certification—Teachers. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education

subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program (~~(including a minimum of ten clock hours of instruction)~~) on issues of abuse, must complete the (~~(child)~~) abuse course work requirement as defined in WAC 180-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed a state board of education approved, professional certificate program, pursuant to WAC 180-78A-500 through 180-78A-540: Provided, That an individual who holds a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.

(b) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program (~~(including a minimum of ten clock hours of instruction)~~) on issues of abuse, must complete the (~~(child)~~) abuse course work requirement as defined in WAC 180-79A-030(6).

AMENDATORY SECTION (Amending WSR 99-23-023, filed 11/9/99, effective 12/10/99)

WAC 180-79A-213 (~~(Child)~~ Issues of abuse course work requirement for continuing certification—Administrators. Candidates who apply for a continuing administrator certificate after August 31, 1994, must have successfully completed the (~~(child)~~) abuse course work requirement as defined in WAC 180-79A-030(6).

AMENDATORY SECTION (Amending WSR 99-23-023, filed 11/9/99, effective 12/10/99)

WAC 180-79A-226 (~~(Child)~~ Issues of abuse course work requirement for continuing certification—Educational staff associate. Candidates who apply for a continuing educational staff associate certificate after August 31, 1994, must have successfully completed the (~~(child)~~) abuse course work requirement as defined in WAC 180-79A-030(6).

AMENDATORY SECTION (Amending WSR 01-18-043, filed 8/29/01, effective 9/29/01)

WAC 180-79A-257 Out-of-state candidates. Candidates for certification from other states who meet the general certificate requirements described in WAC 180-79A-150 (1) and (2) shall be eligible for Washington certificates as follows:

(1) Initial and residency certificates. The initial certificate (residency certificate for teachers after August 31, 2000,) shall be issued by the superintendent of public instruction to any candidate who passes the WEST-B and meets one of the following:

(a) Qualifies under provisions of the interstate compact.

(b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter and has completed a state approved preparation program at a regionally accredited college or university in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 180-79A-150(4).

(c) Provided, That if a candidate for administrator or educational staff associate certification does not meet the qualifications described in (a) or (b) of this subsection, an initial/residency certificate shall be issued to a candidate who holds an appropriate degree from a regionally accredited college or university and also holds or has held a certificate in the role, comparable to an initial/residency certificate, issued by another state and has practiced at the P-12 level in that respective role outside the state of Washington for three years.

(d) Provided further, That if a candidate for a teacher's certificate would qualify under (b) of this subsection, but for the fact that he or she has completed an approved teacher preparation program in a subject area that is not listed in chapter 180-82 WAC as a Washington endorsement, the candidate shall be issued a certificate that bears the out-of-state area of program preparation. It shall be noted on the certificate so issued that the subject area listed is not a Washington state endorsement.

(e) Holds an appropriate degree from a regionally accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(f) Holds a valid Nationally Certified School Psychologist (NCSP) certificate issued by the National School Psychology Certification Board (NSPCB) after December 31, 1991, and applies for an initial educational staff associated school psychologist certificate.

(2) Continuing certificate. The continuing certificate shall be issued to administrators and educational staff associates on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

(3) Professional certificate. After August 31, 2000, the professional certificate shall be issued to out-of-state candidates if the candidate meets the child abuse course work requirement as described in WAC 180-79A-206 (3)(b) and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the state board of education

as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) A Washington state college or university with an approved professional certificate program verifies that the candidate has met all the requirements of that institution's approved program. The college/university shall evaluate the candidate's background to determine whether or not course work or certification activities are equivalent to that college/university's approved program.

**WSR 04-04-012
PERMANENT RULES
STATE BOARD OF EDUCATION**

[Filed January 23, 2004, 9:05 a.m.]

Date of Adoption: January 16, 2004.

Purpose: The proposed amendment to this rule will allow a school nurse to have a bachelor's or higher degree in nursing from a regionally accredited college/university. It will also align the degree requirements for a school nurse certificate with the degree requirements for the school occupational therapist, the school physical therapist and the school speech/language pathologist or audiologist certificates.

Citation of Existing Rules Affected by this Order:
Amending WAC 180-79A-223.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-23-035 on November 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 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.

January 22, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-14-012, filed 6/24/99, effective 7/25/99)

WAC 180-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and

school speech-language pathologist or audiologist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist certification shall apply directly to the professional education and certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 180-79A-150, except state approved college/university professional preparation program:

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of postbaccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a tempo-

rary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a

written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology, with the exception of a candidate who holds a current and valid Washington state conditional certificate in speech/language pathology as of June 30, 2003.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

WSR 04-04-018

PERMANENT RULES

SECRETARY OF STATE

(Corporations Division)

[Filed January 23, 2004, 4:38 p.m.]

Date of Adoption: January 22, 2004.

Purpose: (1) Set standards for online filing; (2) streamline procedures to facilitate digital imaging of filings; and (3) clarify operational rules for charities program and corporations division activities.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-110-070, 434-110-080, 434-110-090, 434-120-015, 434-120-020, 434-120-155, 434-120-320, 434-130-020, 434-130-030, 434-135-020, 434-135-030, 434-135-070 and 434-180-110; and amending WAC 434-110-100, 434-120-025, 434-120-040 Public information derived from registration, [new section] 434-120-045 Change in status, notification, 434-120-103 Required filings, 434-120-105 Form, 434-120-145 Fees, 434-120-160 Penalty for late registration, 434-120-170 Use of particular names in solicitations, 434-120-212 Registration by commercial coventurers, 434-120-215 Form, 434-120-240 Contract between a commercial organization and a charitable organization, 434-120-250 Fees, 434-120-260 Surety bonds, 434-120-305 Registration

and reporting, 434-120-310 How to register—Form, and 434-120-330 Annual fees.

Statutory Authority for Adoption: RCW 23B.01.200(2), 24.03.007, [24.03.]008, 25.15.007, 19.09.020(15), [19.09].-315, 19.77.115, and 43.07.170.

Adopted under notice filed as WSR 03-22-075 on November 4, 2003.

Changes Other than Editing from Proposed to Adopted Version: Corrected an erroneous cross reference in WAC 434-120-145(3) from WAC 434-120-145(3) to 434-120-105.

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 8, 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 24, Amended 16, Repealed 14.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 20, Amended 14, Repealed 14.

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.

January 23, 2004

Steve Excell

Assistant Secretary of State

NEW SECTION

WAC 434-12-005 Trademark filing—Fees—Office hours—Location. (1) Trademarks are filed with the corporations division. Please refer to chapter 434-112 WAC for corporations division office hours, location, filing procedures and telephone numbers.

(2) Filing and other fees for trademarks are set forth in WAC 434-112-080 through 434-112-090.

NEW SECTION

WAC 434-12-025 Document and specimen standards for trademark filing. (1) In addition to the requirements of WAC 434-112-040, the following rules apply to trademark filings.

(a) Specimens submitted in support of a trademark filing must:

(i) Be of sufficient quality, size and clarity to allow the corporations division to create and maintain an accurate digital image of the specimen; and

(ii) Demonstrate that the trademark is in use in commerce; preliminary design artwork is not acceptable.

(b) Specimens submitted in support of a trademark reservation:

(i) Must be of sufficient quality, size and clarity to allow the corporations division to create and maintain an accurate digital image of the specimen; and

(ii) May be in the form of preliminary design artwork so long as the design clearly describes the trademark to be reserved.

(2) Corporations division staff may reject submissions that do not meet these requirements.

AMENDATORY SECTION (Amending WSR 93-20-072, filed 10/1/93, effective 11/1/93)

WAC 434-110-100 Registered office address—Requirements. ~~(1)~~ A post office box address may be used in ~~((conjunction with))~~ addition to a registered geographic office address when~~((:~~

~~(1))~~ the United States Postal Service cannot or will not deliver to the street address~~((; and))~~.

~~(2)~~ ~~((The post office box address is in the same Washington city or town as the registered office address; and~~

~~(3))~~ The registered agent ~~((notifies))~~ is required to notify the office of the secretary of state and the corporation of any changes in either the street address or the post office box address. Change of address is subject to the fee stated in WAC 434-112-085 (1)(j).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-110-070	Fees.
WAC 434-110-080	Fee prepayment—When required.
WAC 434-110-090	Original signature requirement—Original retained.

Chapter 434-112 WAC

Corporations Division and Charities Program Services

NEW SECTION

WAC 434-112-010 Services provided by the corporations division and charities program. (1) The corporations division includes the corporations program and the charities program.

(2) The corporations program provides the following services:

- (a) Business filings under chapters 18.100, 23.78, 23.86, 23.90 RCW, and Titles 23B and 25 RCW;
- (b) Nonprofit organization filings under Title 24 RCW;
- (c) Trademark registration under chapter 19.77 RCW;
- (d) Certification authority licensing under chapter 19.34 RCW, the Electronic Authentication Act;
- (e) Registration of international student exchange programs under chapter 19.166 RCW;
- (f) Registration under the Immigration Assistant Practices Act, chapter 19.154 RCW;
- (g) Apostilles under RCW 42.44.180;
- (h) Agent for service of process on motorists under RCW 46.64.040;

(i) Agent for service of process for those entities and under those circumstances listed in subsection (2)(a), (b), and (c) of this section.

(3) The charities program provides the following services:

- (a) Registrations under the Charitable Solicitations Act, chapter 19.09 RCW including:
 - (i) Charitable organizations;
 - (ii) Commercial fund-raisers; and
 - (iii) Fund-raising contracts;
- (b) Registration of charitable trusts under chapter 11.110 RCW;
- (c) Publication of the trust directory; and
- (d) Agent for service of process for those entities and under those circumstances listed in subsection (3)(a) and (b) of this section.

NEW SECTION

WAC 434-112-020 Corporations division address, telephone number and office hours. (1) The mailing address of the corporations division is: P.O. Box 40234-0234, Olympia, Washington 98504-40234.

(2) The corporations division is located in the James M. Dolliver Building at 801 Capitol Way South, Olympia, Washington.

(3) The telephone numbers for corporations division services are 360-753-7115 and 360-753-7120. The TDD line is 360-753-1485. Telephone services are available from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday, except for state holidays.

(4) The telephone number for charities program services is 360-753-0863. The toll free number in Washington is 1-800-332-GIVE (1-800-332-4483). The TDD number for the charities program is 1-888-658-1485. Telephone services are available from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday, except for state holidays.

(5) The corporations division counter is open for corporations and charities program services to in-person requests from 8:00 a.m. to 5:00 p.m. each business day. The corporations division is unable to guarantee same day processing of any filing or request submitted after 4:30 p.m. on that day. See WAC 434-112-080 for fees and regulations related to expedited processing.

NEW SECTION

WAC 434-112-025 Documents delivered after normal working hours. (1) Documents, including substitute service of process on the secretary of state, delivered after the normal working hours will be deemed to be received on the next working day.

(2) Filings submitted on-line will be deemed to be received as of the date and time the corporations division computer system records the complete submission and credit card approval for the transaction.

(3) The secretary assumes no responsibility for any form of delivery other than that:

- (a) Received personally by an employee of the office of the secretary of state; or

PERMANENT

(b) Received by the corporations division computer system as a result of an on-line filing.

NEW SECTION

WAC 434-112-030 Certificates for business filings.

(1) Certificates issued by the secretary of state or the secretary's designee in furtherance of duties under Titles 18, 19, 23, 23B, 24 and 25 RCW shall:

- (a) Bear a rendition of the Washington state seal;
- (b) Bear a mechanical or electronic reproduction of the secretary's signature; and
- (c) Be regarded as the secretary of state's official certification of the matters itemized in the certificate.

(2) The secretary may make commemorative certificates available. When such certificates are available, any person or entity completing a filing under the authority listed in WAC 434-112-010 (2)(a) through (d) may purchase a commemorative certificate bearing a gold foil seal documenting the filing.

- (a) The cost for a commemorative certificate is one hundred dollars;
- (b) Expedited service is not available for commemorative certificates.

NEW SECTION

WAC 434-112-040 Document standards for filings—Cover sheet requirement and document quality. (1) A completed contact information cover sheet shall be submitted with each filing with the corporations division or the charities program if:

- (a) The filing party is not the registered agent and would like the completed filing returned to them directly;
- (b) The filing party would like expedited service under WAC 434-112-080; or
- (c) The filing party would like correspondence related to a charities program filing sent to an individual at an address other than the mailing address of record.

(2) The cover sheet will include contact telephone and address information related to the filing, and provide an opportunity to advise the corporations division whether the request is for expedited service and designate the address to which the corporations division is to return the completed request.

(3) All corporations related filings received without a contact information cover sheet will be returned to the registered agent for the entity when processing is complete.

(4) Correspondence pertaining to a charities program filing received without a contact information cover sheet will be sent to the entity's mailing address of record when processing is complete.

(5) The corporations division including the charities program may reject and return documents and copies that are not legible or not capable of being recorded as an image with adequate resolution and clarity.

(a) Paper and ink must be of weight and color capable of producing a legible image regardless of the system used by the corporations division for creating the image.

(b) Documents completed in pencil will not be accepted for filing.

(c) All filings except on-line filings must be submitted on 8 1/2 x 11 paper.

(d) All text must be written or printed in eight point type or larger.

(6) All filings not presented on forms provided by the office of the secretary of state must have a three-inch top margin on page one, with one-inch side and bottom margins. Pages after page one must have a one-inch margin on the top, bottom and sides.

NEW SECTION

WAC 434-112-045 Requests for information or fees.

(1) The corporations division and the charities program may pend action on documents submitted for filing that are unacceptable for filing by reason of incomplete information or insufficient fees, pending provision of the required information and fees.

(2) Additional information or payment may be requested by telephone, fax, e-mail or letter.

(3) The corporations division and the charities program may pend action for up to thirty days to await additional information or funds needed to complete the filing. This time may extend to forty-five days if the filing party is making good faith efforts to complete the filing.

NEW SECTION

WAC 434-112-050 Duplicate originals not required.

(1) Persons submitting business filings under chapter 18.100, 19.77 or Titles 23, 23B, 24 and 25 RCW shall submit one original copy of the document submitted for filing.

(2) Subsection (1) of this section does not apply to:

- (a) Filings completed on-line;
- (b) Summons and complaints; and
- (c) Specimens provided in support of a trademark filing.

(3) The corporations division will retain a digital image of the record submitted for filing, and on completion of the filing will return to the filer a copy of the digital image bearing a filing endorsement.

(4) The corporations division may return the completed filing via e-mail or other electronic means if the filer indicates that an electronic response is acceptable.

(5) The corporations division may reject and return documents and copies that are not legible or not capable of being recorded as a digital image with adequate resolution and clarity.

NEW SECTION

WAC 434-112-065 On-line filing—Consent of registered agent. (1) When completing and submitting an on-line filing for any entity required by Washington law to appoint a registered agent the filing party shall affirm under oath that they have obtained and have in their possession the signed, written consent of the person appointed as registered agent.

(2) When the person submitting the filing is the person appointed as registered agent, they are not required to obtain separate written consent.

(3) Submitting a false affirmation is punishable as a gross misdemeanor under RCW 43.07.210.

(4) The corporation or other entity required to maintain a registered agent must:

- (a) Retain the original of the registered agent's signed consent;
- (b) Make the original of the registered agent's signed consent available for inspection on request; and
- (c) Submit the original to the corporations division or the office of the attorney general within ten business days upon demand.

NEW SECTION

WAC 434-112-070 On-line filing—Application for certificate of authority—Certificate of good standing. (1) When a foreign corporation or limited liability company submits an on-line application for certificate of authority under RCW 23B.15.030, 24.03.325, or an on-line registration under RCW 25.15.315, the filing party may meet the statutory requirement for submitting a certificate of good standing or a certificate of existence by submitting a digital image of a certificate of good standing or certificate of existence meeting the requirements of the statute.

- (2) The image must be in a format specified as acceptable on the on-line filing website.
- (3) The certificate of good standing must meet the requirements of chapters 23B.15 or 25.15 RCW for certificates of authority submitted in support of an application for certificate of authority.
- (4) The corporation or limited liability company must:
 - (a) Retain the original certificate of good standing;
 - (b) Make the original certificate of good standing available for inspection on request; and
 - (c) Submit the original to the corporations division or the office of the attorney general within ten business days upon demand.

NEW SECTION

WAC 434-112-075 On-line services. (1) The corporations division website is located at www.secstate.wa.gov/. The website provides a variety of services for charities and corporations including on-line lookup, on-line filing and downloadable forms. Please see the website for the most up to date list of services available.

- (2) The following business entities may pay their annual license fees and submit their annual reports on-line, provided they meet the requirements of this subsection:
 - (a) Domestic or foreign profit corporations organized under Title 23B RCW, including professional service corporations under chapter 18.100 RCW; and Massachusetts trusts under chapter 23.90 RCW.
 - (b) Foreign and domestic limited liability companies registered or formed under chapter 25.15 RCW, including limited liability companies formed under RCW 25.15.045 to provide professional services.
 - (3) Entities filing annual reports on-line must have twenty-five or fewer board members, officers, shareholders, members or managers to report.
 - (4) On-line filings for foreign and domestic corporations, foreign and domestic limited liability companies, and registrations under the charities programs:

(a) Will be processed as expedited filings under WAC 434-112-065;

(b) Will be subject to the expedited processing fee set forth in WAC 434-112-065; and

(c) Be treated as received when the corporations division system records receipt of the completed transaction including payment authorization.

(5) When submitting an on-line filing, the person completing the filing shall sign the application by: Typing their full name in the space provided on the web form; stating their capacity with the entity addressed in the filing; and following the directions for signing the web form.

NEW SECTION

WAC 434-112-080 In-person or expedited service—Special fees. (1) The corporations division counter is open for corporations and charities program services to in-person requests from 8:00 a.m. to 5:00 p.m. each business day.

(a) Staff provides expedited, same-day processing of documents or requests submitted in person prior to 4:30 p.m. on that day. The corporations division is unable to guarantee same day processing of any filing or request submitted after 4:30 p.m. on that day.

(b) Expedited requests submitted by fax, mail or on-line will be completed within two working days of submission, or as soon thereafter as possible.

(2) Expedited services under this section are available for the following transactions:

- (a) Business filing transactions:
 - (i) Charter document review and filing;
 - (ii) Name reservation review and filing;
 - (iii) Document certification;
 - (iv) Document copying or status certificates;
 - (v) Status change filings;
 - (vi) Reinstatements; and
 - (vii) Trademark filings.

(b) Charities program filings:

- (i) Document review and filing including initial registration and renewals of charities, commercial fund-raisers and charitable trusts;

(ii) Document copying and status verification letters;

(iii) Status change filings.

(c) Apostille requests submitted at the corporations division counter.

(3) The fee for same-day service is twenty dollars for single or multiple transactions within each new or existing corporation program file, or charities program file. In addition, the filing fee for each transaction will apply.

(4) Except for on-line filings, the filing party shall indicate that expedited processing is requested by:

(a) Submitting a completed contact information cover sheet as described by WAC 434-112-040 indicating that the document is submitted for expedited filing; or

(b) Placing the word "expedite" conspicuously on either the face of the document to be filed, or on any cover letter submitted with the document.

(5) All documents submitted for filing on-line and corporations documents submitted via facsimile transmission are treated as expedited processing requests. Registrations with

the charities program may not be submitted by facsimile. Documents transmitted via facsimile will receive expedited forty-eight hour processing when the documents are received between 8:00 a.m. and 5:00 p.m. Pacific time each business day. The fee for facsimile filings is twenty dollars for single or multiple transactions within each new or existing corporation or trademark file. In addition, the filing fee for each transaction will apply.

(6) There is no expedited fee for the following transactions, unless they are submitted via facsimile transmission as set forth under subsection (3) of this section:

- (a) Registered agent or address change;
- (b) Initial reports;
- (c) License renewal and required annual report;
- (d) Amended annual reports;

(e) In-person inspection or review of corporation files or other public documents located in the corporations division office;

(f) Documents left at the counter for processing with mail-in documents received the same day; or

(g) A search for nonactive corporations less than twenty years old or trademark files less than six years old.

(7) If staff cannot complete the expedited service request before the end of the same day, or the second consecutive business day for facsimile filings, the transaction will be completed on the following business day.

(8) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees or have received a fee waiver before emergency services are provided.

(9) Service may be limited under extraordinary circumstances.

(a) Over-the-counter service hours may be shortened under extraordinary circumstances.

(b) Separate over-the-counter service requests by one person may be limited to those relating to three corporations per day.

(c) Documents submitted by courier services or document-handling companies may receive twenty-four-hour service.

(d) A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

(10) A person submitting a filing or request may submit a written request asking the secretary to waive emergency or penalty fees.

(a) The request must include the special circumstances justifying the fee waiver.

(b) Under special circumstances the secretary may waive emergency or penalty fees.

(11) Fees for expedited or in-person processing will not be refunded if processing the request is delayed or not completed due to documents that lack required information, that contain provisions prohibited by Washington law, or are not presented in a manner that can be legibly preserved in the records of the office of the secretary of state.

NEW SECTION

WAC 434-112-085 Fees and penalties. (1) For Washington registered profit domestic and foreign corporations, including profit cooperative associations, employee cooperative associations, limited liability companies, limited partnerships, Massachusetts trusts and limited liability partnerships, fees and penalties are as follows:

(a) Articles of incorporation, certificates of formation, partnership agreements and other original filings, one hundred seventy-five dollars;

(b) Articles of amendment, restatement, correction, or revocation of dissolution, thirty dollars;

(c) License renewal with required annual report filed after due date and before administrative dissolution, penalty fee of twenty-five dollars, plus the statutory fee of fifty dollars and the department of licensing handling fee of nine dollars;

(d) Reinstatement, one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount;

(e) Articles of merger or exchange, twenty dollars for each listed company;

(f) Resignation of registered agent, twenty dollars;

(g) Resignation of officer or director, an initial report or amended annual report, and the appointment or change of registered agent or change of registered address, ten dollars;

(h) Registration, reservation, or transfer of name, thirty dollars;

(i) Articles of dissolution, certificate of withdrawal, dissolution by judicial decree, or revocation of certificate of authority by either failure to renew or judicial decree, no fee;

(j) Agent's consent to act as agent, agent's resignation if appointed without consent, or annual report when filed concurrently with annual license fee, no fee; and

(k) Other statement or report filed, ten dollars.

(2) For Washington registered domestic and foreign nonprofit corporations, nonprofit miscellaneous and mutual corporations, building corporations, and other associations and corporations under Title 24 RCW, fees and penalties are as follows:

(a) Articles of incorporation and other original filings, thirty dollars;

(b) Articles of amendment, restatement, or correction, twenty dollars;

(c) Articles of dissolution or certificate of withdrawal, no fee;

(d) Revocation of dissolution, twenty dollars;

(e) Reinstatement following administrative dissolution, thirty dollars plus all delinquent annual fees and a five-dollar penalty;

(f) Articles of merger or exchange, twenty dollars for each listed corporation;

(g) Resignation of officer or director, an initial report or amended annual report, the appointment or change of registered agent, or change of registered address, ten dollars;

(h) Resignation of registered agent, twenty dollars;

(i) Registration, reservation, or transfer of reservation of name, twenty dollars;

(j) Certificate of election adopting provisions of chapter 24.03 RCW as described in RCW 24.03.017, thirty dollars; and

(k) Other statement or report filed, ten dollars.

(3) For registering trademarks for use within the state, the fees are as follows:

(a) For a five-year registration or renewal, fifty dollars for each class in which the trademark is registered;

(b) For recording the assignment of a trademark and its registration or application for registration, ten dollars;

(c) For a new certificate with the name of the new assignee, five dollars;

(d) For reservation of a trademark for one hundred eighty days, thirty dollars for each class in which the trademark is reserved;

(e) For amendment of a trademark to add new classes of goods or services, fifty dollars for each class added by the amendment;

(f) Cancellation of trademark, no fee; and

(g) Other statement or report filed, ten dollars.

Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.

NEW SECTION

WAC 434-112-090 Miscellaneous fees. (1) For photocopies, fees are as follows:

(a) Each annual report, five dollars;

(b) Application for registration or any single document, ten dollars;

(c) Application and amended notices, twenty dollars;

(d) Copy of annual notice, five dollars;

(e) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty-page increment (number of pages determined by weight of copies);

(2) For certificates of existence fees are as follows:

(a) With complete historical data, under embossed seal, thirty dollars;

(b) Computer generated twenty dollars;

(c) Duplicate certificate twenty dollars.

(3) For verifying the signature of a notary or public official for an apostille or certification authenticating a sworn document, the fee is fifteen dollars. This includes:

(a) A ten-dollar fee for verifying the signature of a notary or public official; and

(b) A five-dollar fee for providing a certificate under seal pursuant to RCW 47.03.120 (1)(b).

(4) For each certified copy of any document the fee is ten dollars plus a ten-dollar copy fee per document.

(5) For any service of process the fee is fifty dollars.

(6) Dishonored checks. If a person, corporation or other submitting entity has attempted to pay any fee due to the secretary of state by means of a check, and the check is dishonored by the financial institution when presented, the secretary of state will impose a twenty-five-dollar penalty, payable to the secretary of state.

In the event a valid replacement check and dishonor charge is not received in the office of the secretary of state within the time prescribed by its accounting division, the

transaction covered by the dishonored check will be canceled and all other late filing fees and penalties will be instituted.

NEW SECTION

WAC 434-112-095 Fee prepayment—When required. (1) All fees must be prepaid before the corporations division can take action.

(2) Anyone desiring a service for which the exact fee may not be known in advance may send a request accompanied by a check made payable to the "secretary of state," with the phrase "not to exceed (specified dollar amount)" above the space intended for the written dollar amount. The staff person who processes the request will fill in the exact fee amount and include a memo indicating the exact amount of the check with the certificate or other document.

(3) With permission of the secretary, a customer may set up a prepaid account by depositing a specified sum of money with the fiscal office.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-130-020 Official address and telephone number.

WAC 434-130-030 Office hours.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-135-020 Official address and telephone number.

WAC 434-135-030 Office hours.

WAC 434-135-070 Filing duty of secretary of state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-180-110 Office address, hours, and telephone number.

NEW SECTION

WAC 434-120-017 Office hours and location for charities program services. Chapter 434-112 WAC provides information on charities program office hours, office location, mailing address, and telephone numbers.

AMENDATORY SECTION (Amending WSR 97-16-036, filed 7/30/97, effective 8/30/97)

WAC 434-120-025 Definitions. (1) "Charitable organization" means any entity that solicits or collects contributions

PERMANENT

from the general public where the contribution is or is purported to be used to support a charitable activity, but does not include any commercial fund-raiser or commercial fund-raising entity as defined in this section. "Charitable":

(a) Is not limited to its common law meaning unless the context clearly requires a narrower meaning;

(b) Does not include religious or political activities; and

(c) Includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, and health causes.

(2) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

(3) "Commercial coventurer" means a corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, individual, or other entity that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public; and

(b) Is not otherwise regularly or primarily engaged in making charitable solicitations in this state or otherwise raising funds in this state for one or more charitable organizations; and

(c) Represents to prospective purchasers that if they purchase a good or service from the commercial coventurer, a specified portion of the sales price or a certain sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(4) "Compensation," means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

(5) "Solicitation," means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization; or

(d) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(6) "Solicitation," as defined in RCW 19.09.020~~((15))~~ (16), for the purposes of these regulations, shall not include any of the following:

(a) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an

established application and review procedure for reviewing such requests;

(b) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(c) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(7) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits, receives or raises contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, the following shall not be deemed a "commercial fund-raiser" or "commercial fund-raising entity":

(a) Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives or raises any contribution for or on behalf of any such charitable organization; or

(b) A bona fide officer or other employee of a charitable organization.

(8) "Renewal date" means the fifteenth day of the fifth month after the close of the organization's fiscal or accounting year.

(9) "Secretary" means the secretary of state or the secretary's designee, or authorized representative.

AMENDATORY SECTION (Amending WSR 97-16-035, filed 7/30/97, effective 8/30/97)

WAC 434-120-040 Public information derived from registration. (1) Registration forms, and attachments, filed by charitable organizations and commercial fund-raisers pursuant to WAC 434-120-105 and WAC 434-120-215 are available for public inspection or copying. For purposes of public reports derived from that registration information, the secretary shall calculate, and make available to the public, the following information:

~~((1))~~ (2) For charitable organizations, the percentage of total expenditures in a reporting year allocated to charitable program services. This shall be calculated ((as follows:

(a) For organizations required to file a federal information tax return, by dividing the amount reported as "program services" (e.g., line 13 of the form 990) by the amount reported as "total expenses" (e.g., line 17 of form 990) and multiplying by 100; or

(b) For organizations not required to file a federal informational tax return,)) by dividing the amount reported as expended for charitable purposes by the amount reported as total expenses, and multiplying by 100.

~~((2))~~ (3) For commercial fund-raisers the percentage of the proceeds of charitable solicitations which are paid to or retained by charitable organizations. This shall be calculated by dividing the amount reported pursuant to WAC 434-120-215 (2)~~((n))~~ (1)(iii)(B) by the amount reported pursuant to WAC 434-120-215 (2)~~((n))~~ (1)(iii)(A), and multiplying by 100.

NEW SECTION

WAC 434-120-045 Change in status, notification. An entity required to register under this chapter shall notify the charities program of a change in:

(1) Principal officer, owner, or Washington representative within thirty days after the change.

(2) Business structure within thirty days, register the restructured or newly named entity as a new commercial fund-raiser and include evidence of separate bonding.

(3) Business name within thirty days, register the new name, and include evidence of bonding in the new name. If the fund-raiser will use both the existing name and the new name, include evidence of separate bonding for each name and include a fee of ten dollars.

NEW SECTION

WAC 434-120-050 Signatures for on-line filings. When submitting an on-line filing, the person completing the filing shall sign the application by: Typing their full name in the space provided on the web form; stating their capacity with the entity addressed in the filing; and following the directions for signing the web form.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-103 Required forms and filings. (1) A charitable organization complies with the filing and registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules either the:

(a) ~~((Uniform))~~ State registration form described in WAC 434-120-105. This form is available through the charities program; or

(b) Unified Registration Statement~~((—Charitable/Public Benefit Form))~~ developed by the National Association of State Charity Officials (NASCO), if accompanied by the components identified for filing in Washington in the unified registration statement appendix.

~~((This form is))~~ (2) These forms are used ~~((as an))~~ for original registration form, as well as ~~((a))~~ for periodic renewal ~~((form))~~. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.075~~((; and))~~.

~~((b))~~ (3) The state registration form or the unified registration statement must be filed together with:

(a) Solicitation report. This ~~((form))~~ financial report is filed ~~((periodically))~~ by all charitable organizations, except those exempted by these rules. The purpose of this report is to provide information regarding solicitations conducted during the reporting period~~((; of an informational nature to the pub-~~

~~lic)).~~ Solicitation reports are filed as part of ~~((a periodic))~~ an annual renewal~~((; and as provided by WAC 434-120-105(4) for newly registered organizations))~~; and

~~((e))~~ (b) All contracts between the commercial fundraiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240.

~~((2))~~ (4) The unified registration statement and the appendix are available for download at: <http://www.nonprof-its.org/library/gov>.

(5) The financial statement required by WAC 434-120-130 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

~~((3))~~ (6) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 97-19-043, filed 9/11/97, effective 10/12/97)

WAC 434-120-105 Charitable organization registration—Form and requirements. (1) Charitable organizations registering under this act shall ~~((use))~~ submit the registration form ~~((available in the office of the corporations division))~~ described in WAC 434-120-103. ~~((The secretary of state shall develop a form in compliance with this rule.))~~ The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW shall not excuse the failure to comply. ~~((The secretary may accept the Uniform Registration Statement developed by the National Association of State Charity Officials if accompanied by an addendum developed by the secretary for use in Washington, if the uniform form and addendum contain all of the information required by this rule.))~~

(2) A registration ~~((form))~~ is not complete, and will not be accepted for filing, unless it includes:

(a) The name of the organization, and every address (including both physical address and any mailing address if different), telephone number(s), fax number(s), and taxpayer identification number, including those of all offices, chapters, branches, and affiliates used in charitable solicitations reflected in the registration including any electronic mail or Internet addresses used by the organization;

(b) All of the names under which the organization will solicit contributions, including, but not limited to, the names of all offices, chapters, branches, and affiliates used in charitable solicitations reflected in the registration;

(c) ~~((If incorporated, the corporate name, unified business identifier number, state and date of incorporation, or if not incorporated,))~~ The type of organization, the unified business identifier, if the organization is registered in Washington and date established, and if the organization is incorporated, the state and date of incorporation;

(d) The end date of its current fiscal or accounting year;

(e) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration.

"Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(f) A list of all states where the organization is registered for charitable solicitations (~~(, including any other names under which the organization is currently registered or has been registered in the past three years)~~);

(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization, including the:

(i) Members of the board of directors or any committee or group serving the function of a board of directors, regardless of the name of the committee or group; and

(ii) Officers of the charitable organization, or the persons serving the function of officers, regardless of the title of the position;

(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(i) The purpose of the charitable organization, including, if applicable, the names and addresses of any specific beneficiaries which the charitable organization supports and to whom assets would be distributed to in the event of dissolution. When filing a renewal or an updated registration, the organization is not required to submit a list of beneficiaries if there have been no changes to that list;

(j) ~~((Whether the charitable organization is exempt from federal income tax, and, if so, attaching to its initial registration))~~ A statement indicating whether the organization is exempt from federal income tax, and copy of the letter by which the Internal Revenue Service granted ((such)) the organization tax exempt status if the Internal Revenue Service has granted the organization such status. The organization shall indicate the section of the Internal Revenue Code under which they are exempt from the federal income tax;

(k) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;

(l) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any commercial fund-raiser and any commercial coventurer who have the authority to expend funds or incur obligations on behalf of the organization;

(m) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305;

(n) A solicitation report of the charitable organization for the preceding fiscal or accounting year including, but not limited to:

(i) The types of solicitations conducted; ~~((and))~~

(ii) The name, physical address, and telephone number of any commercial fund-raiser, including any commercial coventurer conducting solicitations on behalf of the organization in Washington during the period covered by this report; and

(iii) ~~((Either:~~

~~(A) A copy of the charitable organization's federal informational tax return (Form 990 or Form 990 PF, but not Form 990 EZ) covering the period covered by this report. The form shall include lines on which to report the amounts reported on the return as "program services" and "total expenses"; or~~

~~(B) If, for the fiscal year covered by the report, the charitable organization either filed a federal informational tax return using Form 990 EZ, or did not file a federal informational tax return, (I) the total dollar value of all support received from solicitations, (II) the total dollar value of revenue from all other sources, (III) total expenditures, including amounts paid to or retained by a commercial fund-raiser, during the reporting period and (IV) the amount of those expenditures devoted directly to charitable program services. Amounts paid to or retained by a commercial fund-raiser include all revenue, as defined by WAC 434-120-025, including, without limitation, fees for services, contributions, proceeds from the sale of goods or services (including tickets to events), and all other revenue from solicitations;~~

~~(e) The form shall also include a space within which any)) The total dollar value of all support received from solicitations, which includes but is not limited to, special events, sale of inventory, and amounts collected on behalf of the charitable organization by a commercial fund-raiser or commercial coventurer;~~

(iv) The total dollar value of revenue from all other sources;

(v) Gross receipts, including amounts collected on behalf of the charitable organization by a commercial fund-raiser or commercial coventurer regardless of custody of funds. "Gross receipts" include, but are not limited to, contributions, gross revenue from special events, sales of inventory, goods or services (including tickets to events), and all other revenue from solicitations;

(vi) The amount of total expenditures used directly for charitable program services, including payments to affiliates if costs involved are not connected with the administrative or fund-raising functions of the reporting organization;

(vii) The amount of total expenditures used for administrative and fund-raising costs, including amounts paid to or retained by a commercial fund-raiser or commercial coventurer. "Administrative and fund-raising costs" include, but are not limited to, the following expenses if not directly related to program services; salaries, wages, compensation, legal, accounting, occupancy, equipment costs, printing and publications, telephone, postage, supplies, travel, meetings, fees for services (including fund-raising consultation), and cost of goods or inventory sold that are not directly related to program services.

(viii) Total expenditures, including, but not limited to, amounts paid to or retained by a commercial fund-raiser, or commercial coventurer, amounts expended for charitable program services, administrative expenses, fees for services, and fund-raising costs incurred by the charitable organization.

(ix) Beginning assets; and

(x) Ending assets.

(o) A copy of the charitable organization's federal informational tax return (Form 990, Form 990PF, or Form 990EZ) reflecting the fiscal or accounting year covered by this report;

(p) The charitable organization may provide additional information which the organization believes would be of assistance in understanding other reported information, or to provide context for reported information.

~~(3) ((Solicitation reports shall not report estimates, but shall report actual figures. If the organization did not directly or indirectly conduct any charitable solicitations in the previous accounting year, it shall file a supplemental registration form no later than the end of the ninth month after registering which provides a complete solicitation report with actual figures from the first six months of activity after registering, if its gross revenue from solicitations exceeds twelve thousand five hundred dollars during that six month period or otherwise ceases to qualify for an exemption under WAC 434-120-100 (2)(e).))~~ The organization shall report actual figures, and shall not use estimates, when completing a solicitation report or a supplemental solicitation report.

~~(4) A parent organization may file a consolidated registration form((, including the solicitation report,)) when registering, including the solicitation information required for each of its related foundations, supporting organizations, chapters, branches, or affiliates that solicit in the state of Washington, which are supervised or controlled by the parent organization. ((A parent organization may report financial information))~~ Registration and subsequent financial reporting requirements may be satisfied either separately or in consolidated form for all subsidiary organizations. A filing by the parent organization relieves each subsidiary organization identified in that filing of any duty to file independently.

~~(5) All charitable solicitation organization registrations shall be signed by the president, treasurer, or comparable officer of the organization or, in the absence of officers, person responsible for the organization((, whose signature shall be notarized)).~~

NEW SECTION

WAC 434-120-110 Organizations exempt from filing requirements—Optional filing. (1) Charitable organizations exempt from the filing requirements of this chapter under RCW 19.09.076(1) and WAC 434-120-100 (2)(b) or (c) may register with the charities program.

(2) Charitable organizations choosing to register under this section shall register by:

(a) Completing the registration form specified by the secretary; and

(b) Paying the registration fee of twenty dollars.

(3) Charitable organizations registered under this section may change or update their registration by:

(a) Filing the update with the charities program; and

(b) Paying the ten-dollar update fee.

(4) Expedited processing under WAC 434-112-080 is available for registrations and updates under this section.

(5) The secretary offers this optional registration because some grant making entities and programs require registration with the charities program.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-145 Fees. (1) Original registration: Entities registering as charitable organizations shall pay a fee of twenty dollars for the first year of registration. ~~((The fee shall be waived for those who first register under this act at the same time as filing nonprofit incorporation papers.))~~

(2) Annual ~~((reregistration))~~ renewal: Organizations reregistering shall pay a fee of ten dollars. ~~((If reregistering at the same time as filing nonprofit corporation annual reports, the organization shall pay a combined fee of fifteen dollars. If an organization files renewals under the Nonprofit Corporation Act, the Charitable Solicitations Act, and the Charitable Trusts Act, the fee shall be thirty dollars for all three. The fee shall be thirty dollars if renewing under the Charitable Trusts Act, the Charitable Solicitations Act, the public benefits provision, and filing a nonprofit corporation annual report.))~~

(3) Information changes: Organizations filing changes of information described in WAC ~~((434-120-220(3)))~~ 434-120-105, shall pay a fee of ten dollars for each submittal of change(s).

(4) Photocopy fees: For copy of a charitable organization registration form or letter, including the finance and solicitation reports, the fee is five dollars.

(5) Expedited service fees: For in-person service at the counter, or on-line filings, the fee is twenty dollars for one or more transactions in each charitable organization file requested.

(6) For service of process on a registered charity, commercial coventures, commercial fund-raiser, or charitable trust, the fee is fifty dollars.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-160 ((Penalty)) Fees for late registration. ~~((The corporations division will send notice of the time to renew the charitable solicitations registration when it mails notice of the annual report or license renewal due date.))~~ (1) A charitable organization that fails to ~~((reregister at the time the corporation annual report or license renewal is due.))~~ renew its registration by its renewal date shall pay a late ~~((penalty))~~ fee of ~~((twenty-five))~~ fifty dollars ~~((when the reregistration is made, if made prior to administrative corporate dissolution. If the corporation has been administratively dissolved, it)).~~ The charitable organization shall pay an additional fifty dollar ~~((penalty))~~ late fee for each year, including the current year, ~~that~~ that it was not registered under this act ~~((for which it wishes to reinstate its corporation registration. A charitable organization not registered as a corporation shall be assessed a penalty of twenty-five dollars if registering within sixty-five days of the renewal date. Thereafter, the penalty fee shall be fifty dollars for each year, including the current year, it has failed to register)), but was required to do so.~~ If the registration has lapsed for a period of more than two years, the entity shall ~~((register))~~ provide solicitation information for the previous two years, and shall reregister as a new charitable organization.

(2) The ~~((penalty))~~ fees for late registration shall be in addition to ~~((any other))~~ the filing fees under WAC 434-120-

145, and any other, remedies that may be imposed by law, including penalties for soliciting without being registered.

(3) The charitable organization may ask the secretary to waive fees for late registration. The request must include a description of the circumstances that justify a waiver of the late fees. Under special circumstances the ~~((charitable organization may ask the))~~ secretary ~~((of State to))~~ may waive ~~((all penalty))~~ fees for late registration that are imposed by these regulations.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-170 Use of particular names in solicitations. (1) In addition to registration under this act, any entity conducting a solicitation using the name police, sheriff, fire fighter, firemen, or similar name shall file with the ~~((corporations division))~~ charities program, an original copy of the authorization to use the name in the solicitation. The authorization shall be signed by two officers or other persons responsible for carrying out the purpose of the bona fide department or organization that is giving its permission to use one of the above names. For the purposes of this section, "bona fide organization" shall mean a government department or agency of police, sheriffs, fire fighters, firemen, or similarly named government employer or an entity in which some or all of its members are employed by a government department or agency of police, sheriffs, fire fighters, firemen, or similar name.

(2) In addition to registration under this act, any entity conducting a solicitation using the name of a military veterans' service organization listed in the most current annual *Directory of Veterans Service Organizations* published by The Department of Veterans Affairs, Office of the Secretary, in Washington, D.C., shall ~~((file with the corporations division an original copy of the signed))~~ obtain written authorization to use the name in the solicitation. The ~~((signatory shall be))~~ written permission must be signed by the highest ranking official of the organization in the state who is listed in the "commanders list" maintained by the Washington department of veterans affairs. Organizations shall retain the authorization in their records, and make the original signed authorization available to the secretary, the office of the attorney general or the office of a county prosecutor on request.

(3) In addition to registration under this act, any entity using the name of a military veterans' service organization that is not affiliated with a national military veterans' service organization shall ~~((file with the corporations division an original copy of the authorization granting))~~ obtain written permission to use the name ~~((The signatory shall be))~~ signed by the service organization's highest ranking official in the state of Washington. Organizations shall retain the authorization in their records, and make the original signed authorization available to the secretary, the office of the attorney general or the office of a county prosecutor on request.

AMENDATORY SECTION (Amending WSR 97-16-036, filed 7/30/97, effective 8/30/97)

WAC 434-120-212 Registration by commercial coventurers. (1) A commercial coventurer shall register with the

secretary as either a commercial fund-raiser or a commercial coventurer before conducting any solicitations. If a commercial coventurer chooses to register as a commercial fund-raiser, it shall comply with all registration requirements for commercial fund-raisers as set forth in chapter 19.09 RCW and chapter 434-120 WAC. If a commercial coventurer chooses to register as a commercial coventurer, it shall do all of the following:

(a) Pay a registration fee as specified in WAC 434-120-250(7) and file the registration form required by this rule ~~((An entity which is entitled to and does register as a commercial coventurer need not:~~

- ~~((i) File the form specified in WAC 434-120-215; nor~~
- ~~((ii) Post a bond pursuant to RCW 19.09.190)); and~~

(b) File with the secretary a copy of its written agreement with each charitable organization for which it solicits. This agreement must state the name, address and telephone number of the commercial coventurer and the charitable organization; must be signed by an officer of the charitable organization and the person in charge of the commercial coventurer; must specify how the commercial coventurer's contribution to the organization as a result of this promotion shall be calculated, based upon an aggregate fixed dollar amount, a fixed dollar amount per sale, or a fixed percentage of gross sales revenue; and must state the charitable organization's permission to use its name; and

(c) Report:

- (i) A brief description of the fund-raising activity;
- (ii) The name of each charitable organization with which it has contracted as a commercial coventurer; and
- (iii) A disclosure of the planned financial contribution pursuant to contract with the named charitable organizations. A commercial coventurer shall comply with this requirement by specifying how the commercial coventurer's contribution to the organization as a result of this promotion shall be calculated, based upon an aggregate fixed dollar amount, a fixed dollar amount per sale, or a fixed percentage of gross sales revenue.

(d) Keep on file at its principal place of business a financial statement reflecting the results of its campaign(s) on behalf of each charitable organization for which it raises funds, which shall include at a minimum all of the information required by RCW 19.09.079(7), and shall produce this statement upon demand to the attorney general within ten business days.

(2) The commercial coventurer is not required to complete the solicitation report described by WAC 434-120-215 (2)(l).

(3) The form for registration ((form required by this rule)) as a commercial coventurer shall be the same as the form described in WAC 434-120-215 ((except as follows:)),

(a) ~~((It shall omit))~~ The commercial coventurer is not required to provide the information required by WAC 434-120-215 (2)(e) and (h); and

(b) ~~((Instead of the solicitation report described by WAC 434-120-215 (2)(n), the form shall include a solicitation report on which the commercial coventurer must report:~~

- ~~((i) A brief description of the fund raising activity;~~
- ~~((ii) The name of each charitable organization with which it has contracted as a commercial coventurer; and~~

~~(iii) A disclosure of the planned financial contribution pursuant to contract with the named charitable organizations. A commercial coventurer shall comply with this requirement by specifying how the commercial coventurer's contribution to the organization as a result of this promotion shall be calculated, based upon an aggregate fixed dollar amount, a fixed dollar amount per sale, or a fixed percentage of gross sales revenue.~~

~~(3))~~ An entity which is entitled to and does register as a commercial coventurer need not post a bond pursuant to RCW 19.09.190.

(4) Unless specifically excused by this rule, a commercial coventurer shall comply with all other terms of chapter 19.09 RCW and this chapter.

(5) Interpretive note: An entity that is regularly engaged in the business of promoting events, including but not limited to concerts, circuses, rodeos, and sporting events, by selling tickets to such events through the use of a charitable solicitation, shall be deemed to be regularly or primarily engaged in making charitable solicitations or otherwise raising funds for one or more charitable organizations, and therefore is not a commercial coventurer.

~~((4))~~ (6) Interpretive note: A transaction is not one for the purchase of a good or service, and therefore the seller is not a commercial coventurer, if the item ostensibly sold is of slight or grossly disproportionate value in relation to the price or contribution sought in exchange, or if it is described as a prize, gift, reward or award, or similar term, for contributions made or solicited.

(a) Example: A solicitor tells a prospective contributor that if he or she will contribute one hundred dollars to a named charity, the solicitor will send him or her a paper bookmark embossed with the charity's logo as a reward. The solicitor is not a commercial coventurer.

(b) Example: A solicitor offers to sell an individual a coffee mug, with a fair market value of five dollars, for one hundred dollars, with the representation that fifty percent of the purchase price would be contributed to a named charity. The solicitor is not a commercial coventurer. Caution: A person selling a good or service at fair market value is still not a commercial coventurer if he or she is regularly engaged in charitable fund-raising (see WAC 434-120-025 (3)(b)), or is selling tickets to events (see WAC 434-120-212(~~(3))~~(5)), or otherwise fails to qualify.

~~((5))~~ (7) Interpretive note: An entity that acts as a commercial coventurer, and that does not engage in any commercial fund-raising in this state other than as a commercial coventurer, may register as a commercial coventurer in Washington even if it acts as a commercial fund-raiser in other states.

~~((6))~~ (8) Interpretive note: A retail establishment that offers for sale a product that is marketed by others as a commercial coventurer, is not required to register unless it makes an independent appeal to charity or otherwise acts as a commercial coventurer or commercial fund-raiser.

(a) Example: A supermarket includes in its merchandise line a product, with a label that states that a portion of the purchase price will go to charity, but the supermarket makes no other appeal to charity with regard to the product. The supermarket is not required to register as a commercial coventurer or commercial fund-raiser, but the manufacturer will be con-

sidered a commercial coventurer if it otherwise satisfies the definition in WAC 434-120-025.

(b) Example: The supermarket in example (a) publishes as advertisement stating that a portion of the purchase price of a product will be devoted to charity. The supermarket is a commercial coventurer if it otherwise satisfies the definition in WAC 434-120-025.

~~((7) Unless specifically excused by this rule, a commercial coventurer shall comply with all other terms of chapter 19.09 RCW and chapter 434-120 WAC.))~~

AMENDATORY SECTION (Amending WSR 97-16-035, filed 7/30/97, effective 8/30/97)

WAC 434-120-215 Commercial fund-raiser registration—Form and requirements. (1) Commercial fund-raisers registering under this act shall use the commercial fund-raiser registration form available in the office of the ~~((corporations division))~~ charities program. ~~((The secretary of state shall develop a form in compliance with this rule.))~~ The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW, shall not excuse the failure to comply. The secretary's acceptance of a registration or other filing which violates these rules or chapter 19.09 RCW shall not excuse the violation. ~~((A registration form is not complete, and will not be accepted for filing, unless it includes:))~~

(2) A registration ~~((form))~~ is not complete, and will not be accepted for filing, unless it includes:

(a) The name of the organization, and every address (including both physical address and any mailing address if different), telephone number(s), fax number(s), of the commercial fund-raising entity under which contributions are being solicited or received, including any electronic mail or Internet addresses used by the organization;

(b) The name(s); address(es); and telephone number(s) of the individual(s) responsible for fund-raising activities of the entity in Washington state;

(c) ~~((If incorporated, the corporate name, unified business identifier number, state and date of incorporation, or if not incorporated,))~~ The type of organization, the unified business identifier if the organization is registered in Washington and date established, and if the organization is incorporated, the state and date of incorporation;

(d) The end date of its current fiscal or accounting year;

(e) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(f) A list of all states where the organization is registered for fund-raising, including any other names under which the organization is currently registered or has been registered in the past three years;

(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization;

(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(i) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;

(j) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any charitable organizations who have given the commercial fund-raiser authority to expend funds or incur obligations on behalf of the organization;

(k) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305;

(l) A solicitation report of the fund-raising activities of the entity for the preceding fiscal or accounting year including, but not limited to:

(i) The types of fund-raising services conducted;

(ii) The name of each charitable organization to whom this entity has provided fund-raising services;

(iii) The total dollar value of the following:

(A) Contributions received, either by ~~((your organization))~~ the commercial fund-raiser or the charities with ~~((whom you contract))~~ which the commercial fund-raiser contracts, as a result of services provided by ~~((your organization))~~ the commercial fund-raiser during the year shown above. (This is the total amount of money raised, regardless of who has possession of funds.)

(B) Funds either retained by, or paid to, the charities with whom ~~((you contract))~~ the commercial fund-raiser contracts, after ~~((year))~~ fees and any expenses have been subtracted. (This is the portion of money raised that the charities receive or keep after all fund-raising expenses have been deducted.)

(iv) The name, address, and telephone number of any other commercial fund-raiser retained in the conduct of providing fund-raising services;

~~((m))~~ (3) The ~~((form shall also include a space within which any of the organization))~~ commercial fund-raiser may provide additional information which the ~~((organization))~~ commercial fund-raiser believes would be of assistance in understanding other reported information, or to provide context for reported information.

~~((3))~~ Solicitation reports shall not report estimates, but shall report actual figures. If the organization did not directly or indirectly conduct any fund-raising activities in the previous accounting year, it shall file a supplemental registration form no later than the end of the ninth month after registering which provides a complete solicitation report with actual figures from the first six months of activity after registering.)

(4) The commercial fund-raiser shall report actual figures and shall not use estimates when completing a solicitation report or a supplemental solicitation report.

(5) All commercial fund-raiser registrations shall be signed by an officer or owner of the commercial fund-raiser.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-240 Contract between a commercial ~~((organization))~~ fund-raiser and a charitable organization. (1) A commercial fund-raiser and charitable organization entering into a contract shall register the contract by completing the ~~((corporations division))~~ contract registration form ~~((and))~~, attaching a copy of the written contract, and filing the form and contract with the secretary. ~~((It))~~ The contract shall be ((filed)) registered before the commencement of the campaign. ~~((There is a ten-dollar fee for filing the copy of the contract in the corporations division.))~~

(2) The charitable organization is responsible for registering the contract.

(3) The fee for registering a contract under this section is ten dollars.

(4) Both the contract and registration form shall be signed by the commercial fund-raiser owner or principal and the charitable organization president, treasurer, or comparable officer.

(5) In addition to the statutory requirements of RCW 19.09.097, the terms of the contract shall ~~((include))~~ specify who will maintain the donor list. ~~((The commercial fund-raiser shall be responsible for filing the contract.))~~

AMENDATORY SECTION (Amending WSR 97-16-036, filed 7/30/97, effective 8/30/97)

WAC 434-120-250 Fees. All commercial fund-raisers shall pay an original registration fee at the time of filing and a yearly ~~((reregistration))~~ registration renewal fee.

(1) The fee for original registration in this state is two hundred fifty dollars.

(2) The annual registration renewal fee is one hundred seventy-five dollars.

(3) The fee for filing changes in any information previously filed under RCW ~~((19.09.075,))~~ 19.09.079, and WAC 434-120-215 or for filing a contract is ten dollars.

(4) The ~~((penalty))~~ late fee is fifty dollars for failing to ~~((reregister within sixty days of))~~ renew registration by the due date. ~~((Beginning on the sixty-sixth day or following administrative dissolution of the corporation, whichever is later,))~~ The commercial fund-raiser shall pay an additional ~~((penalty))~~ late fee of one hundred dollars for each ~~((unregistered))~~ year ~~((for up to two years or shall register as a new entity. These penalties are cumulative))~~ that it was required to register under this act and failed to do so, including the current year. If the registration has lapsed for more than two years, the entity shall provide solicitation information for the previous two years and shall register as a new commercial fund-raiser under RCW 19.09.079, in addition to paying any late fees due under this section.

Any commercial fund-raiser failing to ~~((reregister))~~ renew registration and conducting business may be subject to other penalties and remedies ~~((, which may be cumulative and not exclusive and))~~ that may be imposed by law, including penalties for soliciting without being registered. These penalties are cumulative.

(5) The fee for expedited in-person service, and on-line filings, is twenty dollars for any and all transactions within

one commercial fund-raiser file, in addition to regular fee for the transaction.

(6) The photocopy fee is ten dollars for copies of the annual registration form or letter.

(7) A commercial coventurer shall pay a registration fee of twenty dollars when it registers with the secretary or renews its registration.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-260 Surety bonds. (1) In compliance with RCW 19.09.190 a registering commercial fund-raiser, as principal, shall submit proof of execution of a surety bond with one or more sureties whose liability in the aggregate will equal at least fifteen thousand dollars. Except as provided in WAC 434-120-265, commercial fund-raisers must provide proof of bonding ~~((in the following year))~~ if the commercial fund-raiser engages, or plans to engage, in one or more of the following practices:

(a) The fund-raiser directly or indirectly receives contributions from the public on behalf of any charitable organization; or

(b) The fund-raiser is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any similar method, even if the fund-raiser does not directly or indirectly receive the contributions; or

(c) The fund-raiser incurs or is authorized to incur expenses on behalf of the charitable organization; or

(d) Has not been registered with the secretary as a commercial fund-raiser for the preceding fiscal or accounting year shall execute a surety bond as principal with one or more sureties whose liability in the aggregate as such sureties will equal at least fifteen thousand dollars.

(2) A commercial fund-raiser is considered to solicit or receive contributions from the public directly if they are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members. Contributions are solicited or received indirectly if they are solicited or received by:

(a) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or

(b) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser has a contractual relationship governing the solicitation or receipt of contributions. Solicitations shall be deemed received by the fund-raiser if they are deposited into bank accounts wholly or partially owned or controlled by the commercial fund-raiser or other entity with which the commercial fund-raiser maintains a contractual relationship.

(3) If a commercial fund-raiser does business under more than one name, each name used by that entity must be registered and bonded separately.

AMENDATORY SECTION (Amending WSR 98-18-034, filed 8/26/98, effective 9/26/98)

WAC 434-120-305 ~~((Registration and reporting.))~~
Who shall register. ~~(((1) The Charitable Trust Act requires those trustees described by RCW 11.110.051 to complete an initial registration with the secretary of state, and thereafter to file with the secretary copies of the trust's United States tax or information return. This section generally describes these registration and reporting requirements, with reference to the applicable statutes. These rules do not repeat all statutory requirements.~~

~~((2) Who shall register and report:))~~ The registration and reporting requirements of chapter 11.110 RCW apply to every trustee, as defined by RCW 11.110.020, who is required to register by RCW 11.110.051. The secretary of state has determined, pursuant to RCW 11.110.051 (1)(a), that no trustee shall be required to register or report unless, as to a particular charitable trust, the trustee holds assets, invested for income-producing purposes, exceeding a value of two hundred fifty thousand dollars, and otherwise meets the description of RCW 11.110.051.

~~(((3) Initial registration: Every trustee required to register by RCW 11.110.051 shall do so, in the time and in the manner described by RCW 11.110.060. Trustees shall use the registration form described by WAC 434-120-310, and file all other documents required by RCW 11.110.060. Trustees required to register shall also file with the secretary any later amendments to the trust instrument within four months of making the amendment.~~

~~((4) Periodic reporting: After the initial registration, every trustee required to register by RCW 11.110.051 shall report annually as required by RCW 11.110.070. The annual reporting requirement is fully satisfied by filing a copy of the trust's United States tax or information return, forms 990, 990 PF, or 990-EZ, with the secretary of state at the same time as it is required to be filed with the Internal Revenue Service. Any trustee who is not required by federal law to file any of the named forms with the Internal Revenue Service shall either complete a federal return and file it with the secretary, or may instead file the form described by WAC 434-120-320 by no later than the fifteenth day of the fifth month after the end of its fiscal year.))~~

NEW SECTION

WAC 434-120-307 Required filings. (1) Initial registration: Every trustee required to register by RCW 11.110.051 shall do so, in the time and in the manner described by RCW 11.110.060. Trustees shall use the registration form described by WAC 434-120-310, and file all other documents required by RCW 11.110.060. Trustees required to register shall also file with the secretary any later amendments to the trust instrument within four months of making the amendment.

(2) Periodic reporting: Every trustee required to register by RCW 11.110.051 shall report annually as required by RCW 11.110.070. The annual reporting requirement is satisfied by filing the renewal form described by WAC 434-120-310(3) and filing a copy of the trust's federal informational tax return, with the secretary of state no later than the fif-

teenth day of the fifth month after the end of its fiscal or accounting year.

AMENDATORY SECTION (Amending WSR 98-18-034, filed 8/26/98, effective 9/26/98)

WAC 434-120-310 (~~(How to register—Form.)~~) **Charitable trust registration—Form and requirements.** (1)

Trustees registering under chapter 11.110 RCW shall use the registration form available in the office of the secretary of state. (~~The secretary of state shall develop a form in compliance with this rule.~~) The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 11.110 RCW shall not excuse the failure to comply.

(2) ((A)) An initial registration form is not complete, and will not be accepted for filing, unless it includes:

(a) The trustee's name;

(b) The trustee's mailing address, and physical address if different;

(c) The name of the trust (~~to be registered~~), its Federal Employer Identification Number, if any, or other identifying information sufficient to distinguish the trust from other registered trusts;

(d) A brief description of the charitable purposes of the trust, which may, at the trustee's option, include the names and addresses of any charitable organizations (~~benefitted~~) benefited by the trust;

(e) The market value of all trust assets invested for incoming-producing purposes as of the date on which the trustee received possession or control of the trust corpus; ((and))

(f) ((The signature of)) A copy of the governing instrument creating the trust;

(g) A statement indicating whether the trust is exempt from federal income tax, and, if exempt, the section of the Internal Revenue Code under which the trust is exempt from federal income tax;

(h) A copy of the letter by which the Internal Revenue Service granted the trust tax exempt status if the Internal Revenue Service has granted the trust such status;

(i) The end date of its current fiscal or accounting year;

(j) A financial report of the trust for the preceding fiscal or accounting year, including, but not limited to:

(i) Beginning assets;

(ii) Total revenue;

(iii) Grants, contributions, and the amount of expenditures used directly for program services;

(iv) Compensation of officers, directors, trustees, etc.;

(v) Total expenses; and

(vi) Ending assets.

(k) A copy of the trust's federal informational tax return (Form 990, Form 990PF, or Form 990EZ) reflecting the fiscal or accounting year contained in this report;

(l) The name and telephone number of the preparer of the trust registration, if different from trustee.

(3) The renewal registration form required by this rule shall be the same as the form described in WAC 434-120-310 except that the information required by WAC 434-120-310 (2)(d), (e), (f), (g) and (h) is not required.

(4) The trust shall report actual figures, and shall not use estimates, when completing a financial report.

(5) All charitable trust registrations shall be signed by the trustee, or, if the trustee is a corporation, of the corporate officer or employee responsible for the trust.

~~((3))~~ (6) A copy of the governing instrument creating the trust shall not be deemed sufficient to meet the requirements of this section.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-330 Annual fees. (1) Charitable trusts (~~registering for the first time~~) filing initial or renewal registrations shall pay a fee of twenty-five dollars. (~~If an organization files a noncombined renewal, the fee shall be twenty-five dollars. When renewal is combined with filing an annual nonprofit corporation report the fee shall be twenty-five dollars. If an organization simultaneously files renewals under the Nonprofit Corporations Act, the Charitable Solicitations Act, and the Charitable Trust Act, the annual renewal fee shall be thirty dollars for all three, or if renewing under the Charitable Trusts Act, the Charitable Solicitations Act, the public benefits provision, and filing a nonprofit corporation annual report, the fee shall be thirty dollars for all four.~~)

(2) For all expedited in-person service, or on-line filing, the fee is twenty dollars for one or more transactions within one charitable trust file, in addition to the regular fee for the transaction.

(3) For a photocopy of an Internal Revenue Service Form 990EZ the fee is five dollars and for a copy of Form 990 or 990-PF the fee is ten dollars with a surcharge for forms exceeding 100 pages of copy, which is thirteen dollars for each fifty page increment.

(4) For a photocopy of a charitable trust registration form, the fee is five dollars.

NEW SECTION

WAC 434-120-345 Late registration fees. (1) A charitable trust that fails to renew its registration at the time its renewal is due, shall pay a late fee of fifty dollars when the reregistration is made. The trust shall pay an additional fifty-dollar late fee for each year, including the current year, it was not registered under this act. If the registration has lapsed for a period of more than two years, the entity shall register as a new trust and pay any late fees, which shall be cumulative.

(2) The fees for late registration shall be in addition to any other filing fees or remedies that may be imposed by law, including penalties for not being registered.

NEW SECTION

WAC 434-120-355 Change in status, notification. A charitable trust shall notify the charities program of a change in trust instrument, trustee, principal officer, tax status, fiscal year, or any other information filed under RCW 11.110.060 or WAC 434-120-310 within four months after the change. Organizations filing changes of information described in RCW 11.110.060 or WAC 434-120-310 shall pay a fee of ten dollars for each submittal of change.

NEW SECTION

WAC 434-120-360 Dissolution of trust, procedure and notification. (1) A charitable trust shall submit written notification of its intent to dissolve to the charities program thirty days prior to dissolution.

(2) Upon dissolution, the trust shall provide information regarding the disposition of its assets, including, but not limited to, the amount and type of assets, and the name and address of the entity in receipt of such assets.

(3) Upon dissolution, the charitable trust shall provide the information specified in subsection (2) of this section to:

(a) The charities program in the office of the secretary of state if the dissolution is in accordance with the specific terms of the trust; or

(b) Both the charities program in the office of the secretary of state and the office of the attorney general if the dissolution is the result of:

(i) A merger;

(ii) A voluntary dissolution outside the specific terms of the trust;

(iii) A change in the state of domicile of the trust; or

(iv) Any other change in the trust giving rise to the obligation to notify the attorney general under RCW 11.110.120.

(4) Notice to the charities program under subsection (3)(b) of this section is not required for those trusts that are not required to register with the charities program in the office of the secretary of state.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-120-015	Official address and telephone number.
WAC 434-120-020	Office hours.
WAC 434-120-155	Public benefit nonprofit corporation registration—Annual fee.
WAC 434-120-320	Content of annual reports for trusts not required to file United States tax or information returns.

**WSR 04-04-029
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed January 27, 2004, 4:50 p.m., effective March 1, 2004]

Date of Adoption: January 27, 2004.

Purpose: The department is implementing a number of changes to improve the quality and timeliness of independent medical examinations. The purpose of the proposed rules is to ensure providers know the department's requirements to be an independent medical examiner, the expectations of providers in the treatment of injured workers during an examina-

tion and other standards providers are expected to meet as approved examiners. In addition, the rules clarify requirements of attending physicians or consultants when doing impairment rating examinations.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-20-210 General rules, 296-23-255 Independent medical examinations, 296-23-260 Examination reports, 296-23-265 Who may perform independent medical examinations?, 296-23-26501 How do doctors become approved examiners?, 296-23-26502 Where can doctors get an application to become an approved examiner and other information about independent medical examinations?, 296-23-26503 What factors does the medical director consider in approving, suspending or removing doctors from the approved examiners list?, 296-23-26504 What happens if an examiner is suspended or removed from the approved examiner list by the medical director?, 296-23-26505 Is there a fee schedule for independent medical examinations?, 296-23-26506 Can a worker file a complaint about an independent medical examiner's conduct?, 296-23-267 When may attending doctors perform impairment rating examinations? and 296-23-270 Independent medical examinations two or more examiners; and amending WAC 296-20-200 General information for impairment rating examinations by attending doctors, consultants or independent medical examination (IME) providers.

Statutory Authority for Adoption: RCW 51.32.055, 51.32.112, 51.32.114, 51.36.060, and 51.36.070.

Adopted under notice filed as WSR 03-21-070 on October 14, 2003.

Changes Other than Editing from Proposed to Adopted Version: Changes were made in the following sections of the proposed WAC, based upon public input and further research by the department.

Amend WAC 296-20-2010(3) to include it is the responsibility of attending doctors and consultants to be familiar with the contents of the Medical Examiner Handbook section on rating examinations by attending doctors and consultants.

Amend WAC 296-20-2010(5) to include a complete impairment rating report must be sent to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the examination. Job analyses (JAs) sent to the IME provider at the time of the impairment rating exam must be completed and submitted with the impairment rating report.

Amend WAC 296-20-2010(1) to include a chiropractic impairment rating examination may be performed only when the worker has been clinically managed by a chiropractor.

Deleted WAC 296-20-2020. Will add nonduplicative last paragraph to WAC 296-20-2010(4).

Attending doctors and consultants performing impairment rating examinations must be available and willing to testify on behalf of the department or self-insurer, worker, or employer and accept the department fee schedule rate for testimony.

Other nonduplicative language included in WAC 296-20-2015.

Amend WAC 296-23-302 Definitions, to include direct patient care. For the purpose of meeting the qualifications of

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an independent medical examination (IME) provider, direct patient care means face-to-face contact with the patient for the purpose of evaluation and management of care that includes, but is not limited to:

- History taking and review of systems;
- Physical examination;
- Medical decision making;
- Coordination of care with other providers and agencies. This does not include time spent in independent medical examinations.

Provider number. A unique number(s) assigned to a provider by the department of labor and industries. The number identifies the provider and is linked to a tax identification number that has been designated by the provider for payment purposes. A provider may have more than one provider number assigned by the department.

Amend WAC 296-23-317 (5)(a) to include providers must conduct independent medical examinations only in a professional office suitable for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the examination site is for medical services; not residential, commercial, educational or retail in nature.

Amend WAC 296-23-337(1) complaints about the provider.

Amend WAC 296-23-347 (2)(c) let the worker know that the claim documents from the department or self-insurer have been reviewed.

Amend WAC 296-23-347 (3)(a) send a complete IME report to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the examination. Reports received after fourteen calendar days may be paid at a lower rate per the fee schedule. The report must meet the requirements of WAC 296-23-382.

Amend WAC 296-23-347 (3)(b) the claim file information received from the department or self-insurer should be disposed of in a manner used for similar health records containing private information after completion of the IME or any follow up test results are received. IME reports should be retained per WAC 296-20-02005.

Amend WAC 296-23-377(2) if, after review of the records, a history from the worker and the examination, the IME provider does not concur with the attending doctor's determination of MMI, an IME report must be completed. See WAC 296-23-382.

Added WAC 296-23-381 in table format, What rating systems are used for determining an impairment rating conducted by the independent medical examination (IME) provider?

The following table provides guidance regarding the rating systems generally used. These rating systems or others adopted through department policies should be used to conduct an impairment rating.

Overview of Systems for Rating Impairment

Rating System:	RCW 51.32.080
Used for These Conditions:	Specified disabilities: Loss by amputation, total loss of vision or hearing
Form of the Rating:	Supply the level of amputation
Rating System:	AMA Guides to the Evaluation of Permanent Impairment
Used for These Conditions:	Loss of function of extremities, partial loss of vision or hearing
Form of the Rating:	Determine the percentage of loss of function, as compared to amputation value listed in RCW 51.32.080
Rating System:	Category Rating System
Used for These Conditions:	Spine, neurologic system, mental health, respiratory, taste and smell, speech, skin, or disorders affecting other internal organs
Form of the Rating:	Select the category that most accurately indicates overall impairment
Rating System:	Total Bodily Impairment (TBI)
Used for These Conditions:	Impairments not addressed by any of the rating systems above, and claims prior to 1971
Form of the Rating:	Supply the percentage of TBI

Amend WAC 296-23-382(2), an impairment rating report may be requested as a component of an IME. Impairment rating reports are to be done as specified in WAC 296-20-200 and 296-20-2010 (2)(a) through (e) and 296-23-377.

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 24, Amended 1, Repealed 12.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 24, Amended 1, Repealed 12.

Number of Sections Adopted Using Negotiated Rule Making: New 24, Amended 1, Repealed 12; 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 1, 2004.

January 27, 2004

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 97-09-036, filed 4/14/97, effective 5/15/97)

WAC 296-20-200 General information for impairment rating examinations by attending doctors, consult-

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ants or independent medical examination (IME) providers.

(1) The department of labor and industries has promulgated the following rules and categories to provide a comprehensive system of classifying unspecified permanent partial disabilities in the proportion they reasonably bear to total bodily impairment. The department's objectives are to reduce litigation and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities pursuant to RCW 51.32.080(2).

(2) The following system of rules and categories directs the ~~((examiner's))~~ provider's attention to the actual conditions found and establishes a uniform system for conducting rating examinations and reporting findings and conclusions in accord with broadly accepted medical principles.

The evaluation of bodily impairment must be made by experts authorized to perform rating examinations. ~~((This system recognizes and provides for this.))~~ After conducting the examination, the ~~((examiner))~~ provider will choose the appropriate category for each bodily area or system involved in the particular claim and include this information in the report. The ~~((examiner))~~ provider will, therefore, in addition to describing the worker's condition in the report, submit the conclusions as to the relative severity of the impairment by giving it in terms of a defined condition rather than a personal opinion as to a percentage figure. In the final section of this system of categories and rules are some rules for determining disabilities and the classification of disabilities in bodily impairment is listed for each category. These last provisions are for the department's administrative use in acting upon the expert opinions which have been submitted to it.

(3) In preparing this system, the department has complied with its duty to enact rules classifying unspecified disabilities in light of statutory references to nationally recognized standards or guides for determining various bodily impairments. Accordingly, the department has obtained and acted upon sound established medical opinion in thus classifying unspecified disabilities in the reasonable proportion they bear to total bodily impairment. In framing descriptive language of the categories and in assigning a percentage of disability, careful consideration has been given to nationally recognized medical standards and guides. Both are matters calling for the use of expert medical knowledge. For this reason, the meaning given the words used in this set of categories and accompanying rules, unless the text or context clearly indicates the contrary, is the meaning attached to the words in normal medical usage.

(4) The categories describe levels of physical and mental impairment. Impairment is anatomic or functional abnormality or loss of function after maximum medical ~~((rehabilitation))~~ improvement has been achieved. This is the meaning of "impairment" as the word is used in the guides mentioned above. This standard applies to all persons equally, regardless of factors other than loss of physical or mental function. Impairment is evaluated without reference to the nature of injury or the treatment therefore, but is based on the functional loss due to the injury or occupational disease. The categories have been framed to include conditions in other bodily areas which derive from the primary impairment. The categories also include the presence of pain, tenderness and

other complaints. Workers with comparable loss of function thus receive comparable awards.

(5) These rules and categories (WAC 296-20-200 through 296-20-690) shall only be applicable to compensable injuries occurring on or after the effective date of these rules and categories.

(6) These rules and categories (WAC 296-20-200 through 296-20-690) shall be applicable only to cases of permanent partial disability. They have no applicability to determinations of permanent total disability.

NEW SECTION

WAC 296-20-2010 General rules for impairment rating examinations by attending doctors and consultants. These general rules must be followed by doctors who perform examinations or evaluations of permanent bodily impairment.

(1) Impairment rating examinations shall be performed only by doctors currently licensed in medicine and surgery (including osteopathic and podiatric) or dentistry, and department-approved chiropractors subject to RCW 51.32.112. The department or self-insurer may request the worker's attending doctor conduct the impairment rating when appropriate. If the attending doctor is unable or unwilling to perform the impairment rating examination, a consultant, at the attending doctor's request, may conduct a consultation examination and provide an impairment rating based on the findings. The department or self-insurer can also request an impairment rating examination from an independent medical examination (IME) provider. A chiropractic impairment rating examination may be performed only when the worker has been clinically managed by a chiropractor.

(2) Whenever an impairment rating examination is made, the attending doctor or consultant must complete a rating report that includes, at a minimum, the following:

(a) Statement that the patient has reached maximum medical improvement (MMI) and that no further curative treatment is recommended;

(b) Pertinent details of the physical examination performed (both positive and negative findings);

(c) Results of any pertinent diagnostic tests performed (both positive and negative findings). Include copies of any pertinent tests or studies ordered as part of the exam;

(d) An impairment rating consistent with the findings and a statement of the system on which the rating was based (for example, the *AMA Guides to the Evaluation of Permanent Impairment* and edition used, or the Washington state category rating system - refer to WAC 296-20-19000 through 296-20-19030 and WAC 296-20-200 through 296-20-690); and

(e) The rationale for the rating, supported by specific references to the clinical findings, especially objective findings and supporting documentation including the specific rating system, tables, figures and page numbers on which the rating was based.

(3) It is the responsibility of attending doctors and consultants to be familiar with the contents of the *Medical Examiner Handbook* section on how to rate impairment.

(4) Attending doctors and consultants performing impairment ratings must be available and willing to testify on behalf of the department or self-insurer, worker or employer and accept the department fee schedule for testimony.

(5) A complete impairment rating report must be sent to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the examination. Job analyses (JAs) sent to the IME provider at the time of the impairment rating exam must be completed and submitted with the impairment rating report.

NEW SECTION

WAC 296-20-2015 What rating systems are used for determining an impairment rating conducted by the attending doctor or a consultant? The following table provides guidance regarding the rating systems generally used. These rating systems or others adopted through department policies should be used to conduct an impairment rating.

Overview of Systems for Rating Impairment

Rating System	Used for These Conditions	Form of the Rating
RCW 51.32.080	Specified disabilities: Loss by amputation, total loss of vision or hearing	Supply the level of amputation
<i>AMA Guides to the Evaluation of Permanent Impairment</i>	Loss of function of extremities, partial loss of vision or hearing	Determine the percentage of loss of function, as compared to amputation value listed in RCW 51.32.080
Category Rating System	Spine, neurologic system, mental health, respiratory, taste and smell, speech, skin, or disorders affecting other internal organs	Select the category that most accurately indicates overall impairment
Total Bodily Impairment (TBI)	Impairments not addressed by any of the rating systems above, and claims prior to 1971	Supply the percentage of TBI

NEW SECTION

WAC 296-20-2025 May a worker bring someone with them to an impairment rating examination conducted by the attending doctor or a consultant? (1) Workers can bring an adult friend or family member to the impair-

ment rating examination to provide comfort and reassurance. The accompanying person may attend the physical examination but may not attend a psychiatric examination.

(2) The accompanying person cannot be compensated for attending the examination by anyone in any manner.

(3) The worker may not bring an interpreter to the examination. If interpretive services are needed, the department or self-insurer will provide an interpreter.

(4) The purpose of the impairment rating examination is to provide information to assist in the determination of the level of any permanent impairment, not to conduct an adversarial procedure. Therefore, the accompanying person cannot be:

(a) The worker's attorney, paralegal, any other legal representative, or any other personnel employed by the worker's attorney or legal representative; or

(b) The worker's attending doctor, any other provider involved in the worker's care, or any other personnel employed by the attending doctor or other provider involved in the worker's care.

The department may designate other conditions under which the accompanying person is allowed to be present during the impairment rating examination.

NEW SECTION

WAC 296-20-2030 May the worker videotape or audiotape the impairment rating examination conducted by the attending doctor or a consultant? The use of recording equipment of any kind by the worker or accompanying person is not allowed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-20-210 General rules.

NEW SECTION

WAC 296-23-302 Definitions. Direct patient care. For the purpose of meeting the qualifications of an independent medical examination (IME) provider, direct patient care means face-to-face contact with the patient for the purpose of evaluation and management of care that includes, but is not limited to:

- History taking and review of systems;
- Physical examination;
- Medical decision making;
- Coordination of care with other providers and agencies.

This does not include time spent in independent medical examinations.

Impairment rating examination. An examination to determine whether or not the injured/ill worker has any permanent impairment(s) as a result of the industrial injury or illness after the worker has reached maximum medical improvement. An impairment rating may be a component of an IME.

Independent medical examination (IME). An objective medical examination requested by the department or self-

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insurer to establish medical facts about a worker's physical condition.

Independent medical examination (IME) provider. A firm, partnership, corporation, or individual doctor who has been approved and given an independent medical examination (IME) provider number by the department to perform IMEs.

Medical director. A licensed doctor in the firm, partnership, corporation or other legal entity responsible to provide oversight on quality of independent medical examinations, impairment ratings and reports.

Medical examiners' handbook. A handbook distributed by the department containing department policy and information to assist doctors who perform independent medical examinations and impairment rating examinations.

Provider number. A unique number(s) assigned to a provider by the department of labor and industries. The number identifies the provider and is linked to a tax identification number that has been designated by the provider for payment purposes. A provider may have more than one provider number assigned by the department.

NEW SECTION

WAC 296-23-307 Why are independent medical examinations requested? Independent medical examinations (IMEs) are requested by the department or the self-insurer. Generally, IMEs are ordered for one or more of the following reasons, including, but not limited to:

- (1) Establish a diagnosis;
- (2) Outline a program of treatment;
- (3) Evaluate what, if any, conditions are related to the claimed industrial injury or occupational disease/illness;
- (4) Determine whether an industrial injury or occupational disease/illness has aggravated a preexisting condition and the extent or duration of that aggravation;
- (5) Establish when the accepted industrial injury or occupational disease/illness has reached maximum medical improvement;

- (6) Establish an impairment rating;
- (7) Evaluate whether the industrial injury or occupational disease/illness has worsened; or
- (8) Evaluate the worker's mental and/or physical restrictions as well as the worker's ability to work.

NEW SECTION

WAC 296-23-312 Can a provider conduct independent medical examinations (IMEs) for the department or self-insurer without an active IME provider number from the department? No. Only doctors who possess an active IME provider number can provide independent medical examinations for the department or self-insurer. Providers must submit an IME provider application and be approved by the department to receive this number.

NEW SECTION

WAC 296-23-317 What qualifications must a provider meet to receive an independent medical examination (IME) provider number? In order to ensure high quality independent medical examinations, the department shall only approve an IME provider number for persons, firms, partnerships, corporations or other legal entities that meet the following qualification requirements:

- (1) Providers who wish to bill or get paid for independent medical examinations or related services must apply for and receive an IME provider number. Issuance of an IME provider number does not guarantee IME referrals.
- (2) Providers must have and maintain a current license to practice in the state in which they conduct IMEs and meet at least one of the two following requirements:
 - (a) Board certification in their medical specialty; or
 - (b) A minimum of an average of eight hours per week over the past two years of direct patient care in their medical specialty (excluding IMEs).
- (3) Only providers in the following practice specialties who meet all other requirements may perform IMEs;

	Doctors licensed to practice:				
Examiner is:	Medicine & surgery	Osteopathic medicine & surgery	Podiatric medicine & surgery	Chiropractic	Dentistry
In Washington	Yes	Yes	Yes	Yes	Yes
Not in Washington	Yes	Yes	Yes	No	Yes

(4) A provider licensed to practice chiropractic in Washington must also meet all the following requirements:

- (a) Be a chiropractic consultant for the department for at least two years;
- (b) Take an impairment rating course approved by the department; and
- (c) Attend the department's chiropractic consultant and examiners' seminar during the twenty-four months prior to application.
- (5) Business requirements:
 - (a) Providers must conduct independent medical examinations only in a professional office suitable for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the examination site is for medical

services; not residential, commercial, educational or retail in nature. The site must have, at a minimum, adequate access, climate control, light, space and equipment to provide for the comfort and safety of the injured/ill worker and provide the privacy necessary for workers to discuss their medical issues.

- (b) Providers must comply with all federal and state laws, regulations and other requirements with regard to business operations, including specific requirements for business operations for the provision of medical services.
- (c) Providers must have a private disrobing area and adequate provision of examination gowns.
- (d) Providers must have telephone answering capability during regular business hours, Monday through Friday, in order to facilitate scheduling of independent medical exami-

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nations and means for workers to contact the provider regarding their scheduled examination. If the office is open on Saturday, telephone access must be available.

(e) In order to be assigned an IME provider number, an IME firm, partnership, corporation or other legal entity must have a medical director. The medical director must be a licensed provider and be responsible to provide oversight on the quality of independent medical examinations, impairment ratings and reports.

NEW SECTION

WAC 296-23-322 What boards are recognized by the department for independent medical examination (IME) provider approval? The department accepts certifications from boards recognized by the following as meeting the board certification requirements in WAC 296-23-317:

- (1) American Board of Medical Specialties;
- (2) American Osteopathic Association (AOA) Bureau of Osteopathic Specialties;
- (3) American Podiatric Medical Association;
- (4) American Dental Association.

NEW SECTION

WAC 296-23-327 What other factors may the department's medical director consider in approving or disapproving an application for an independent medical examination (IME) provider number? The department's medical director considers other factors in approving or disapproving an IME application, including, but not limited to, the following:

- (1) Complaints about the provider;
- (2) Quality of reports;
- (3) Timeliness of reports;
- (4) Charges regarding any crime, gross misdemeanor, felony or violation of statutes or rules by any administrative agency, court or board;
- (5) Convictions of any crime, gross misdemeanor, felony or violation of statutes or rules by any administrative agency, court or board.

NEW SECTION

WAC 296-23-332 What are the requirements for notifying the department or self-insurer if an independent medical examination (IME) provider has a change in status? Providers must immediately notify the department of any change in status that might affect their qualifications for an independent medical examination (IME) provider number. The notification must be in writing. Providers must include a copy of any charges or final orders if applicable. Changes in status include, but are not limited to:

- (1) Changes in time spent in direct patient care;
- (2) Loss or restriction of hospital admitting or practice privileges;
- (3) Changes affecting business requirements (WAC 296-23-317);
- (4) Loss of board certification;

(5) Charges regarding any crime, gross misdemeanor, felony or violation of statutes or rules by any administrative agency, court or board;

(6) Convictions of any crime, gross misdemeanor, felony or violation of statutes or rules by any administrative agency, court or board;

(7) Temporary or permanent probation, suspension, revocation, or limitation placed on their license to practice by any court, board, or administrative agency in any state or foreign jurisdiction.

NEW SECTION

WAC 296-23-337 What factors does the department's medical director consider in suspending or terminating an independent medical examination (IME) provider number? The department's medical director may consider several factors in suspending or terminating an IME provider number. Examples include, but are not limited to:

- (1) Complaints about the provider;
- (2) Disciplinary proceedings or actions;
- (3) Proceedings in any court dealing with the provider's professional conduct, quality of care and criminal actions;
- (4) Ability to effectively convey and substantiate medical opinions and conclusions concerning workers;
- (5) Untimely reports;
- (6) Substandard quality of reports or failure to comply with current department policy on report contents;
- (7) Unavailability or lack of willingness to responsibly communicate with the department or self-insurer;
- (8) Unavailability or lack of willingness to testify on behalf of the department or self-insurer, worker, or employer;
- (9) Failure to stay current in the area of specialty and in the areas of impairment rating, performance of IMEs, industrial injury and occupational disease/illness, industrial insurance statutes, regulations and policies;
- (10) Failure to continue to maintain the criteria to be an IME provider;
- (11) Misrepresentation of information provided to the department;
- (12) Failure to inform the department of changes affecting the provider's status as an IME provider;
- (13) Failure to comply with the department's orders, statutes, rules, or policies; and
- (14) Failure to accept the department fee schedule rate for testimony or independent medical examinations.

NEW SECTION

WAC 296-23-342 Are providers entitled to referrals from the department or self-insurer? No. The department or self-insured employer refers industrially injured or ill workers for independent medical examination (IME) services at their sole discretion. No provider is entitled to referrals from the referral source.

NEW SECTION

WAC 296-23-347 What are the independent medical examination (IME) provider's responsibilities in an

examination? (1) The IME provider's responsibilities prior to the examination are to:

- (a) Be familiar with the contents of the medical examiner's handbook;
- (b) Review all claim documents provided by the department or self-insured employer;
- (c) Contact the worker prior to the examination to confirm the appointment date, time and location; and
- (d) Review the purpose of the examination and the questions to be answered in the examination report.

(2) The IME provider's responsibilities during the examination are to:

- (a) Introduce himself or herself to the worker;
- (b) Verify the identity of the worker;
- (c) Let the worker know that the claim documents from the department or self-insurer have been reviewed;
- (d) Explain the examination process and answer the worker's questions about the examination process;
- (e) Advise the worker that he/she should not perform any activities beyond their physical capabilities;
- (f) Allow the worker to remain fully dressed while taking the history;
- (g) Ensure adequate draping and privacy if the worker needs to remove clothing for the examination;
- (h) Refrain from expressing personal opinions about the worker, the employer, the attending doctor, or the care the worker has received;
- (i) Conduct an examination that is unbiased, sound and sufficient to achieve the purpose and reason the examination was requested;
- (j) Conduct the examination with dignity and respect for the worker;
- (k) Ask if there is any further information the worker would like to provide; and
- (l) Close the examination by telling the worker that the examination is over.

(3) The IME provider's responsibilities following the examination are to:

- (a) Send a complete IME report to the department or self-insurer within fourteen calendar days of the examination date, or within fourteen calendar days of receipt of the results of any special tests or studies requested as a part of the examination. Reports received after fourteen calendar days may be paid at a lower rate per the fee schedule. The report must meet the requirements of WAC 296-23-382; and
- (b) The claim file information received from the department or self-insurer should be disposed of in a manner used for similar health records containing private information after completion of the IME or any follow-up test results are received. IME reports should be retained per WAC 296-20-02005.

NEW SECTION

WAC 296-23-352 Must the independent medical examination (IME) provider address job analyses (JAs) at the request of the department or self-insurer? Job analyses (JAs) sent to the IME provider at the time of the IME referral must be completed and submitted with the IME report. JAs submitted within sixty calendar days after the

IME must be completed and returned within fourteen calendar days of receipt of the JAs.

NEW SECTION

WAC 296-23-357 May an independent medical examination (IME) provider offer to provide ongoing treatment to the worker? No. However, if a worker voluntarily approaches an IME provider who has previously examined the worker and asks to be treated by that provider, the provider can treat the worker. The provider must document that the worker was aware of other treatment options.

NEW SECTION

WAC 296-23-362 May a worker bring someone with them to an independent medical examination (IME)? (1) Workers can bring an adult friend or family member to the IME to provide comfort and reassurance. That accompanying person may attend the physical examination but may not attend a psychiatric examination.

(2) The accompanying person cannot be compensated for attending the examination by anyone in any manner.

(3) The worker may not bring an interpreter to the examination. If interpretive services are needed, the department or self-insurer will provide an interpreter.

(4) The purpose of the IME is to provide information to assist in the determination of the level of any permanent impairment not to conduct an adversarial procedure. Therefore, the accompanying person cannot be:

(a) The worker's attorney, paralegal, any other legal representative, or any other personnel employed by the worker's attorney or legal representative; or

(b) The worker's attending doctor, any other provider involved in the worker's care, or any other personnel employed by the attending doctor or other provider involved in the worker's care.

The department may designate other conditions under which the accompanying person is allowed to be present during the IME.

NEW SECTION

WAC 296-23-367 May the worker videotape or audiotape the independent medical examination? The use of recording equipment of any kind by the worker or accompanying person is not allowed.

NEW SECTION

WAC 296-23-372 Can a worker file a complaint about a provider's conduct during an independent medical examination? Workers can send written complaints about a provider's conduct during an independent medical examination to the self-insurer or department. Based on the nature of the complaint, the department may refer the complaint to the department of health.

NEW SECTION

WAC 296-23-377 If an independent medical examination (IME) provider is asked to do an impairment rating examination only, what information must be included in the report? When doing an impairment rating examination, the IME provider must first review the determination by the attending doctor that the worker has reached maximum medical improvement (MMI).

(1) If, after reviewing the records, taking a history from the worker and performing the examination, the IME provider concurs with the attending doctor's determination of MMI, the impairment rating report must, at a minimum, contain the following:

(a) A statement of concurrence with the attending doctor's determination of MMI;

(b) Pertinent details of the physical or psychiatric examination performed (both positive and negative findings);

(c) Results of any pertinent diagnostic tests performed (both positive and negative findings). Include copies of pertinent tests with the report;

(d) An impairment rating consistent with the findings and a statement of the system on which the rating was based (for example, the *AMA Guides to the Evaluation of Permanent Impairment* and edition used, or the Washington state category rating system - refer to WAC 296-20-19000 through 296-20-19030 and WAC 296-20-200 through 296-20-690); and

(e) The rationale for the rating, supported by specific references to the clinical findings, especially objective findings and supporting documentation including the specific rating system, tables, figures and page numbers on which the rating was based.

(2) If, after review of the records, a history from the worker and the examination, the IME provider does not concur with the attending doctor's determination of MMI, an IME report must be completed. (See WAC 296-23-382.)

NEW SECTION

WAC 296-23-381 What rating systems are used for determining an impairment rating conducted by an independent medical examination (IME) provider? The following table provides guidance regarding the rating systems generally used. These rating systems or others adopted through department policies should be used to conduct an impairment rating.

Overview of Systems for Rating Impairment

Rating System	Used for These Conditions	Form of the Rating
RCW 51.32.080	Specified disabilities: Loss by amputation, total loss of vision or hearing	Supply the level of amputation

Overview of Systems for Rating Impairment

<i>AMA Guides to the Evaluation of Permanent Impairment</i>	Loss of function of extremities, partial loss of vision or hearing	Determine the percentage of loss of function, as compared to amputation value listed in RCW 51.32.080
Category Rating System	Spine, neurologic system, mental health, respiratory, taste and smell, speech, skin, or disorders affecting other internal organs	Select the category that most accurately indicates overall impairment
Total Bodily Impairment (TBI)	Impairments not addressed by any of the rating systems above, and claims prior to 1971	Supply the percentage of TBI

NEW SECTION

WAC 296-23-382 What information must be included in an independent medical examination (IME) report? (1) It is the department's intention to purchase objective examinations to ensure that sure and certain determinations are made of all benefits to which the worker might be entitled. The independent medical examination report must:

(a) Contain objective, sound and sufficient medical information;

(b) Document the review of the claim documents provided by the department or self-insurer;

(c) Document the worker's history and the clinical findings;

(d) Answer all the written questions posed by the department or self-insurer or include a description of what would be needed to address the questions;

(e) Include objective conclusions and recommendations supported by underlying rationale that links the medical history and clinical findings;

(f) Be in compliance with current department reporting policies; and

(g) Be signed by the IME provider performing the examination.

(2) An impairment rating report may be requested as a component of an IME. Impairment rating reports are to be done as specified in WAC 296-20-200 and 296-20-2010 (2)(a) through (e) and 296-23-377.

NEW SECTION

WAC 296-23-387 What are the responsibilities of an independent medical examination (IME) provider regarding testimony? IME providers must make themselves reasonably available to testify at the board of industrial insur-

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ance appeals or by deposition. In signing the application to be an independent medical examination provider, the provider agrees to perform examinations and be available to testify and to answer questions about the medical facts of the case at rates established under the authority of Washington industrial insurance law. Failure to comply with this requirement may result in termination of the IME provider number.

NEW SECTION

WAC 296-23-392 Is there a fee schedule for independent medical examinations? The maximum fee schedule for performing independent medical examinations is published by the department in the *Medical Aid Rules and Fee Schedule* available from the department.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-23-255	Independent medical examinations.
WAC 296-23-260	Examination reports.
WAC 296-23-265	Who may perform independent medical examinations?
WAC 296-23-26501	How do doctors become approved examiners?
WAC 296-23-26502	Where can doctors get an application to become an approved examiner and other information about independent medical examinations?
WAC 296-23-26503	What factors does the medical director consider in approving, suspending or removing doctors from the approved examiners list?
WAC 296-23-26504	What happens if an examiner is suspended or removed from the approved examiner list by the medical director?
WAC 296-23-26505	Is there a fee schedule for independent medical examinations?
WAC 296-23-26506	Can a worker file a complaint about an independent medical examiner's conduct?
WAC 296-23-267	When may attending doctors perform impairment rating examinations?
WAC 296-23-270	Independent medical examinations two or more examiners.

**WSR 04-04-037
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 29, 2004, 11:31 a.m., effective March 1, 2004]

Date of Adoption: January 28, 2004.

Purpose: To implement chapter 412, Laws of 2003 (SHB 1829), the Department of Retirement Systems (DRS) is amending WAC 415-02-030, 415-108-710, and 415-110-710. At the same time, DRS is reorganizing WAC 415-108-710 and 415-110-710 to add information that explains how DRS treats numerous situations in which a member retires from one system/plan and then returns to work in another system/plan.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-030, 415-108-710, and 415-110-710.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.40.010(42), 41.40.037.

Adopted under notice filed as WSR 04-01-008 [04-01-050] on December 4 [11], 2003.

Changes Other than Editing from Proposed to Adopted Version: Clarification that for PERS Plan 1, the 1900 hour limit is a lifetime limit, even if you return to work.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

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

Effective Date of Rule: March 1, 2004.

January 28, 2004

John Charles

Director

AMENDATORY SECTION (Amending WSR 02-23-037, filed 11/13/02, effective 1/1/03)

WAC 415-02-030 Definitions. This section contains a central location for definitions of words and phrases used in the department of retirement system's rules. It also serves as a directory for finding definitions within the RCWs and WACs.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Adminis-

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trative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation** - is defined in RCW 41.32.010(30) (TRS); RCW 41.35.010(14) (SERS); RCW 41.40.010(17) (PERS); and RCW 43.43.120(15) (WSPRS).

(4) **Cafeteria plan** means a "qualified" employee benefit program under section 125 of the Internal Revenue Code, such as certain health and welfare plans.

(5) **Calendar month**.

(a) Refers to one of the twelve named months of the year, extending from the first day of the named month through the last day. For example: January 1st through January 31st is a calendar month. February 1st through February 29th is a calendar month in a leap year. March 13th through April 12th is *not* a calendar month.

(b) Exception: For the purpose of administering the break in employment rules interpreting and implementing the retiree return to work statutes (RCW 41.32.570, 41.32.802, 41.32.862, 41.35.060 and 41.40.037), one calendar month means thirty consecutive calendar days. For example: Kim's retirement date is August 1st. August 31 would be the earliest Kim could return to work and meet the requirement for a one calendar month break in employment.

(6) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010(10) and 41.32.345 (TRS); RCW 41.35.010(6) (SERS); and RCW 41.40.010(8) (PERS).

(7) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

(8) **Deferred compensation** refers to the amount of the participant's compensation which the participant voluntarily defers from earnings before taxes.

(9) **Defined benefit plan** is a pension plan in which a lifetime retirement benefit is available, based on the member's service credit and compensation.

(10) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into an investment account in which tax is deferred until funds are withdrawn. The benefit is based on the contribution rate and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

(11) **Department** means the department of retirement systems.

(12) **Dependent care assistance salary reduction plan (DCAP)** is a plan that allows an eligible employee of the state of Washington to set aside a "before tax" portion of his or her gross salary before federal income and Social Security taxes to be used for the reimbursement of dependent care expenses.

(13) **Director** means the director of the department of retirement systems.

(14) **Employee** means a worker who performs labor or services for a retirement systems employer under the control

and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(15) **Employer** is defined in RCW 41.26.030(2) (LEOFF), 41.32.010(11) (TRS), 41.34.010(5) (Plan 3), 41.35.010(4) (SERS), and 41.40.010(4) (PERS).

(16) **Ex-spouse** refers to a person who is a party to a "dissolution order" as defined in RCW 41.50.500(3).

(17) **Final average salary** is defined in RCW 41.26.-030(12) (LEOFF).

(18) **Gainsharing** is the process through which members of certain plans share in the extraordinary investment gains on earnings on retirement assets under chapters 41.31 and 41.31A RCW.

(19) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(20) **Member** means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.40, or 43.43 RCW.

(21) **Participant** means an eligible employee who participates in a deferred compensation or dependent care assistance plan.

(22) **Participation agreement** means an agreement that an eligible employee signs to become a participant in a deferred compensation or dependent care assistance plan.

(23) **Pension plan** is a plan that provides a lifelong post retirement payment of benefits to employees.

(24) **Petition** means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

(25) **Plan 1** means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(26) **Plan 2** means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., chapter 341, Laws of 1998, and chapter 329, Laws of 2001.

(27) **Plan 3** means the retirement plans established by chapter 239, Laws of 1995, chapter 341 Laws of 1998, and chapter 247 Laws of 2000.

(28) **Pop-up** is a term that the department uses to refer to the benefit available to a retiree where the survivor of a retiree receiving a benefit reduced by a survivor option predeceases the retiree. Example: Linda is receiving a retirement benefit reduced by a survivor option for her husband, Joe. Joe dies before Linda. Linda's monthly retirement allowance increases. The department refers to the increase as a "pop-up."

(29) **Portability** is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

(30) **Public record** is defined in RCW 42.17.020(36).

(31) **Restoration** is the process of restoring a member's service credit for prior periods.

(32) **Retirement system employer** - see "employer."

(33) **Rollover** means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

(34) **Separation date** is the date a member ends employment in a position eligible for retirement or disability benefit coverage.

(35) **Split account** is the account the department establishes for a member or retiree's ex-spouse.

(36) **Surviving spouse** refers to a person who was married to the member at the time of the member's death and who is receiving or is eligible to receive a survivor benefit.

(37) **Survivor** means a person designated by the member to receive a monthly benefit allowance after the member dies.

(38) **Survivor benefit** is a feature of a retirement plan that provides continuing payments to a beneficiary after the death of a member or retiree.

(39) **The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)** is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-108-710 (~~How will returning to work affect my PERS monthly benefit?~~) **What are the PERS retiree return to work rules?** ((1) You may work for an employer after retirement and continue to receive your retirement allowance if:

(a) You are employed in an ineligible position no sooner than one calendar month after your retirement accrual date;

(b) You are an active member of a higher education retirement plan and are employed no sooner than one calendar month after your retirement benefit accrues;

(c) You are employed as a bona fide independent contractor as defined by WAC 415-02-110;

(d) You are employed as an elected or appointed official directly by the governor under RCW 41.40.150(4) no sooner than one month after your retirement benefit accrues and do not reenter membership;

(e) Your only employment is as an elected official of a city or town and you end your PERS membership under RCW 41.40.023 (3)(b); or

(f) You are employed in an eligible position:

(i) No sooner than one calendar month after your retirement benefit accrues; and

(ii) The time you work does not exceed the "work limit" defined in subsection (2) of this section.

(2) What is the work limit for eligible positions?

(a) Plan 1 retiree working for an employer as defined in RCW 41.40.010 (4)(a): Fifteen hundred hours in a calendar year; or

(b) Plan 2 or 3 retiree working in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030: Eight hundred sixty seven hours in a calendar year.

(c) The Plan 1 limits will be applied to retirees from both a Plan 1 and a Plan 2 or 3 in another pension plan.

(d) The TRS Plan 1 rules will be applied to retirees from both TRS Plan 1 and PERS Plan 1.

(3) What happens if I work more than the work limit?

(a) The department will suspend your retirement allowance effective the day after the day in which you exceed the work limit. All hours worked for all covered employers in eligible positions are considered in determining the work limit.

(b) You have the option to return to membership in PERS if you are otherwise eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

(4) How will the suspension of benefits affect my retirement allowance?

(a) The department will:

(i) Prorate your retirement allowance for the month during which you exceeded the work limit; and

(ii) Suspend all future retirement allowances while you are working until the next calendar year except that it will:

(iii) Adjust for any overpayments made to you for the month(s) in which you exceeded the work limit, as required by RCW 41.50.130.

(b) If you separate from service, your retirement allowance will resume effective the first day of the month following the date of separation.

(5) Can I return to PERS membership?

(a) If you are a PERS retiree, you may choose to return to membership if you are employed by a PERS employer and meet the eligibility criteria. If you return to membership the department will stop your retirement allowance effective from the first of the month during which you return to employment. Membership will be prospective under RCW 41.40.023(12).

(b) If you reenter membership and later choose to retire again, the department will recalculate your retirement allowance under the applicable statutes and regulations.

(c) If you are a retiree from another retirement system that the department administers, and are eligible to enter PERS membership, you may choose to return to membership. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

Example 1:

Kirk is a PERS Plan 2 retiree. He separates from service on August 15th. His accrual date (retirement) is effective September 1st. Kirk returns to work in a PERS Plan 2 eligible position on January 2nd of the following year. On June 1st he realizes that on or about July 8th, he is going to exceed his eight hundred sixty seven hour limit for the year. On July 5th he notifies his employer in writing that he chooses to reenter PERS Plan 2 membership.

On July 12th, Kirk works his eight hundred sixty eighth hour. He is no longer eligible for his PERS Plan 2 retirement benefit as of July 12th. The retirement benefit is stopped for the remainder of July. On August 1st, Kirk is returned to membership and resumes making retirement contributions.

Example 2:

~~Kristal is a PERS Plan 1 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a PERS-eligible position the following January. By October 1st, Kristal has exceeded the fifteen hundred hour work limit, and her benefit is suspended. Kristal separates from service on November 15th and her benefit is reinstated December 1st. Kristal qualifies to begin another fifteen hundred hour work period on January 1st.~~

Example 3:

~~Millie is a PERS Plan 2 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a PERS-eligible position on February 1st of the following year. By September 1st, Millie has worked eight hundred sixty-seven hours and continues to work. Millie's benefit is suspended from September 2nd until January 1st if she continues to work.~~

~~(6) How soon can I return to work as a retiree? If you return to work sooner than one full calendar month after your accrual date under RCW 41.40.037, your retirement allowance will be reduced by 5.5% for every eight hours worked each month, until you separate for one full calendar month. See RCW 41.40.037.~~

Example 4:

~~John's last day of work is September 15th. His accrual date is October 1st. If John wants to return to work after he retires, he will need to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.~~

Example 5:

~~Tony's last day of work is September 15th. His accrual date is October 1st. Tony returns to work for five work days between October 10th and October 17th. His October retirement allowance will be reduced by five and one-half percent for every eight hours worked in October (RCW 41.40.037); this will be reflected in Tony's November benefit. Tony does not return to work. On December 1st, Tony will qualify to return to work under the work limits described in subsection (2) of this section.~~

Example 6:

~~Ruth's last day of work is September 15th. Her accrual date is October 1st. She returns to work on October 10th and continues working. Ruth's retirement benefit will be reduced by 5.5% for each eight hours she works. Under RCW 41.40.037, Ruth's benefit reduction will accrue up to one hundred sixty hours per month. If she stops working, Ruth's full retirement benefit will resume after she remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Ruth's allowance in subsequent months.~~

~~(7) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:~~

~~(a) "Accrual date" RCW 41.40.193, 41.40.680, 41.40.801.~~

~~(b) "Eligible position" RCW 41.40.037(2).~~

~~(c) "Employer" RCW 41.40.010(4).~~

~~(d) "Ineligible position" RCW 41.40.010.~~

~~(e) "Law enforcement officer" RCW 41.26.030.~~

~~(f) "Membership" RCW 41.40.023.~~

~~(g) "Report" WAC 415-108-010.)) (1) How soon can I~~

return to work after I retire?

~~(a) There is no required waiting period to return to work if:~~

~~(i) You go to work for a private employer;~~

~~(ii) You are a bona fide independent contractor as defined in WAC 415-02-110;~~

~~(iii) Your only employment is as an elected official of a city or town and you end your PERS membership under RCW 41.40.023 (3)(b); or~~

~~(iv) You are a PERS Plan 1 retiree elected to office or appointed to office by the governor.~~

~~(b) If you return to work sooner than thirty consecutive calendar days from your accrual date (effective retirement date), your monthly retirement allowance will be reduced in accordance with RCW 41.40.037(1) until you separate for at least thirty consecutive calendar days.~~

~~(c) If you wait at least thirty consecutive calendar days from your accrual date, you may return to work in any position (eligible, ineligible, temporary, etc.) for any employer whose retirement plan is administered by the department of retirement systems (DRS).~~

~~(2) What is the annual hour limit? After you meet the thirty day waiting period described in subsection (1)(c) of this section, there are different annual hour limits that apply to you based on what kind of position you return to, the system from which you retired, and when you retired.~~

~~(a) No limit. You may work as many hours as you want without affecting your retirement allowance if you work:~~

~~(i) In an ineligible position;~~

~~(ii) As a retiree returning as an active member of a higher education retirement plan;~~

~~(iii) As a bona fide independent contractor;~~

~~(iv) For a private employer;~~

~~(v) If you end your PERS membership as an elected official of a city or town under RCW 41.40.023 (3)(b); or~~

~~(vi) As a PERS Plan 1 retiree elected to office or appointed to office by the governor.~~

~~(b) Fifteen hundred hour limit. You may work up to fifteen hundred hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year subject to the nineteen hundred hour cumulative limit described in subsection (3) of this section before your retirement allowance is suspended if:~~

~~(i) You are a PERS Plan 1 retiree who retired prior to August 1, 2003; or~~

~~(ii) You are a PERS Plan 1 retiree who retired on or after August 1, 2003, you waited at least ninety consecutive calendar days from your accrual date, and you met the additional conditions described in RCW 41.40.037 (2)(b).~~

~~(c) Eight hundred sixty-seven hour limit. You may work up to eight hundred sixty-seven hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or~~

41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year before your retirement allowance is suspended if:

(i) You are a PERS Plan 1 retiree who retired on or after August 1, 2003, and you do not meet the additional conditions described in RCW 41.40.037 (2)(b) or you have exceeded the nineteen hundred hour cumulative limit described in subsection (3) of this section; or

(ii) You are a PERS Plan 2 or 3 retiree and return to work in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4).

(d) If you are retired from PERS and another DRS retirement system, refer to the table below to determine the effect of returning to work:

<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
<u>PERS Plan 1 and LEOFF Plan 2</u>	<u>PERS</u>	<u>Your LEOFF Plan 2 benefit would be suspended and you could work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u>
	<u>TRS</u>	<u>Your LEOFF Plan 2 benefit would be suspended and you could work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u>
	<u>LEOFF Plan 2</u>	<u>Your LEOFF Plan 2 benefit would be suspended and you would be mandated back into LEOFF Plan 2 membership. Your PERS benefit would be suspended until you terminate from LEOFF Plan 2.</u>
	<u>WSPRS</u>	<u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and LEOFF Plan 2 benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member of WSPRS. Your LEOFF Plan 2 benefit is suspended and you can work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u>
<u>PERS Plan 1 and TRS Plan 1</u>	<u>PERS</u>	<u>If the position is at any educational institution in Washington state, then the TRS Plan 1 limits apply which allow you to work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended. The one exception is if you return to work at a higher education employer and choose to join another retirement system (e.g., TIAA-CREF). In that case, the PERS Plan 1 rules would apply. By definition, the position is ineligible in PERS and</u>

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<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
		<p><u>therefore you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p> <p><u>If the position is not at an educational institution in Washington state, the TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>
	<u>TRS</u>	<p><u>The TRS Plan 1 limits would apply and you can work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended.</u></p>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF Plan 2 and your PERS and TRS benefits are suspended.</u></p>
		<p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. The TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. The TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>
<u>PERS Plan 1 and TRS Plan 2 or 3</u>	<u>PERS</u>	<p><u>You can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>
	<u>TRS</u>	<p><u>You can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>

<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in LEOFF Plan 2 and your PERS and TRS benefits are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and both your PERS and TRS benefits would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member WSPRS and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>
<u>PERS Plan 1 and WSPRS</u>	<u>PERS</u>	<p><u>Your WSPRS benefit would not be suspended and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>TRS</u>	<p><u>Your WSPRS benefit would not be suspended and you can work up to the PERS 1 Plan limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your WSPRS benefit would not be suspended and your PERS benefit would be immediately be suspended.</u></p>

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<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
		<p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. Your WSPRS benefit would not be suspended and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>WSPRS</u>	<p><u>Your WSPRS benefit would be suspended and you would be mandated back into membership.</u> <u>Your PERS benefit would be suspended until you terminate from WSPRS.</u></p>
<u>PERS Plan 2 or 3 and LEOFF Plan 2</u>	<u>SERS</u>	<p><u>Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>PERS</u>	<p><u>Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>TRS</u>	<p><u>Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>LEOFF</u>	<p><u>Your LEOFF Plan 2 benefit would be suspended and you are mandated back into LEOFF Plan 2 membership.</u> <u>Your PERS benefit would be suspended until you terminate from LEOFF Plan 2.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and LEOFF Plan 2 benefits are suspended.</u> <u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. Your LEOFF Plan 2 benefit is suspended and you can work up to eight hundred sixty-seven hours during the calendar year before your PERS benefit would be suspended.</u></p>

<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
<u>PERS Plan 2 or 3 and SERS Plan 2 or 3</u>	<u>SERS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.</u>
	<u>PERS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.</u>
	<u>TRS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and PERS benefits are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS benefits would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.</u></p>
<u>PERS Plan 2 or 3 and TRS Plan 1</u>	<u>SERS</u>	<u>You can work up to fifteen hundred hours during the fiscal year in an eligible position before your PERS and TRS benefits would be suspended.</u>
	<u>PERS</u>	<p><u>If the position is at any educational institution in Washington state you can work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended.</u></p> <p><u>If the position is not at an educational institution in Washington state, you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>

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<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
	<u>TRS</u>	<u>You can work up to fifteen hundred hours during the fiscal year in an eligible position before your PERS and TRS benefits would be suspended.</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your PERS and TRS benefits are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work unlimited hours without your PERS and TRS benefits being suspended.</u></p>
<u>PERS Plan 2 or 3 and TRS Plan 2 or 3</u>	<u>SERS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u>
	<u>PERS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u>
	<u>TRS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your PERS and TRS benefits are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>

<u>Dual System Combination</u>	<u>Return to Work System</u>	<u>Outcome</u>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</u></p>
<u>PERS Plan 2 or 3 and WSPRS</u>	<u>SERS</u>	<p><u>Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>PERS</u>	<p><u>Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
<u>PERS Plan 2 or 3 and WSPRS</u>	<u>TRS</u>	<p><u>Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.</u></p>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your PERS benefit is suspended but your WSPRS benefit would not be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended. Your WSPRS benefit would not be suspended.</u></p>
	<u>WSPRS</u>	<p><u>Your WSPRS benefit would be suspended and you are mandated back into membership.</u></p> <p><u>Your PERS benefit would be suspended until you terminate from WSPRS.</u></p>

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(3) What is the nineteen hundred hour cumulative hour limit?

(a) This limit is applicable only to PERS Plan 1 retirees. It puts a lifetime limit on the number of hours that can be worked in an eligible position while still receiving a retirement allowance. This limit applies to all retirements in PERS Plan 1. Any hours reported by your employer as worked over eight hundred sixty-seven up to fifteen hundred in a calendar year while receiving a retirement allowance are counted toward the cumulative limit. Hours accumulated toward your lifetime post retirement employment limit from a previous retirement will continue to be counted in your new retirement.

(b) DRS will send out statements annually to any PERS Plan 1 retiree who accumulated any hours toward the nineteen hundred hour cumulative limit in the preceding calendar year. The statement will show the hours you have worked in the calendar year and the total hours you have worked since your retirement date. If there has been no activity in the calendar year, DRS will not issue a statement, even if there is an accumulated total from previous calendar years. See also WAC 415-02-130.

(4) What hours are counted toward the limits?

(a) Counted toward the hour limits: All compensated hours that are worked for any DRS-covered employer in an eligible position, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) Not counted toward the hour limits: Cashouts of unused sick and vacation leave.

(5) What happens if I work over the annual or cumulative hour limit?

(a) DRS will prorate your retirement allowance for the month in which you exceed the applicable hour limit. The suspension of your retirement allowance will be effective the day after the day in which you exceeded the applicable hour limit.

(b) If your retirement allowance is suspended for exceeding the nineteen hundred hour cumulative work limit, all subsequent calendar years will be subject to the eight hundred sixty-seven hour annual limit.

(c) Your retirement allowance will be restarted beginning the next calendar year or the day after you terminate all eligible DRS-covered employment, whichever occurs first.

(d) DRS will recover any overpayments made to you for the month(s) in which you exceeded the work limit and received a retirement allowance. See RCW 41.50.130.

(6) Can I return to PERS membership?

(a) If you are a PERS retiree, you have the option to return to membership if you are employed by a PERS employer and meet eligibility criteria. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.40.023(12).

(b) If you reenter PERS membership and later choose to retire again, DRS will recalculate your retirement allowance under the applicable statutes and regulations. You will be subject to the return to work rules in place at the time of your rereirement. If you are a PERS Plan 1 member you will also be entitled to a new nineteen hundred hour cumulative hour

limit. You will be subject to the return to work rules, including the nineteen hundred hour lifetime limit described in subsection (3) of this section, in place at the time of your retirement.

(c) If you are a retiree from another retirement system that DRS administers, you may choose to enter PERS membership if you are eligible. The option to enter membership is prospective from the first day of the month following the month in which you request membership. See RCW 41.40.-270 and 41.40.023.

(7) Terms used.

(a) Accrual date - RCW 41.40.193, 41.40.680, 41.40.-801.

(b) Acronyms used:

(i) LEOFF: Law enforcement officers' and fire fighters' retirement system.

(ii) PERS: Public employees' retirement system.

(iii) SERS: School employees' retirement system.

(iv) TRS: Teachers' retirement system.

(v) WSPRS: Washington state patrol retirement system.

(c) Calendar day - WAC 415-02-030.

(d) Eligible position - RCW 41.40.010(25); WAC 415-108-680 through 415-108-700.

(e) Ineligible position - RCW 41.40.010(26).

(f) Law enforcement officer - RCW 41.26.030(3).

(g) Membership - RCW 41.40.023.

AMENDATORY SECTION (Amending WSR 02-02-060, filed 12/28/01, effective 1/1/02)

WAC 415-110-710 ((How will returning to work affect my SERS monthly benefit?)) **What are the SERS retiree return to work rules?** ((1) You may work for an employer after retirement and continue to receive your retirement allowance if:

(a) You are employed in an ineligible position no sooner than one calendar month after your retirement accrual date;

(b) You are an active member of a higher education retirement plan and are employed no sooner than one calendar month after your retirement benefit accrues;

(c) You are employed as a bona fide independent contractor as defined by WAC 415-02-110;

(d) You are employed as an elected or appointed official directly by the governor under RCW 41.40.150(4) no sooner than one calendar month after your retirement benefit accrues and do not reenter membership;

(e) Your only employment is as an elected official of a city or town and you end your SERS membership under RCW 41.35.030; or

(f) You are employed in an eligible position:

(i) No sooner than one calendar month after your retirement benefit accrues; and

(ii) The time you work does not exceed the "work limit" defined in subsection (2) of this section.

(2) What is the work limit for eligible positions?

(a) Plan 2 or 3 retiree working in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030. Eight hundred sixty-seven hours in a calendar year.

(b) Retirees from both a Plan 1 in another pension plan and SERS Plan 2 or 3: The Plan 1 limits of the other plan will be applied.

(3) What happens if I work more than the work limit?

(a) The department will suspend your retirement allowance effective the day after the day in which you exceed the work limit. All hours worked for all covered employers in eligible positions are considered in determining the work limit.

(b) You have the option to return to membership in SERS if you are otherwise eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

(4) How will the suspension of benefits affect my retirement allowance?

(a) The department will:

(i) Prorate your retirement allowance for the month during which you exceeded the work limit; and

(ii) Suspend all future retirement allowances while working, until the next calendar year except that it will:

(iii) Adjust for any overpayments made to you for the month(s) in which you exceeded the work limit, as required by RCW 41.50.130.

(b) If you separate from service, your retirement allowance will resume effective the first day of the month following the date of separation.

(5) Can I return to SERS membership?

(a) If you are a SERS retiree, you may choose to return to membership if you are employed by a SERS employer and meet the eligibility criteria. If you return to membership the department will stop your monthly retirement allowance effective from the first of the month during which you return to employment. Membership will be prospective under RCW 41.35.060(3).

(b) If you reenter membership and later choose to retire again, the department will recalculate your retirement allowance under the applicable statutes and regulations.

(c) If you are a retiree from another retirement system that the department administers, and are eligible to enter SERS membership, you may choose to return to membership. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

Example 1:

Phil is a SERS Plan 2 retiree. He separates from service on August 15th. His accrual date (retirement) is effective September 1st. Phil returns to work in a SERS Plan 2 eligible position on January 2nd of the following year. On June 1st he realizes that on or about July 8th, he is going to exceed his eight hundred sixty-seven hour limit for the year. On July 5th he notifies his employer in writing that he chooses to reenter SERS Plan 2 membership.

On July 12th, Phil works his eight hundred sixty-eighth hour. He is no longer eligible for his SERS Plan 2 retirement allowance as of July 12th. The retirement benefit is stopped for the remainder of July. On August 1st, Phil is returned to membership and resumes making retirement contributions.

Example 2:

Tami is a SERS Plan 2 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a SERS eligible position on February 1st of the following year. By September 1st, Tami has worked eight hundred sixty-seven hours. Tami's benefit is suspended from September 2nd until January 1st if she continues to work.

(6) How soon can I return to work as a retiree? If you return to work sooner than one full calendar month after your accrual date, your retirement allowance will be reduced by 5.5% for every eight hours worked each month, until you separate for one full calendar month. See RCW 41.35.060.

Example 3:

Steve's last day of work is September 15th. His accrual date is October 1st. If Steve wants to return to work after he retires, he will need to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.

Example 4:

Tim's last day of work is September 15th. His accrual date is October 1st. Tim returns to work for five eight hour work days between October 10th and October 17th. His October retirement allowance will be reduced by five and one half percent for every eight hours worked in October (RCW 41.35.060). Tim does not return to work. On December 1st, he will qualify for his full retirement benefit. Tim will also qualify to return to work under the work limits described in subsection (2) of this section.

Example 5:

Paige's last day of work is September 15th. Her accrual date is October 1st. She returns to work on October 10th and continues working. Paige's retirement benefit will be reduced by 5.5% for each eight hours she works. Paige's benefit reduction will accrue up to one hundred sixty hours per month. If she stops working, her full retirement allowance will resume after she remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Paige's allowance in subsequent months.

(7) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:

(a) "Accrual date" — RCW 41.35.450, 41.35.640.

(b) "Eligible position" — RCW 41.35.060(2).

(c) "Employer" — RCW 41.35.010(4).

(d) "Ineligible position" — RCW 41.35.010(23).

(e) "Law enforcement officer" — RCW 41.26.030.

(f) "Member" — RCW 41.35.010(5).) (1) **How soon can I return to work after I retire?**

(a) There is no required waiting period to return to work if:

(i) You go to work for a private employer;

(ii) You are a bona fide independent contractor as defined in WAC 415-02-110; or

(iii) Your only employment is as an elected official of a city or town and you end your SERS membership under RCW 41.35.030 (2)(b).

(b) If you return to work sooner than thirty consecutive calendar days from your accrual date (effective retirement date), your monthly retirement allowance will be reduced in accordance with RCW 41.35.060(1) until you separate for at least thirty consecutive calendar days.

(c) If you wait at least thirty consecutive calendar days from your accrual date, you may return to work in any position (eligible, ineligible, temporary, etc.) for any employer whose retirement plan is administered by the department of retirement systems (DRS).

(2) **What is the annual hour limit?** After you meet the thirty-day waiting period described in subsection (1)(c) of this section, there are different annual hour limits that apply to you based on what kind of position you return to.

(a) **No limit.** You can work as many hours as you want without affecting your retirement allowance if you work:

(i) In an ineligible position;

(ii) As a retiree returning as an active member of a higher education retirement plan;

(iii) As a bona fide independent contractor;

(iv) For a private employer; or

(v) If you end your SERS membership as an elected official of a city or town under RCW 41.35.030 (2)(b).

(b) **Eight hundred sixty-seven-hour limit.** You may work up to eight hundred sixty-seven hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year before your retirement allowance is suspended.

(c) If you are retired from SERS and another DRS retirement system, refer to the table below to determine the effect of returning to work:

Dual System Combination	Return to Work System	Outcome
<u>SERS Plan 2 or 3 and LEOFF Plan 2</u>	<u>SERS</u>	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	<u>PERS</u>	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS monthly retirement allowance would be suspended.
	<u>TRS</u>	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	<u>LEOFF Plan 2</u>	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you would be mandated back into LEOFF Plan 2 membership. Your SERS monthly retirement allowance would be suspended until you terminate from LEOFF Plan 2.
	<u>WSPRS</u>	If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in WSPRS and your SERS and LEOFF Plan 2 monthly retirement allowances are suspended.

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Dual System Combination	Return to Work System	Outcome
		<p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. Your LEOFF Plan 2 monthly retirement allowance is suspended and you can work up to eight hundred sixty-seven hours during the calendar year before your SERS monthly retirement allowance would be suspended.</u></p>
<p><u>SERS Plan 2 or 3 and PERS Plan 2 or 3</u></p>	<p><u>SERS</u></p>	<p><u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</u></p>
	<p><u>PERS</u></p>	<p><u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</u></p>
	<p><u>TRS</u></p>	<p><u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</u></p>
	<p><u>LEOFF Plan 2</u></p>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and PERS monthly retirement allowances are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</u></p>
	<p><u>WSPRS</u></p>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowance would be suspended.</u></p>

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Dual System Combination	Return to Work System	Outcome
<p><u>SERS Plan 2 or 3 and TRS Plan 1</u></p>	<p><u>SERS</u></p>	<p><u>You can work up to fifteen hundred hours during the fiscal year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</u></p>
	<p><u>PERS</u></p>	<p><u>If the position is at any educational institution in Washington state you can work up to fifteen hundred hours during the fiscal year before your SERS and TRS monthly retirement allowances would be suspended.</u> <u>If the position is not at an educational institution in Washington state, you can work unlimited hours without your SERS or TRS monthly retirement allowance being suspended.</u></p>
	<p><u>TRS</u></p>	<p><u>You can work up to fifteen hundred hours during the fiscal year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</u></p>
	<p><u>LEOFF Plan 2</u></p>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and TRS monthly retirement allowances are suspended.</u> <u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work unlimited hours without your SERS and TRS monthly retirement allowances being suspended.</u></p>
	<p><u>WSPRS</u></p>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended.</u> <u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS and PERS monthly retirement allowance would be suspended.</u></p>
<p><u>SERS Plan 2 or 3 and TRS Plan 2 or 3</u></p>	<p><u>SERS</u></p>	<p><u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</u></p>

Dual System Combination	Return to Work System	Outcome
	<u>PERS</u>	<u>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</u>
	<u>TRS</u>	<u>The retiree can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS and TRS monthly retirement allowances would be suspended.</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and TRS monthly retirement allowances are suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</u></p>
	<u>WSPRS</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</u></p>
<u>SERS Plan 2 or 3 and WSPRS</u>	<u>SERS</u>	<u>Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.</u>
	<u>PERS</u>	<u>Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.</u>

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Dual System Combination	Return to Work System	Outcome
	<u>TRS</u>	<u>Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.</u>
	<u>LEOFF Plan 2</u>	<p><u>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your SERS monthly retirement allowance is suspended but your WSPRS monthly retirement allowance would not be suspended.</u></p> <p><u>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.</u></p>
	<u>WSPRS</u>	<p><u>Your WSPRS monthly retirement allowance would be suspended and you are mandated back into membership.</u></p> <p><u>Your SERS monthly retirement allowance would be suspended until you terminate from WSPRS.</u></p>

(3) What hours are counted toward the limits?

(a) Counted toward the hour limits: All compensated hours that are worked for any DRS-covered employer in an eligible position, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) Not counted toward the hour limits: Cashouts of unused sick and vacation leave.

(4) What happens if I work over the annual hour limit?

(a) DRS will prorate your retirement allowance for the month in which you exceed the limit. The suspension will be effective the day after the day in which you exceeded the hour limit.

(b) Your retirement allowance will be restarted beginning with the next calendar year or the day after you terminate all eligible DRS-covered employment, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement allowance. See RCW 41.50.130.

(5) Can I return to SERS membership?

(a) If you are a SERS retiree, you have the option to return to membership if you are employed by a SERS employer and meet eligibility criteria. The option to return to membership is prospective from the first day of the month

following the month in which you request to return to membership. See RCW 41.35.030(3).

(b) If you reenter membership and later choose to retire again, DRS will recalculate your retirement allowance under the applicable statutes and regulations. You will be subject to the return to work rules in place at the time of your retirement.

(c) If you are a retiree from another retirement system that DRS administers, you may choose to enter SERS membership if you are eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.04.270 and 41.35.030.

(6) Terms used.

(a) Accrual date - RCW 41.35.450, 41.35.640.

(b) Acronyms used:

(i) LEOFF: Law enforcement officers' and fire fighters' retirement system.

(ii) PERS: Public employees' retirement system.

(iii) SERS: School employees' retirement system.

(iv) TRS: Teachers' retirement system.

(v) WSPRS: Washington state patrol retirement system.

(c) Calendar day - WAC 415-02-030.

(d) Eligible position - RCW 41.35.060(2).

(e) Ineligible position - RCW 41.35.010(23).

(f) Law enforcement officer - RCW 41.26.030(3).

(g) Member - RCW 41.35.010(5).

WSR 04-04-038
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed January 29, 2004, 11:33 a.m., effective March 1, 2004]

Date of Adoption: January 28, 2004.

Purpose: The legislature passed HB 1099 in 1997, codified in chapter 122, Laws of 1997, and RCW 41.26.195. The Department of Retirement Systems is adopting a new WAC to explain its long-standing policy and practice in implementing this statute.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.26.195.

Adopted under notice filed as WSR 04-01-048 on December 11, 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 1, Amended 0, Repealed 0.

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

Effective Date of Rule: March 1, 2004.

January 28, 2004

John Charles

Director

**GENERAL RULES AFFECTING MULTIPLE PLANS
AND SYSTEMS**

NEW SECTION

WAC 415-02-200 Can I transfer former LEOFF Plan 1 service? If you are a member of PERS, TRS, SERS, or WSPRS, and you have previously established service credit in LEOFF Plan 1, you may *irrevocably* choose to transfer your LEOFF Plan 1 service to your current retirement system and plan subject to the following conditions:

(1) The choice to transfer service must be filed in writing with the department no later than one year from the date you become employed by a PERS, TRS, SERS, or WSPRS employer in an eligible position.

(2) If you transfer your service credit under this section:

(a) You will forfeit (lose) all rights to benefits as a LEOFF Plan 1 member and will be permanently excluded from membership.

(b) Your transferred service will *not apply* to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) for PERS Plan 1 or in RCW 43.43.260(3) for WSPRS Plan 1.

(3) When you transfer your service credit under this section to your current retirement system and plan, DRS will transfer:

(a) All of your accumulated LEOFF Plan 1 contributions;

(b) An amount sufficient to ensure that the employer contribution rate in your current system and plan will not increase because of the transfer; and

(c) All applicable months of LEOFF Plan 1 service credit, as defined in RCW 41.26.030 (14)(a).

(4) If you previously withdrew contributions from LEOFF Plan 1, you:

(a) May restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section;

(b) Must restore the contributions before the transfer can occur; and

(c) Must complete the restoration within the time limitations specified in subsection (1) of this section.

(5) If you do not meet the time limitations of subsection (1) of this section, you may restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

(6) **Terms used:**

LEOFF - Law enforcement officers' and fire fighters' retirement system.

PERS - Public employees' retirement system.

SERS - School employees' retirement system.

TRS - Teachers' retirement system.

WSPRS - Washington state patrol retirement system.

WSR 04-04-039
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed January 29, 2004, 11:36 a.m., effective March 1, 2004]

Date of Adoption: January 28, 2004.

Purpose: Implements the "EMTS into LEOFF" legislation, chapter 293, Laws of 2003 (SHB 1202).

Statutory Authority for Adoption: RCW 41.50.050(5), 41.26.547.

Adopted under notice filed as WSR 04-01-049 on December 11, 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 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 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: March 1, 2004.

January 28, 2004

John Charles

Director

NEW SECTION

WAC 415-104-475 How does a fire fighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2? (1) Who may use this section?

You may use this section if you:

(a) Are currently employed in a law enforcement officers' and fire fighters' (LEOFF) Plan 2 covered position working for a fire department;

(b) Were formerly employed in a position providing emergency medical services and the position was covered under PERS Plan 1 or 2; and

(c) Worked for an employer that *relocated* your position to a fire department.

(2) How do I know if my job providing emergency medical services was "relocated" to a fire department? To be considered "relocated":

(a) The duties of the position must have required providing emergency medical services and the position must have been covered under PERS Plan 1 or 2;

(b) The employer must have been a city, town, county, or district that transferred the position to a fire department; and

(c) The fire department must have covered the transferred position under LEOFF Plan 2.

(3) I worked as an emergency medical technician/paramedic (EMT) and I am now enrolled in LEOFF Plan 2. Can I transfer my EMT service into LEOFF Plan 2? Yes. You may transfer your EMT service into LEOFF Plan 2 if:

(a) You provided emergency medical services as an EMT; and

(b) You are in a LEOFF Plan 2 position with the fire department as a result of your employer relocating your position as described in subsection (2) of this section.

(4) Who determines whether or not my job providing emergency medical services was "relocated" to a fire department? The department of retirement systems (DRS) will determine whether or not your job was relocated based on the criteria described in subsection (2) of this section. To do so, DRS will contact your former employer that covered your job providing emergency medical services under PERS and verify:

(a) That your position was relocated to a fire department; and

(b) The number of months you worked in that position.

(5) I formerly worked as an EMT for a PERS employer that relocated my job to a fire department. I was not working in the job at the time it was relocated, but am now working for the fire department in the same job. Can I transfer my PERS EMT service to LEOFF Plan 2? Yes. Even though you were not working in the job at the time it was relocated, you can transfer your PERS EMT service as long as you are employed with the fire department covered under LEOFF Plan 2 at the time you request the transfer.

(6) Can I transfer PERS EMT service into LEOFF Plan 2 if I worked for an employer that did not "relocate" the position to a fire department? No. To transfer PERS EMT service to LEOFF Plan 2, you must have worked in a position that was relocated as described in subsections (1) and (2) of this section.

(7) What do I need to do if I have PERS EMT service that can be transferred to LEOFF Plan 2?

(a) Contact the LEOFF unit at DRS. Once DRS verifies you meet the criteria to transfer as described in subsections (1) and (2) of this section, DRS will provide you an *EMT Transfer Packet* that includes an "EMT transfer cost estimate and benefit comparison." DRS will also provide you an "EMT Request for Transfer Form." You must complete, sign and return the form to the LEOFF unit to choose to transfer the service credit.

(b) You must pay the difference in the member contribution rates between the PERS rate and the LEOFF rate, plus interest, for each month of EMT service that you transfer.

(8) How is the interest calculated? Interest is calculated at eight percent annually, compounded monthly, and is based on the difference between the required PERS contribution amount and the required LEOFF Plan 2 contribution amount for each month you transfer. DRS calculates the interest for the rate difference for each month being transferred, beginning with the oldest month, then totals each month's interest calculation for the "interest" portion of the bill.

Example: DRS creates a bill in October 2003 to transfer the months of June and July 2002. The member contribution rate difference for each month is \$35.00. The interest for June would be \$4.18, and for July \$3.92. The total interest charge for these two months is \$8.10; the total bill is \$78.10 (\$35.00 x 2 + \$8.10). The interest calculated for June 2002 is more because it includes one more month of interest than the month of July 2002. The chart below shows how the interest is calculated:

Month/Year of Interest Calculation		Interest for June 2002 @ .00667 ¹		Interest for July 2002 @ .00667	
June	2002	\$35.00	.23		
July	2002	\$35.23	.23	\$35.00	.23
August	2002	\$35.46	.24	\$35.23	.23
September	2002	\$35.70	.24	\$35.46	.24
October	2002	\$35.94	.24	\$35.70	.24
November	2002	\$36.18	.24	\$35.94	.24

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Month/Year of Interest Calculation		Interest for June 2002 @ .00667 ¹		Interest for July 2002 @ .00667	
December	2002	\$36.42	.24	\$36.18	.24
January	2003	\$36.66	.24	\$36.42	.24
February	2003	\$36.90	.25	\$36.66	.24
March	2003	\$37.15	.25	\$36.90	.25
April	2003	\$37.40	.25	\$37.15	.25
May	2003	\$37.65	.25	\$37.40	.25
June	2003	\$37.90	.25	\$37.65	.25
July	2003	\$38.15	.25	\$37.90	.25
August	2003	\$38.40	.26	\$38.15	.25
September	2003	\$38.66	.26	\$38.40	.26
October	2003	\$38.92	.26	\$38.66	.26
Total October	2003		\$4.18		\$3.92

(9) **Do I have to pay the bill in a lump sum?** No. You may make installment payments. Interest will be recalculated each month against the unpaid balance.

(10) **What is the time frame for transferring?** You must make the decision to transfer no later than June 30, 2008. You must complete the transfer by June 30, 2013.

(11) **When will the EMT service be transferred into my LEOFF Plan 2 account?** The EMT service will be transferred after:

(a) The bill is paid in full; and

(b) Five years have passed after DRS receives your request to transfer.

(12) **What if I decide not to transfer my PERS EMT service into LEOFF Plan 2?** Your EMT service will remain in PERS and you may either withdraw or begin receiving a PERS retirement benefit when you are eligible. If you do not withdraw, you will be a dual member of PERS and LEOFF Plan 2 under the provisions of chapter 41.54 RCW.

(13) **Can I retire before the transfer is completed?** Yes.

(a) You may retire from LEOFF Plan 2 once you are eligible, but your retirement benefit will be calculated using only your LEOFF Plan 2 service.

(b) After the conditions described in subsection (11) of this section have been met, the PERS EMT service will be transferred into your LEOFF Plan 2 account and your retirement benefit will be recalculated and increased to include the transferred service. The increase will be prospective only from the day following the five-year waiting period. For example, if you requested the transfer on September 15, 2003, and you retired on August 1, 2007, your retirement benefit would be increased on September 16, 2008.

(14) **What if I request to transfer but change my mind before the transfer is completed?** If you decide to not transfer your PERS EMT service into LEOFF Plan 2, you must notify the LEOFF unit at DRS within five years from the date you requested the transfer. LEOFF staff will cancel your request and refund any money you have paid on the transfer bill.

(15) **Can I transfer non-EMT PERS service into LEOFF Plan 2?** No. Only the PERS service credit you earned working as an EMT for an employer that relocated

your EMT position to a fire department can be transferred into LEOFF Plan 2.

(16) **Can I transfer my PERS EMT service into LEOFF Plan 2 and withdraw my non-EMT PERS service?** Yes. You can withdraw your non-EMT PERS service as soon as the PERS EMT service is fully transferred to LEOFF Plan 2. To be fully transferred, the conditions described in subsection (11) of this section must be met.

(17) **Can I transfer my PERS EMT service into LEOFF Plan 1?** No. If you reentered LEOFF Plan 1 membership after your position was relocated to a fire department, you may choose to remain in PERS or return to LEOFF Plan 1 membership, but you may not transfer the PERS EMT service into LEOFF Plan 1.

(18) **What happens if I die before the PERS EMT service is transferred into my LEOFF Plan 2 account?**

(a) If your bill *is not* paid in full at the time of your death, the transfer will be canceled and any payments made will be refunded to your designated beneficiary.

(b) If the bill *is* paid in full at the time of your death, but the five-year waiting period has not expired, then the following rules will apply.

(i) If you die with less than ten years of service, or you have at least ten years of service but you don't have an eligible surviving spouse or minor children, the contributions in your LEOFF 2 account, including any payments made on the EMT optional service bill, will be refunded to your designated beneficiary.

(ii) If you die with at least ten years of service and have an eligible surviving spouse or minor children and if your spouse or children choose a monthly benefit payment instead of a lump sum payment, the monthly benefit will be increased the day following the end of the five-year waiting period.

(iii) If you die after retirement and chose a survivor option, your survivor's benefit will be increased the first day following the expiration of the five-year waiting period.

(19) **Terms used:**

(a) DRS - Department of retirement systems.

(b) EMT - Emergency medical technician or paramedic who provides emergency medical services and is covered under LEOFF Plan 2 working for a fire department.

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(c) LEOFF - Law enforcement officers' and fire fighters' retirement system.

(d) PERS - Public employees' retirement system.

**WSR 04-04-040
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 29, 2004, 11:39 a.m., effective March 1, 2004]

Date of Adoption: January 28, 2004.

Purpose: Transfer longstanding policy of charging fees for processing legal orders into WAC.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.50.600, 41.50.680.

Other Authority: RCW 26.18.110(4), 26.23.060(9), 74.20A.080(15).

Adopted under notice filed as WSR 04-01-008 on December 4, 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 1, Amended 0, Repealed 0.

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

Effective Date of Rule: March 1, 2004.

January 28, 2004

John Charles

Director

NEW SECTION

WAC 415-02-720 What does the department charge for processing split payments? This section applies whenever the department administers split payments for child support, mandatory benefit assignment orders (MBAOs), or other direct pay orders.

	Type	Amount	Statutory Authority
(1)	Child support	Ten dollars for the first disbursement and one dollar for each additional. Fees will be charged to the obligor	RCW 26.18.110(4); 26.23.060(9) and 74.20A.080(15)

	Type	Amount	Statutory Authority
(2)	Mandatory assignment of retirement benefits (MBAO)	Twenty-five dollars for the first disbursement and six dollars for each additional. Fees will be charged to the obligor	RCW 41.50.600(4)
(3)	Property division obligations (see also WAC 415-02-500(11))	Seventy-five dollars for the first disbursement and six dollars for each additional. Fees will be divided equally between the obligor and obligee	RCW 41.50.680

**WSR 04-04-041
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 29, 2004, 11:41 a.m., effective March 1, 2004]

Date of Adoption: January 28, 2004.

Purpose: Implements the "SERS substitutes" legislation, chapter 157, Laws of 2003 (SB 5094). Amends WAC 415-108-680 Am I eligible for membership?, 415-110-010 Definitions, 415-110-680 Am I eligible for membership?, 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in?, and 415-110-910 Conversion of service from PERS to SERS; and adds new WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute?

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-680, 415-110-010, 415-110-680, 415-110-728, and 415-110-910.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033.

Adopted under notice filed as WSR 04-01-154 on December 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 5, 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.

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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 1, 2004.

January 28, 2004

John Charles

Director

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-110-010 Definitions. All definitions in RCW 41.35.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.35 RCW are defined in this chapter.

(1) **Annual leave** means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(2) **Normally** as used in the definition of eligible position under RCW 41.35.010 means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

(3) **Project position** means a position, established by an employer, that has a specific goal and end date.

(4) **Report** means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

(5) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.35.010(6).

(6) **System acronyms** used in this chapter are defined as follows:

(a) "PERS" means the public employees' retirement system.

(b) "SERS" means the school employees' retirement system. (c) "TRS" means the teachers' retirement system.

(7) **Year** means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term may include, but is not limited to, a school year, calendar year, or fiscal year.

Example: An employer has used the twelve consecutive month period from September 1 to August 31 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the September 1 through August 31 period to define a year for the position.

Example: If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

(8) School year for Plan 2 and 3 members means the twelve-month period from September 1 of one year to August 31 of the following year.

(9) Substitute employee includes any classified employee who is employed as a substitute for an absent employee or working in an ineligible position.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-110-680 Am I eligible for membership? (1) You are eligible for membership if you are employed in an eligible position. Your position is eligible under RCW 41.35.010 if the position, as defined by your employer, normally requires at least five months of seventy or more hours of compensated service per month during each year. If you are a PERS Plan 1 member working in a SERS substitute position, the SERS substitute laws do not apply. If you are a Plan 2 or 3 member, hours worked as a SERS substitute are not counted when determining eligibility for membership.

(2) If you leave an eligible position to serve in a project position, you may retain eligibility.

(a) Project positions may use a twelve-month period other than a school year to evaluate eligibility. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

(b) If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

((a)) (i) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

((b)) (ii) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

(3) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Member" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Normally" - WAC 415-110-010.

(f) "Project position" - WAC 415-110-010.

(g) "Year" - WAC 415-110-010.

NEW SECTION

WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute? (1) You may establish or reestablish membership by purchasing service credit in SERS as a classified substitute if you meet eligibility criteria.

(a) SERS Plan 2.

You may apply to the department for membership in Plan 2 if you work at least seventy hours for five or more months during a school year and:

- (i) Were previously a member of SERS Plan 2 and withdrew; or
- (ii) Are or were a member of PERS Plan 2.

(b) SERS Plan 3.

You may apply to the department for membership in Plan 3 if you work at least seventy hours for five or more months during a school year and:

- (i) You have never been a member of SERS Plan 2;
- (ii) You have never been a member of PERS Plan 2; or
- (iii) You were a member of PERS Plan 2 who transferred to PERS Plan 3.

(2) As an established member you may purchase any amount of service credit as a classified substitute.

SERS Plan 2 or 3.

- (a) You must purchase all of the service you rendered during the school year.
- (b) You do not have a minimum amount of service you must have worked.
- (3) **To apply, you must submit your application to the department at the end of the school year.**

To apply for membership and service credit as a classified substitute, you must submit the correct application form (Plan 2 or Plan 3) and your employer's quarterly reports to the department, if applicable, no earlier than August 31 of the school year for which you are applying for service credit.

(4) You must make payments within six months of the end of the school year to avoid recovery interest charges.

(a) You have six months following the end of the school year in which the service was provided to purchase the service credit by paying the appropriate member contributions in full to avoid interest charges.

(b) After the six-month period, recovery interest shall be charged prospectively (March 1 forward) on the contributions due.

(i) **SERS Plan 2 members:** Interest is charged on both employer and member contributions.

(ii) **SERS Plan 3 members:** Interest is charged on employer contributions only.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Classified employee" - RCW 41.35.010(37).
- (b) "Member" - RCW 41.35.010(5).
- (c) "Service" - RCW 41.35.010(7).
- (d) "Substitute employee" - RCW 41.35.010(38).

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in? (1) If you work in both a SERS and TRS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either SERS or TRS according to the following table:

~~((Former TRS Plan 1 Members))~~

Type of Employment ^{1/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a SERS-eligible position	Same SERS employer	SERS for both positions.
	Separate SERS employers	SERS for SERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.
A full-time teaching position and an eligible SERS position	Same employer	TRS for both positions.
	Separate SERS employers	TRS for both positions.

TRS Plan 1 Members

Type of Employment ^{1/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible SERS position	Same employer	TRS for both positions.
	Separate SERS employers	TRS for both positions.
A full-time or less than full-time TRS position and an ineligible SERS position	Same employer	TRS for both positions.
	Separate SERS employers	TRS for both positions.

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TRS Plan 2 or 3 Members

Type of Employment^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS— for both positions.
	Separate SERS employers	TRS— for TRS position only; your ineligible SERS position is not reported.
An eligible TRS position and an eligible SERS position	Same employer	TRS— for both positions.
	Separate SERS employers	TRS— for both positions. ^{2/}

SERS Members

Type of Employment^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible SERS position and an ineligible TRS or substitute position	Same employer	SERS— for both positions.
	Separate SERS employers	SERS— for the SERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.

Neither TRS Nor SERS Member

Type of Employment^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible SERS position	Same employer	TRS— for both positions if the positions combined, qualify as an eligible position.
	Separate SERS employers	Neither position reported.
A substitute teaching position and an ineligible SERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate SERS employers	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.))

Former TRS Plan 1 Members^{2/}

Type of Employment^{2/}	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a full-time teaching position	Same SERS employer	TRS regular reporting for both positions.
	Separate SERS employers	TRS regular reporting for both positions.
A SERS-eligible position and a less than full-time teaching position	Same SERS employer	SERS regular reporting for both positions.
	Separate SERS employers	SERS regular reporting for SERS position. TRS substitute reporting for TRS position. If the service qualifies you to reestablish membership under RCW 41.32.240 and you choose to purchase the service, then any previously reported SERS service for that same fiscal year will be transferred to TRS.

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<u>Type of Employment 2/</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS substitute or ineligible position and a full-time teaching position</u>	<u>Same SERS employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for SERS position. If you choose to purchase the service, it will be billed in TRS.</u>
<u>A SERS substitute or ineligible position and a less than full-time teaching position</u>	<u>Same SERS employer</u>	<u>TRS regular reporting if combined, the position would qualify as a full-time teaching position. Otherwise report all of the time as TRS substitute reporting.</u>
	<u>Separate SERS employers</u>	<u>SERS substitute reporting for SERS position.</u> <u>TRS substitute reporting for TRS position. If the TRS service qualifies you to reestablish membership and you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.</u>

TRS Plan 1 Members

<u>Type of Employment 2/</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS-eligible position and a full-time teaching position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for both positions.</u>
<u>A SERS-eligible position and a less than full-time teaching position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for both positions.</u>
<u>A SERS substitute or ineligible position and a full-time teaching position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for SERS position. If you purchase the SERS service, it will be billed into TRS.</u>
<u>A SERS substitute or ineligible position and less than full-time teaching position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for SERS position. If you purchase the SERS service, it will be billed into TRS.</u>

TRS Plan 2 or 3 Members

<u>Type of Employment 2/</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS-eligible position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for both positions.</u>
<u>A SERS-eligible position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>SERS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>SERS regular reporting for SERS position.</u> <u>TRS substitute reporting for TRS position. If you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.</u>

<u>Type of Employment ^{2/}</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS-ineligible or substitute position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for the SERS position. If the SERS service qualifies for membership, then it would be billed into TRS.</u>
<u>A SERS-ineligible or substitute position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>TRS regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.</u>
	<u>Separate SERS employers</u>	<u>TRS substitute reporting for TRS position. If you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit.</u> <u>SERS substitute reporting for SERS position. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.</u>

SERS Members

<u>Type of Employment ^{2/}</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS-eligible position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for both positions.</u>
<u>A SERS-eligible position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>SERS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>SERS regular reporting for SERS position.</u> <u>TRS substitute reporting for TRS position. If the service qualifies you to establish membership and you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.</u>
<u>A SERS-ineligible or substitute position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for the SERS position. If you purchase the SERS service, it would be billed into TRS.</u>
<u>A SERS-ineligible or substitute position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>TRS regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.</u>
	<u>Separate SERS employers</u>	<u>TRS substitute reporting for TRS position. If the TRS service qualifies you to establish membership and you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit.</u> <u>SERS substitute reporting for SERS position. If you choose to purchase only the SERS service, it will be billed in SERS.</u>

PERMANENT

Neither TRS Nor SERS Member

<u>Type of Employment ^{1/}</u>	<u>Type of Employer(s)</u>	<u>System You Will Be Reported In</u>
<u>A SERS-eligible position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for both positions.</u>
<u>A SERS-eligible position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>SERS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>SERS regular reporting for SERS position.</u> <u>TRS substitute reporting for TRS position. If the service qualifies you to establish membership and you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.</u>
<u>A SERS-ineligible or substitute position and a TRS-eligible position</u>	<u>Same employer</u>	<u>TRS regular reporting for both positions.</u>
	<u>Separate SERS employers</u>	<u>TRS regular reporting for TRS position.</u> <u>SERS substitute reporting for the SERS position. If the SERS service qualifies for membership, and you choose to purchase the service, then it would be billed into TRS.</u>
<u>A SERS-ineligible or substitute position and a TRS-ineligible or substitute position</u>	<u>Same employer</u>	<u>TRS regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.</u>
	<u>Separate SERS employers</u>	<u>TRS substitute reporting for TRS position. If the TRS service qualifies you to establish membership and you choose to purchase the service credit, then any time for that same school year must be purchased as TRS service credit.</u> <u>SERS substitute reporting for SERS position. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.</u>

^{1/} "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{(3/} **EXAMPLE:** A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible SERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the SERS position to the department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in SERS for the SERS position.)

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(e) "Membership" - RCW 41.35.030 (SERS).

(f) "Report" - WAC 415-110-010.

(g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-110-910 Conversion of service from PERS to SERS. (1) You will be converted from the public

employees' retirement system (PERS) to the school employees' retirement system (SERS) if:

(a) You were employed with a school district or educational service district in an eligible position as of September 1, 2000;

(b) You participated and then separated in PERS prior to September 1, 2000, and became reemployed in an eligible position at a school district or educational service district after September 1, 2000;

(c) You are a participating member in PERS and move to a SERS employer in an eligible position after September 1, 2000;

(d) You were or are a participating member of PERS Plan 2 and establish membership in SERS through the substitute process. (See WAC 415-110-680.)

(e) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS member; and

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(ii) Were a member as of September 1, 2000, at a school district or educational service district; or

~~((e))~~ (f) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS member;

(ii) Separated from your PERS position; and

(iii) Become employed in an eligible SERS position prior to applying for retirement in PERS.

(2) **What happens to my existing PERS service and account history when I am converted from PERS to SERS membership?** All of your PERS service and account history with any PERS employer will be moved to SERS.

(3) **How many times will my PERS service be moved to SERS?** Your PERS service shall be moved to SERS only once pursuant to subsection (1) of this section. After you have been converted from PERS to SERS, subsequent reenrollment(s) into SERS shall not cause any additional conversions of any PERS service. Any future eligible employment in PERS shall be reported into PERS and any future eligible employment in SERS shall be reported into SERS.

Example:

Employed in PERS prior to conversion. Joe has 15 years of service in PERS. He has been employed by a school district for the last 5 years. Joe previously was employed by a county for 10 years.

Conversion from PERS to SERS. Since Joe is employed with the school district on September 1, 2000, his PERS service is moved to SERS service. Both his 5 years of service with the school district and his 10 years of service with the county are moved to SERS. Joe's PERS account now has zero service credit and contributions; Joe's SERS account now has 15 years of service credit and contributions.

Return to PERS service. After another year of service with the school district, Joe separates employment with 16 years of credit in SERS and returns to employment with the county. Joe's 16 years of service remains in SERS and he begins to accrue service in PERS, starting from zero, for his new employment with the county.

Return to SERS employment. Joe works for the county for 5 years. He now has 5 years of service credit in PERS and he still has 16 years of service credit in SERS. Joe separates employment from the county and goes back to work in a SERS covered position with an educational service district. Joe's PERS employer will stop reporting him and the educational service district will begin reporting Joe into SERS. He will begin accumulating service in SERS starting at 16 years. The 5 years of service that Joe rendered at the county stays in PERS.

(4) **If I am a PERS Plan 2 retiree and become employed in an eligible SERS position, will my service be converted from PERS to SERS?** Except as allowed in subsection (1)~~((d) and))~~ (e) and (f) of this section, a PERS Plan

2 retiree will not have any of his or her service, account or retirement history converted to SERS.

WSR 04-04-042

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed January 29, 2004, 11:44 a.m.]

Date of Adoption: January 28, 2004.

Purpose: The rule establishes and clarifies:

- The maximum number of hours an individual provider or personal aide can be paid for one client that receives COPES, Medicaid Personal Care, or Chore services in their home;
- The maximum number of hours an individual provider or personal aide can be paid when this individual provider or personal aide is a parent, step-parent, or adoptive parent and lives in the same household as the client; and
- Definition language.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-71-0202.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 03-22-055 on October 31, 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 1, 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 1, Amended 1, Repealed 0.

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

January 28, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-13-052, filed 6/12/03, effective 7/13/03)

WAC 388-71-0202 Long-term care services—Definitions. The department shall use the definition in this section for long-term care services.

"Long-term care services" means the services administered directly or through contract by the aging and adult services administration of the department, including but not lim-

ited to nursing facility care and home and community services.

"**Aged person**" means a person sixty-five years of age or older.

"**Agency provider**" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

"**Application**" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

"**Assessment**" or "**reassessment**" means an inventory and evaluation of abilities and needs based on an in-person interview in the client's own home or other place of residence.

"**Attendant care**" means the chore personal care service provided to a grandfatered client needing full-time care due to the client's need for:

- (1) Assistance with personal care; or
- (2) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

"**Authorization**" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

"**Blind person**" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"**Categorically needy**" means the financial status of a person as defined under WAC ((388-503-0310)) 388-500-0005.

"**Client**" means an applicant for service or a person currently receiving services.

"**Community residence**" means:

- (1) The client's "**own home**" as defined in this section;
- (2) Licensed adult family home under department contract;
- (3) Licensed boarding home under department contract;
- (4) Licensed children's foster home;
- (5) Licensed group care facility, as described in chapter 388-148 WAC; or
- (6) Shared living arrangement as defined in this section.

"**Community spouse**" means a person as described under WAC 388-513-1365 (1)(b).

(~~"**Companionship**" means the activity of a person in a client's own home to prevent the client's loneliness or to accompany the client outside the home for other than personal care services.~~)

"**Contracted program**" means services provided by a licensed and contracted home care agency or home health agency.

"**COPES**" means community options program entry system.

"**Department**" means the state department of social and health services.

"**Direct personal care services**" means verbal or physical assistance with tasks involving direct client care which are directly related to the client's ((handicapping)) disabling condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined in "**personal care services**" below.

"**Disabled**" means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"**Disabling condition**" means a condition which prevents a person from self-performance of personal care tasks without assistance.

"**Estate recovery**" means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-527-2742.

"**Grandfatered client**" means a chore personal care services client approved for either:

(1) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and

(2) Family care services provided under the chore personal care program when these services began before December 14, 1987; and

(3) The client was receiving the same services as of June 30, 1989; and

(4) Chore personal services when these services began before August 1, 2001.

"**Home health agency**" means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

(a) Private duty nursing; or

(b) Skilled nursing services under an approved Medicaid waiver program.

"**Household assistance**" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

"**Income**" means "**income**" as defined under WAC 388-500-0005.

"**Individual provider**" means a person employed by a community options program entry system (COPES) or Medicaid personal care client when the person:

(1) Meets or exceeds the qualifications as defined under WAC 388-71-0500 through (~~388-71-0580~~) 388-71-05640;

(2) Has signed an agreement to provide personal care services to a client; and

(3) Has been authorized payment for the services provided in accordance with the client's service plan.

"Individual provider program (IPP)" means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. **"Institution"** includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

"Institutional eligible client" means a person whose eligibility is determined under WAC 388-513-1315.

"Institutionalized client" means the same as defined in WAC 388-513-1365(f).

"Institutional spouse" means a person described under WAC 388-513-1365 (1)(e).

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

(1) Categorically needy as defined under WAC (~~388-503-0340~~) 388-500-0005; and

(2) Medically needy as defined under WAC (~~388-503-0320~~) 388-500-0005.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined under WAC (~~388-503-0340 and 388-503-1105~~) 388-500-0005.

"Medical institution" means an institution defined under WAC 388-500-0005.

"Medically necessary" and **"medical necessity"** mean the same as defined under WAC 388-500-0005.

"Medically oriented tasks" means direct personal care services and household assistance provided as an integral but subordinate part of the personal care and supervision furnished directly to a client.

"Mental health professional" means a person defined under WAC 388-865-0150.

"Own home" means the client's present or intended place of residence:

(1) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or

(2) In a building the client owns; or

(3) In a relative's established residence; or

(4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Personal care aide" means a person meeting the department's qualification and training requirements and providing direct personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the client.

"Personal care services" means both physical assistance and/or prompting and supervising the performance of

direct personal care tasks and household tasks, as listed in (1) through (17) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks that are age appropriate for children under age eighteen or performed by a licensed health professional.

(1) **"Ambulation"** means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the client if totally unable to walk alone or with a mechanical device.

(2) **"Bathing"** means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(3) **"Body care"** means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required and pedicure to trim toenails and apply lotion to feet. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services, dressing changes using clean technique and topical ointments must be delegated by a registered nurse in accordance with chapter 246-840 WAC. **"Body care"** excludes:

(a) Foot care for clients who are diabetic or have poor circulation; or

(b) Changing bandages or dressings when sterile procedures are required.

(4) **"Dressing"** means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(5) **"Eating"** means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(6) **"Essential shopping"** means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(7) **"Housework"** means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside win-

dows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(8) **"Laundry"** means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(9) **"Meal preparation"** means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(10) **"Personal hygiene"** means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(11) **"Positioning"** means assisting the client to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

(12) **"Self-medication"** means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(13) **"Supervision"** means being available to:

(a) Help the client with personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, some medication assistance; and

(b) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(14) **"Toileting"** means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services colostomy care and catheterization using clean technique must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

(15) **"Transfer"** means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(16) **"Travel to medical services"** means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(17) **"Wood supply"** means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

"Physician" means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

"Plan of care" means a "service plan" as described under WAC 388-71-0205.

"Property owned" means any real and personal property and other assets over which the client has any legal title or interest.

"Provider" or **"provider of service"** means an institution, agency, or person:

(1) Having a signed department agreement to furnish long-term care client services; and

(2) Qualified and eligible to receive department payment.

"Relative" means(:

(1)) for chore personal care service, a client's spouse, father, mother, son, or daughter(;

(2) For Medicaid personal care service:

(a) "Legally responsible relative" means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(b) "Nonresponsible relative" means a parent caring for an adult child and an adult child caring for a parent)).

"Service plan" means a plan for long-term care service delivery as described under WAC 388-71-0205.

~~("Shared living arrangement" for purposes of Medicaid personal care means an arrangement where:~~

~~(1) A nonresponsible relative as defined in "relative" above is the personal care provider and resides in the same residence with common facilities, such as living, cooking, and eating areas; or~~

~~(2) A minor child age seventeen or younger lives in the home of a legally responsible relative as defined in "relative" above.))~~

"SSI-related" means a person who is aged, blind, or disabled.

"Supervision" means a person available to a long-term care client as defined under "personal care services."

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Title XIX" is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, Medically Needy Residential waiver and Medicaid personal care home and community-based services.

"Transfer of resources" means the same as defined under WAC 388-513-1365 (1)(g).

"Unscheduled tasks" means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

NEW SECTION

WAC 388-71-0530 How many hours can my individual provider, agency provider, or personal aide work if I am receiving COPEs, Medicaid Personal Care, or Chore services? The number of hours you are eligible to receive on COPEs, Medicaid Personal Care, or Chore services is based on the hours generated by your assessment.

(1) If your individual provider is not your parent, step-parent, or adoptive parent living in the same household, you may have a single worker (individual provider or personal aide) work up to one hundred eighty-four hours per month. You may have other qualified providers work any hours in excess of one hundred eighty-four hours per month that you are eligible to receive, but no single provider may work more than one hundred eighty-four hours for you.

(2) If your individual provider is your parent, step-parent, or adoptive parent who lives in the same household as you, you may have that person work up to ninety-six hours per month. Whether one or both parents are your individual providers, the limit is ninety-six hours. You may have other qualified workers (individual provider, agency worker, or personal aide) work any hours in excess of ninety-six hours per month that you are eligible to receive, but no single provider may work more than one hundred eighty-four hours for you.

WSR 04-04-043**PERMANENT RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 29, 2004, 11:47 a.m.]

Date of Adoption: January 28, 2004.

Purpose: The Division of Developmental Disabilities is amending rules in chapter 388-820 WAC to specify health and safety standards that service providers must meet to support clients in mental health crisis diversion services. The rules also specify training requirements for staff working with clients in these settings and administrative responsibilities of the contractor. The standards will ensure provision of supports to client in DDD-contracted mental health crisis diversion services that are consistent with the division's philosophy of community supports and establish standards for monitoring these services. The standard added regarding safety features is to also clarify requirements for providers regarding the health and safety of clients receiving community residential services and support services. DDD also proposes revisions to: Correct errors in rules adopted as WSR 01-22-020; clarify the language of the rules; and clarify requirements for providers. New sections adopted are WAC 388-820-053, 388-820-073, 388-820-083, 388-820-403, and 388-820-553.

Citation of Existing Rules Affected by this Order: Amending WAC 388-820-020, 388-820-030, 388-820-050, 388-820-060, 388-820-070, 388-820-090, 388-820-100, 388-820-120, 388-820-230, 388-820-260, 388-820-290, 388-820-300, 388-820-310, 388-820-320, 388-820-330, 388-820-340,

388-820-350, 388-820-400, 388-820-410, 388-820-550, 388-820-560, 388-820-600, 388-820-650, and 388-820-690.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Chapter 71A.12 RCW.

Adopted under notice filed as WSR 03-21-033 on October 8, 2003.

Changes Other than Editing from Proposed to Adopted Version: In WAC 388-820-020, the definition of "(SSP) state supplemental payment" was revised to conform to the definition of the same term in chapter 388-827 WAC; and in WAC 388-820-320, a new subsection was added: "(1) Pass background check as per WAC 388-820-310," and other subsections were renumbered accordingly.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 3, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 21, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 5, Amended 24, Repealed 0.

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

January 28, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-05 issue of the Register.

WSR 04-04-052**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed January 30, 2004, 12:24 p.m.]

Date of Adoption: January 27, 2004.

Purpose: Incorporation by reference of the 2004 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal. Incorporation by reference is required because to incorporate the whole text would be unduly cumbersome and expensive.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-200.

Statutory Authority for Adoption: RCW 18.140.030(1) and 18.235.030(1).

Adopted under notice filed as WSR 04-01-138 on December 19, 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

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Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

January 27, 2004

Mykel D. Gable

Assistant Director, BPD

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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is setting an immediate effective date for this rule under RCW 34.04.380 (3)(a) because there was an emergency clause in chapter 258, Laws of 2003, requiring the requirements for this program to take effect immediately. The fees in this rule have been in place under emergency rules until the permanent rules could be finalized through this order of adoption.

Effective Date of Rule: January 30, 2004.

January 30, 2004

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 03-02-040, filed 12/24/02, effective 1/24/03)

WAC 308-125-200 Standards of practice. (1) The standard of practice governing real estate appraisal activities will be the ((2003)) 2004 edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

(2) Expert review appraisers as defined by RCW 18.140.010(11) while performing expert reviews pursuant to chapter 18.140 RCW are exempt from the Uniform Standards of Professional Appraisal Practice, Standard 3 review provisions while performing expert reviews for the director.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-990 Fees and renewal cycle. (1) Licenses for practical nurse and registered nurse must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Licenses for advanced registered nurse must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(3) Registrations for nursing technicians must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The renewal must be accompanied by an attestation as described in chapter 258, Laws of 2003. This attestation will include the nursing technician's anticipated graduation date. If the anticipated graduation date is within one year, the registration will expire thirty days after the anticipated graduation date. The expiration date may be extended to sixty days after graduation if the nursing technician can show good cause as defined in WAC 246-840-010(15).

(4) The following nonrefundable fees shall be charged by the health professions quality assurance division of the department of health. Persons who hold an RN and an LPN license shall be charged separate fees for each license. Persons who are licensed as an advanced registered nurse practitioner in more than one specialty will be charged a fee for each specialty:

RN/LPN fees:

Title of Fee	Fee
Application (initial or endorsement)	\$65.00
License renewal	50.00
Late renewal penalty	50.00

WSR 04-04-054

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed January 30, 2004, 1:50 p.m., effective January 30, 2004]

Date of Adoption: January 28, 2004.

Purpose: This rule will amend WAC 246-840-990 Fees and renewal cycle, to reflect fees and renewal cycle for registered nursing technicians.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 246-840-990].

Statutory Authority for Adoption: RCW 43.70.250.

Other Authority: Chapter 18.79 RCW.

Adopted under notice filed as WSR 03-24-072 on December 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 1, Repealed 0.

PERMANENT

Title of Fee	Fee
Expired license reissuance	50.00
Inactive renewal	20.00
Expired inactive license reissuance	20.00
Inactive late renewal penalty	10.00
Duplicate license	20.00
Verification of licensure/education (written)	25.00

Advanced registered nurse fees:

Title of Fee	Fee
ARNP application with or without prescriptive authority (per speciality)	\$65.00
ARNP renewal with or without prescriptive authority (per speciality)	50.00
ARNP late renewal penalty (per speciality)	50.00
ARNP duplicate license (per speciality)	20.00
ARNP written verification of license (per speciality)	25.00

Nurse technologist fees:

<u>Title of Fee</u>	<u>Fee</u>
<u>Application fee registration</u>	<u>\$130.00</u>
<u>Renewal of registration</u>	<u>90.00</u>
<u>Duplicate registration</u>	<u>15.00</u>
<u>Registration late renewal penalty</u>	<u>50.00</u>

WSR 04-04-055
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed January 30, 2004, 1:53 p.m.]

Date of Adoption: January 15, 2004.

Purpose: To protect public health by tracking certain general licensees and the devices they possess, and assuring that general licensees are aware of and understand the requirements for possession of devices containing radioactive materials. These new rules incorporate 10 C.F.R. Parts 30, 31, and 32 and are required in order for the Department of Health to maintain its agreement state status with the Nuclear Regulatory Commission.

Citation of Existing Rules Affected by this Order: Amending WAC 246-232-020, 246-232-040, 246-232-050, 246-232-060, 246-233-001, 246-233-020, 246-235-093, 246-235-095, 246-235-097, 246-239-080, and 246-254-090.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 03-23-133 on November 19, 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 7, 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 6, Amended 4, 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.

January 28, 2004

Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-232-020 Types of licenses. Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in chapter 246-233 WAC are effective without the filing of applications with the department or the issuance of licensing documents to the particular persons, although registration or the filing of a certificate with the department may be required by the particular general licensee. The general licensee is subject to all other applicable portions of these regulations and any limitations of the general license.

(2) Specific licenses require the submission of an application to the department and the issuance of a licensing document by the department. The licensee is subject to all applicable portions of these regulations as well as any limitations specified in the licensing document. (See chapter 246-235 WAC.)

AMENDATORY SECTION (Amending WSR 01-02-068, filed 12/29/00, effective 1/29/01)

WAC 246-232-040 Reciprocal recognition of licenses. (1) Subject to these regulations, any person who holds a specific license from the United States Nuclear Regulatory Commission or any agreement state or licensing state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of one hundred eighty days in that twelve month period which commences the date approval is granted, and the appropriate fee received, by the department provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The licensed activity is not conducted in an area under exclusive federal jurisdiction;

(c) The out-of-state licensee notifies the department in writing and pays or has paid the appropriate fee (refer to chapter 246-254 WAC), at least three days prior to each entry to the state to engage in such activity. The written notification must be sent to the Radioactive Materials Section, Depart-

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ment of Health, Mailstop 47827, Olympia, Washington 98504-7827 and the fee should be sent to Washington State Department of Health, Revenue Accounting, P.O. Box 1099, Olympia, Washington 98504. Such notification shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by copies of the pertinent licensing documents. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon telephone application to the department (360 236-3220), obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications during the remainder of the twelve months following the receipt of the initial notification from a person engaging in activities under the general license provided in this subsection;

(d) The out-of-state licensee complies with all applicable regulations of the department and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable regulations of the department;

(e) The out-of-state licensee supplies such other information as the department may request; and

(f) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in this subsection except by transfer to a person:

(i) Specifically licensed by the department or by the United States Nuclear Regulatory Commission, an agreement state or a licensing state to receive such material; or

(ii) Exempt from the requirements for a license for such material under WAC 246-232-010(1).

(2) Notwithstanding the provisions of subsection (1) of this section, any person who holds a specific license issued by the United States Nuclear Regulatory Commission, an agreement state or a licensing state authorizing the holder to manufacture, transfer, install, or service a device described in WAC 246-233-020((4)) within the areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate or service a device in this state in areas not under exclusive federal jurisdiction provided that:

(a) Such person shall file a report with the department within thirty days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;

(b) The device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to such person by the United States Nuclear Regulatory Commission, an agreement state or a licensing state;

(c) Such person shall assure that any labels required to be affixed to the device under regulations of the authority which licensed manufacture of the device bear a statement that "Removal of this label is prohibited"; and

(d) The holder of the specific license shall furnish to each general licensee to whom such device is transferred or

on whose premises such device is installed a copy of the general license contained in WAC 246-233-020(4).

(3) The department may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

AMENDATORY SECTION (Amending Order 245, filed 2/21/92, effective 3/23/92)

WAC 246-232-050 Terms and conditions of licenses.

(1) Each license issued pursuant to this part shall be subject to all the provisions of the act, as now or hereafter in effect, and to all rules, regulations, and orders of the department.

(2) No license issued or granted under chapters 246-233 and 246-235 WAC and no right to possess or utilize radioactive material granted by any license issued pursuant to chapters 246-233 and 246-235 WAC shall be transferred, assigned, or in any manner disposed, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the department shall, after securing full information find that the transfer is in accordance with the provisions of the act, and shall give its consent in writing.

(3) Each person licensed by the department pursuant to chapters 246-233 and 246-235 WAC shall confine use and possession of the material licensed to the locations and purposes authorized by the license.

(4) Approval of licensee's procedures by the department does not release the licensee from responsibility if adherence to these procedures results in undue exposure to individuals or loss of control of radioactive material.

(5) Each specific licensee shall notify the department of health, (~~division of~~) radiation protection, in writing, within five working days following the filing of a voluntary or involuntary petition for bankruptcy by or against:

(a) The licensee;

(b) A person controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate of the licensee.

(6) (~~This~~) The specific licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed;

(b) The date of the filing of the petition;

(c) A complete and detailed inventory of all radioactive material possessed under the license including nuclide, form, activity and planned disposition;

(d) An estimation of the type and quantities of radioactive material the licensee plans to continue to receive and/or use on a routine basis;

(e) A description of security and storage for the radioactive material currently possessed;

(f) A plan for radioactive waste disposal, the estimated completion date(s), and the cost;

(g) An evaluation of facility and equipment contamination, estimate of clean up costs, and a decontamination plan

which includes a thorough description of how the clean up will be funded and how it will be accomplished;

(h) An organizational chart specifying sole owners, partnerships, or officers in the corporation who have legal and fiscal responsibilities for the licensee;

(i) A description of any other changes affecting the terms and conditions of the radioactive materials license.

(7) Each specific licensee shall notify the department within five working days if any items in subsection (6) of this section change during bankruptcy proceedings.

(8) The department will consider clean up costs as part of the licensee's administrative costs if decontamination is necessary to comply with these regulations;

(9) Each general licensee that is required to register by WAC 246-233-020 (3)(k) shall notify the department of health, radiation protection, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy by or against:

(a) The licensee;

(b) A person controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate of the licensee.

(10) The general licensee's bankruptcy notification must include:

(a) The bankruptcy court in which the petition for bankruptcy was filed; and

(b) The date of the filing of the petition.

(11) For the purposes of this section, "affiliate" means:

(a) A person as defined in WAC 246-220-010 that directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the licensee (unless that person holds such securities (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities, or (ii) solely to secure a debt, if such person has not in fact exercised such power to vote);

(b) A corporation, twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the licensee;

(c) A person whose business is operated under a lease or operating agreement by a licensee, or person substantially all of whose property is operated under an operating agreement with the licensee; or

(d) A person that operates the business or substantially all of the property of the licensee under a lease or operating agreement.

AMENDATORY SECTION (Amending WSR 00-07-085, filed 3/15/00, effective 4/15/00)

WAC 246-232-060 Termination of licenses and decommissioning of sites and separate buildings or outdoor areas. (1) Each specific licensee shall immediately notify the department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license and request termination of the license. This notification and request for termination of the license must include the reports and information specified in subsection (3)(c) and (d) of this section. The licensee is sub-

ject to the provisions of subsections (3) and (4) of this section, as applicable.

(2) No less than thirty days before the expiration date specified in a specific license, the licensee shall either:

(a) Submit an application for license renewal under WAC 246-235-050; or

(b) Notify the department in writing if the licensee decides not to renew the license.

(3) If a specific licensee does not submit an application for license renewal under WAC 246-235-050, the licensee shall on or before the expiration date specified in the license:

(a) Terminate use of radioactive material;

(b) Properly dispose of radioactive material;

(c) Submit a completed departmental form "Certificate of disposition of radioactive material" or equivalent; and

(d) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of radioactive contamination, unless the department determines a radiation survey report is not necessary.

(i) If no radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and subsection (3)(c) and (d) of this section is adequate, the department will notify the licensee in writing that the license is terminated.

(ii) If detectable levels of radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the licensee meets the criteria established in chapter 246-246 WAC and the department notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of subsection (4) of this section. In addition to the information submitted under subsection (3)(c) and (d) of this section, the licensee shall submit a plan for decontamination, if necessary.

(4) Each specific licensee who possesses residual radioactive material under subsection (3)(d)(ii) of this section, following the expiration of the facility and/or equipment date specified in the license, shall:

(a) Be limited to actions, involving radioactive material related to decontamination and preparation for release in accordance with chapter 246-246 WAC; and

(b) Continue to control entry to restricted areas until:

(i) Such areas are suitable for release in accordance with chapter 246-246 WAC;

(ii) Contaminated equipment complies with guidance contained in WAC 246-232-140, Schedule D; and

(iii) The department notifies the licensee in writing that the license is terminated.

(5) Each general licensee licensed under the provisions of WAC (~~246-233-020(8)~~) 246-233-040, shall immediately notify the department in writing when the licensee decides to discontinue all activities involving radioactive materials authorized under the general license. Such notification shall include a description of how the generally licensed material was disposed and the results of facility surveys, if applicable, to confirm the absence of radioactive materials.

(6) Within sixty days of the occurrence of any of the following, each specific licensee shall provide notification to the department in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the site, building, or outdoor area is suitable for release in accordance with chapter 246-246 WAC, or submit within twelve months of notification a decommissioning plan, if required by subsection (10)(a) of this section, and begin decommissioning upon approval of that plan if:

(a) The license has expired or has been revoked by the department; or

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the site, building, or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC; or

(c) No principal activities under the license have been conducted for a period of twenty-four months; or

(d) No principal activities have been conducted for a period of twenty-four months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with chapter 246-246 WAC.

(7) As used in this section, principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(8) Coincident with the notification required by subsection (6) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to WAC 246-235-075 or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (10)(d)(v) of this section. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the department.

(9) The department may grant a request to extend the time periods established in subsection (6) of this section if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than thirty days before notification pursuant to subsection (6) of this section. The schedule for decommissioning set forth in subsection (6) of this section may not commence until the department has made a determination on the request.

(10)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The department may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (6) of this section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in (a) of this subsection with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey;

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning;

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning;

(vii) For decommissioning plans calling for completion of decommissioning later than twenty-four months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (12) of this section.

(e) The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(11)(a) Except as provided in subsection (12) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(b) Except as provided in subsection (12) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than twenty-four months following the initiation of decommissioning.

(12) The department may approve a request for an alternative schedule for completion of decommissioning of the

site or separate building or outdoor area, and license termination if appropriate, if the department determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted twenty-four-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground water treatment activities, monitored natural ground water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(13) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed certificate of disposition of radioactive material or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC. The licensee shall, as appropriate:

(i) Report levels of gamma radiation in units of millisieverts (microrentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per one hundred square centimeters—removable and fixed—for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(14) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in chapter 246-246 WAC; and

(d) Records required by subsections (16) and (18) of this section have been received.

(15) Specific licenses for uranium and thorium milling are exempt from subsections (6)(d), (9) and (10) of this section with respect to reclamation of tailings impoundments and/or waste disposal areas.

(16) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than one hundred twenty days, in an unsealed form, shall forward the following records to the department:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(17) If licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), each licensee authorized to possess radioactive material, with a half-life greater than one hundred twenty days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal required by WAC 246-221-230 (8)(a); and

(b) Records of results required by WAC 246-221-230 (7)(h).

(18) Prior to license termination, each licensee shall forward the records required by WAC 246-235-075(6) to the department.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-233-001 Purpose and scope. This chapter establishes general licenses for the possession and use of radioactive material contained in certain items and a general license for ownership of radioactive material. Chapter 246-232 WAC also contains provisions applicable to the (subject matter of) general licenses established in this part.

NEW SECTION

WAC 246-233-005 Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this chapter, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

NEW SECTION

WAC 246-233-015 Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the United States Nuclear Regulatory Commission for use pursuant to Section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221** and 246-222 WAC.

(1) *Static elimination device.* Devices designed for use as static eliminators which contain, as a sealed source or

sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device.

(2) *Ion generating tube.* Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device or a total of not more than 50 millicuries of Hydrogen-3 (tritium) per device.

** Attention is directed particularly to the provisions of chapter 246-221 WAC which relate to the labeling of containers.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-233-020 General (~~licenses*~~ ~~Radioactive material other than source material~~) ~~license~~—~~Certain measuring, gauging or controlling devices.~~

~~((*)Note: Different general licenses are issued in this section, each of which has its own specific conditions and requirements.))~~

~~(1) (*Certain devices and equipment.* A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the United States Nuclear Regulatory Commission for use pursuant to Section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, chapters 246-232, 246-221** and 246-222 WAC.~~

~~(a) *Static elimination device.* Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device.~~

~~(b) *Ion generating tube.* Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of Polonium-210 per device or a total of not more than 50 millicuries of Hydrogen-3 (tritium) per device.~~

~~** Attention is directed particularly to the provisions of chapter 246-221 WAC of these regulations which relate to the labeling of containers.~~

~~(2) Reserved.~~

~~(3) Reserved.~~

~~(4) *Certain measuring, gauging or controlling devices.*~~

~~(a)) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of ~~((b)), (c), and (d))~~ subsections (2), (3), and (4) of this ~~((subsection))~~ section, radioactive material excluding special nuclear material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.~~

~~((b))~~ (2) The general license in ~~((a))~~ subsection (1) of this ~~((subsection))~~ section applies only to radioactive material contained in devices which have been manufactured or ini-

tially transferred and labeled in accordance with the specifications contained in a specific license issued by the department pursuant to WAC 246-235-093 or in accordance with the Nuclear Regulatory Commission, an agreement state or a licensing state, which authorizes distribution or transfer of devices to persons generally licensed by the United States Nuclear Regulatory Commission, an agreement state or licensing state**. The devices shall have been received from one of the specific licensees described in this subsection or through a transfer made under subsection (3)(h) of this section.

*Note: Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 CFR Part 179.

~~((e))~~ (3) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in ~~((e))~~ subsection (1) of this ~~((subsection))~~ section:

~~((f))~~ (a) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

~~((g))~~ (b) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on/off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, however:

~~((A))~~ (i) Devices containing only krypton need not be tested for leakage of radioactive material; and

~~((B))~~ (ii) Devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or 10 microcuries of alpha emitting material need not be tested for any purpose. Devices held in storage in the original shipping container prior to initial installation need not be tested until immediately prior to use;

~~((h))~~ (c) Shall assure that the tests required by ~~((e)(ii))~~ (b) of this subsection and other testing, installing, servicing, and removing from installation involving the radioactive materials, its shielding or containment, are performed:

~~((A))~~ (i) In accordance with the instructions provided by the labels; or

~~((B))~~ (ii) By a person holding a specific license from the department or from the United States Nuclear Regulatory Commission or from any agreement state or from a licensing state to perform such activities;

~~((i))~~ (d) Shall maintain records showing compliance with the requirements of ~~((e)(ii) and (iii))~~ (b) and (c) of this subsection. The records shall show the results of tests. The records also shall show the dates of performance and the names of persons performing, testing, installing, servicing, and removing from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by ~~((e)(ii))~~ (b) of this subsection shall be maintained for ~~((one year))~~ three years after the next required leak test is performed or the sealed source is transferred or disposed. Records of tests of the on/off mechanism and indicator required by ~~((e)(ii))~~ (b)

of this subsection shall be maintained for ~~((one year))~~ three years after the next required test of the on/off mechanism and indicator is performed or the sealed source is transferred or disposed. Records of other testing, installation, servicing, and removal from installation required by ~~(c)((iii))~~ of this subsection shall be maintained for a period of ~~((two))~~ three years from the date of the recorded event or until the device is transferred or disposed;

~~((v))~~ (e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on/off mechanism or indicator, or upon the detection of 0.005 microcuries or more removable radioactive material, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the department, the United States Nuclear Regulatory Commission, or from an agreement state or a licensing state to repair such devices, or disposed by transfer to a person authorized by a specific license to receive the radioactive material contained in the device and, within thirty days, furnish to the department a written report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcuries or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use (see WAC 246-246-020);

~~((vi))~~ (f) Shall not abandon the device containing radioactive material;

~~((vii))~~ (g) Except as provided in ~~((e)(viii))~~ (h) of this subsection, shall transfer or dispose the device containing radioactive material only by transfer to a person holding a specific license of the department, the United States Nuclear Regulatory Commission, or an agreement state, or a licensing state whose specific license authorizes the person to receive the device and within thirty days after transfer of a device to a specific licensee shall furnish to the department a report containing identification of the device by manufacturer's (or initial transferor's) name, model number, and serial number; ~~((and))~~ the name ((and)), address, and license number of the person receiving the device, and the date of transfer. ~~((No report is required if the device is transferred to the specific licensee in order to obtain a replacement device))~~ Prior written approval from the department is required before transferring the device to any other specific licensee not specifically identified in this subsection;

~~((viii))~~ (h) Shall transfer the device to another general licensee only:

~~((A))~~ (i) Where the device remains in use at a particular location. In such case, the transferor shall give the transferee a copy of this ~~((subsection))~~ section, a copy of WAC 246-221-240, 246-221-250, 246-232-050, and 246-232-060, and any safety documents identified in the label of the device and within thirty days of the transfer, report to the department the manufacturer's (or transferor's) name, model number, and serial number of device transferred, the transferee's name and mailing address ((of the transferee)) for the location of use, and the name ((and/or position of an individual who may constitute a point of contact between the department and the transferee)), title, and phone number of the responsible indi-

vidual identified by the transferee in accordance with (j) of this subsection to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

~~((B))~~ (ii) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee~~((s))~~;

~~((C))~~ (i) Shall comply with the provisions of WAC 246-221-240 and 246-221-250 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of chapters 246-221 and 246-222 WAC;

(j) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(k)(i) Shall register, in accordance with (k)(i) and (iii) of this subsection, devices containing at least 370 MBq (10 mCi) of Cesium-137, 3.7 MBq (0.1 mCi) of Strontium-90, 37 MBq (1 mCi) of Cobalt-60, or 37 MBq (1 mCi) of Americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under (k)(iii)(D) of this subsection, represents a separate general licensee and requires a separate registration and fee;

(ii) If in possession of a device meeting the criteria of (k)(i) of this subsection, shall register these devices annually with the department and shall pay the fee required by WAC 246-254-090. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within thirty days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of (k)(i) of this subsection is subject to the bankruptcy notification requirement in WAC 246-232-050;

(iii) In registering devices, the general licensee shall furnish the following information and any other information specifically requested by the department:

(A) Name and mailing address of the general licensee;

(B) Information about each device: The manufacturer (or initial transferor), model number, serial number, the radionuclide and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under (j) of this subsection;

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage;

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information;

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license;

(iv) Persons generally licensed by the U.S. Nuclear Regulatory Commission, or an agreement state with respect to devices meeting the criteria in (k)(i) of this subsection are not subject to registration requirements if the devices are used in areas subject to Washington state jurisdiction for a period less than one hundred eighty days in any calendar year. The department will not request registration information from such licensees;

(l) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the department within thirty days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

(m) Shall not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by (b) of this subsection need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

((d)) (4) The general license in ((a)) subsection (1) of this ((subsection)) section does not authorize the manufacture, import or export of devices containing radioactive material.

((e)) (5) The general license provided in this subsection is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-221-240, 246-221-250, 246-232-050, 246-232-060, 246-232-070, 246-232-080, and 246-232-090.

((5) Luminous safety devices for aircraft.

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or Promethium 147 contained in luminous safety devices for use in aircraft, provided:

(i) Each device contains not more than 10 curies of tritium or 300 millicuries of Promethium 147; and

(ii) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in this subsection are exempt from the requirements of chapters 246-221 and 246-222 WAC except that they shall comply with the provisions of WAC 246-221-240 and 246-221-250.

(c) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or Promethium 147.

(d) This general license does not authorize the ownership, receipt, acquisition, possession or use of Promethium 147 contained in instrument dials.

(e) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this chapter, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

(7) Calibration and reference sources.

(a) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of (d) and (e) of this subsection, Americium 241 in the form of calibration or reference sources:

(i) Any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material; or

(ii) Any person who holds a specific license issued by the United States Nuclear Regulatory Commission which authorizes that person to receive, possess, use and transfer special nuclear material.

(b) A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of (d) and (e) of this subsection to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(c) A general license is hereby issued to own, receive, possess, use and transfer Radium 226 in the form of calibration or reference sources in accordance with the provisions of (d) and (e) of this subsection to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(d) The general licenses in (a), (b) and (c) of this subsection apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the United States Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the department or any agreement state or licensing state pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 of the regulations of the United States Nuclear Regulatory Commission.

(e) The general licenses provided in (a), (b) and (c) of this subsection are subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-

070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, 246-232-090, chapters 246-221 and 246-222 WAC.

In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(i) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of Americium 241 and 5 microcuries of plutonium and 5 microcuries of Radium 226 in such sources;

(ii) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

(A) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION RADIOACTIVE MATERIAL THIS SOURCE CONTAINS (AMERICIUM 241). (PLUTONIUM)*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

*Note: Showing only the name of the appropriate material.

(B) The receipt, possession, use and transfer of this source, Model, Serial No., are subject to a general license and the regulations of any licensing state. Do not remove this label.

CAUTION RADIOACTIVE MATERIAL THIS SOURCE CONTAINS RADIUM 226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....
Name of manufacturer or importer

(iii) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the department, the United States Nuclear Regulatory Commission, or an agreement state or licensing state to receive the source;

(iv) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain Americium 241, Plutonium, or Radium 226/Radon 222 which might otherwise escape during storage; and

(v) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture of calibration or reference sources containing Americium 241, Plutonium, or Radium 226.

(8) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

(a) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following

stated tests, in accordance with the provisions of or use, for any of the following stated tests, in accordance with the provisions of (b), (c), (d), (e), and (f) of this subsection the following radioactive materials in prepackaged units:

(i) Iodine 125, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(ii) Iodine 131, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(iii) Carbon 14, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(iv) Hydrogen 3 (tritium), in units not exceeding 50 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(v) Iron 59, in units not exceeding 20 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(vi) Cobalt 57, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(vii) Selenium 75, in units not to exceed 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(viii) Mock Iodine 125 reference or calibration sources, in units not exceeding 0.05 microcurie of Iodine 129 and 0.005 microcurie of Americium 241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

*Note: The new drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(b) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by (a) of this subsection until that person has received a validated copy of department Form RHF 15 "Certificate in vitro testing with radioactive material under general license." Annual validation requires resubmittal of revised department Form RHF 15 and submittal of the annual fee to the department. The physician, veterinarian, clinical laboratory or hospital shall furnish on department Form RHF 15 the following information and such other information as may be required by that form:

(i) Name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) The location of use; and

(iii) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general

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license in (a) of this subsection and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(e) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by (a) of this subsection shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in (a) of this subsection at any one location of storage or use, a total amount of Iodine 125, Iodine 131, Selenium 75, Iron 59, and/or Cobalt 57 in excess of 200 microcuries.

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by (a) of this subsection.

(iv) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the department, the United States Nuclear Regulatory Commission, any agreement state or licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine 125 reference or calibration sources described in (a)(viii) of this subsection as required by WAC 246 221 170.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to (a) of this subsection:

(i) Except as prepackaged units which are labeled in accordance with the provision of an applicable specific license issued pursuant to WAC 246 235 097 or in accordance with the provisions of a specific license issued by the United States Nuclear Regulatory Commission, or any agreement state or licensing state which authorizes the manufacture and distribution of Iodine 125, Iodine 131, Carbon 14, Hydrogen 3 (tritium), Iron 59, Selenium 75, Cobalt 57, or Mock Iodine 125 to persons generally licensed under this subsection or its equivalent; and

(ii) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

~~This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.~~

.....
Name of manufacturer

~~This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.~~

.....
Name of manufacturer

(e) ~~The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of (a) of this subsection shall report in writing to the department, any changes in the information previously furnished in the "Certificate in vitro testing with radioactive material under general license," department Form RHF 15. The report shall be furnished within thirty days after the effective date of such change.~~

(f) ~~This general license is subject to the provisions of WAC 246 220 020, 246 220 030, 246 220 040, 246 220 060, 246 220 070, 246 220 090 and 246 220 100. In addition, any person using radioactive material pursuant to the general license of (a) of this subsection is exempt from the requirements of chapters 246 221 and 246 222 WAC with respect to radioactive material covered by that general license, except that such persons using the Mock Iodine 125 described in (a)(viii) of this subsection shall comply with the provisions of WAC 246 221 170, 246 221 240, and 246 221 250 and of these regulations.~~

(g) ~~Ice detection devices.~~

(a) ~~A general license is hereby issued to own, receive, acquire, possess, use and transfer Strontium 90 contained in ice detection devices, provided each device contains not more than 50 microcuries of Strontium 90 and each device has been manufactured or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.~~

(b) ~~Persons who own, receive, acquire, possess, use or transfer Strontium 90 contained in ice detection devices pursuant to the general license in (a) of this subsection:~~

(i) ~~Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the United States Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;~~

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~~(ii) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and~~

~~(iii) Are exempt from the requirements of chapters 246-221 and 246-222 WAC except that such persons shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250.~~

~~(e) This general license does not authorize the manufacture, assembly, disassembly or repair of Strontium-90 sources in ice detection devices.~~

~~(d) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.)~~

NEW SECTION

WAC 246-233-025 General license—Luminous safety devices for aircraft. (1) A general license is hereby issued to own, receive, acquire, possess and use tritium or Promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 10 curies of tritium or 300 millicuries of Promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the department or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in this subsection are exempt from the requirements of chapters 246-221 and 246-222 WAC except that they shall comply with the provisions of WAC 246-221-240 and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or Promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of Promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-050, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

NEW SECTION

WAC 246-233-030 General license—Ice detection devices. (1) A general license is hereby issued to own, receive, acquire, possess, use and transfer Strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries of Strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the United States Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a

specific license issued by the department or any agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR Part 32 of the regulations of the United States Nuclear Regulatory Commission.

(2) Persons who own, receive, acquire, possess, use or transfer Strontium-90 contained in ice detection devices pursuant to the general license in (a) of this subsection:

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the United States Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of chapters 246-221 and 246-222 WAC except that such persons shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of Strontium-90 sources in ice detection devices.

(4) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, and 246-232-090.

NEW SECTION

WAC 246-233-035 General license—Calibration and reference sources. (1) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subsections (4) and (5) of this section, Americium-241 in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material; or

(b) Any person who holds a specific license issued by the United States Nuclear Regulatory Commission which authorizes that person to receive, possess, use and transfer special nuclear material.

(2) A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(3) A general license is hereby issued to own, receive, possess, use and transfer Radium-226 in the form of calibration or reference sources in accordance with the provisions of subsections (4) and (5) of this section to any person who holds a specific license issued by the department which authorizes that person to receive, possess, use and transfer radioactive material.

(4) The general licenses in subsections (1), (2) and (3) of this section apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the United States Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the department or any agreement state or licensing state pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 of the regulations of the United States Nuclear Regulatory Commission.

(5) The general licenses provided in subsections (1), (2) and (3) of this section are subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-100, 246-232-050, 246-232-070, 246-232-080, 246-232-090, chapters 246-221 and 246-222 WAC.

In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of Americium-241 and 5 microcuries of plutonium and 5 microcuries of Radium-226 in such sources;

(b) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

(i) The receipt, possession, use and transfer of this source, Model , Serial No. , are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241). (PLUTONIUM)*. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

*Note: Showing only the name of the appropriate material.

(ii) The receipt, possession, use and transfer of this source, Model , Serial No. , are subject to a general license and the regulations of any licensing state. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

.....
Name of manufacturer or importer

(c) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the department, the United States Nuclear Regulatory Com-

mission, or an agreement state or licensing state to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain Americium-241, plutonium, or Radium-226/Radon-222 which might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing Americium-241, plutonium, or Radium-226.

NEW SECTION

WAC 246-233-040 General license for use of radioactive material for certain *in vitro* clinical or laboratory testing.*

(1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of subsections (2), (3), (4), (5), and (6) of this section the following radioactive materials in prepackaged units:

(a) Iodine-125, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(b) Iodine-131, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(c) Carbon-14, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(d) Hydrogen-3 (tritium), in units not exceeding 50 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(e) Iron-59, in units not exceeding 20 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(f) Cobalt-57, in units not exceeding 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(g) Selenium-75, in units not to exceed 10 microcuries each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(h) Mock Iodine-125 reference or calibration sources, in units not exceeding 0.05 microcurie of Iodine-129 and 0.005 microcurie of Americium-241 each for use in *in vitro* clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

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*Note: The new drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(2) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by subsection (1) of this section until that person has received a validated copy of department Form RHF-15 "Certificate - *in vitro* testing with radioactive material under general license." Annual validation requires resubmittal of revised department Form RHF-15 and submittal of the annual fee to the department. The physician, veterinarian, clinical laboratory or hospital shall furnish on department Form RHF-15 the following information and such other information as may be required by that form:

- (a) Name and address of the physician, veterinarian, clinical laboratory or hospital;
- (b) The location of use; and
- (c) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out *in vitro* clinical or laboratory tests with radioactive material as authorized under the general license in subsection (1) of this section and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by subsection (1) of this section shall comply with the following:

- (a) The general licensee shall not possess at any one time, pursuant to the general license in subsection (1) of this section at any one location of storage or use, a total amount of Iodine-125, Iodine-131, Selenium-75, Iron-59, and/or Cobalt-57 in excess of 200 microcuries.
- (b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.
- (c) The general licensee shall use the radioactive material only for the uses authorized by subsection (1) of this section.
- (d) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the department, the United States Nuclear Regulatory Commission, any agreement state or licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.
- (e) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in subsection (1)(h) of this section as required by WAC 246-221-170.

(4) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to subsection (1) of this section:

- (a) Except as prepackaged units which are labeled in accordance with the provision of an applicable specific license issued pursuant to WAC 246-235-097 or in accordance with the provisions of a specific license issued by the United States Nuclear Regulatory Commission, or any agreement state or licensing state which authorizes the manufacture and distribution of Iodine-125, Iodine-131, Carbon-14,

Hydrogen-3 (tritium), Iron-59, Selenium-75, Cobalt-57, or Mock Iodine-125 to persons generally licensed under this subsection or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....
Name of manufacturer

(5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of subsection (1) of this section shall report in writing to the department, any changes in the information previously furnished in the "Certificate - *in vitro* testing with radioactive material under general license," department Form RHF-15. The report shall be furnished within thirty days after the effective date of such change.

(6) This general license is subject to the provisions of WAC 246-220-020, 246-220-030, 246-220-040, 246-220-060, 246-220-070, 246-220-090 and 246-220-100. In addition, any person using radioactive material pursuant to the general license of subsection (1) of this section is exempt from the requirements of chapters 246-221 and 246-222 WAC with respect to radioactive material covered by that general license, except that such persons using the Mock Iodine-125 described in subsection (1)(h) of this section shall comply with the provisions of WAC 246-221-170, 246-221-240, and 246-221-250 and of these regulations.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-093 Manufacture, assembly or distribution of devices under general license. (1) An application for a specific license to manufacture or initially transfer or

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distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under WAC 246-233-020((4)) or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state will be approved if:

(a) The applicant satisfies the general requirements of WAC 246-235-020;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(i) The device can be safely operated by persons not having training in radiological protection;

(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1); and

(iii) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye	15 rems
Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter	200 rems
Other organs	50 rems

(c) Each device bears a durable, legible, clearly visible label or labels approved by the department, which contain in a clearly identified and separate statement:

(i) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(ii) The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(iii) The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(A) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the regulations of the United States Nuclear Regulatory Commission or a state with which the United States Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

(Name of manufacturer or distributor)*

(B) The receipt, possession, use and transfer of this device, Model, Serial No. Note*, are subject to a general license or the equivalent, and the regulations of a licensing state. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

(Name of manufacturer or distributor)*

*Note: The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(d) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "CAUTION - RADIOACTIVE MATERIAL," the radiation symbol described in WAC 246-221-120, and the name of the manufacturer or initial distributor;

(e) Each device meeting the criteria of WAC 246-233-020 (3)(k), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "CAUTION - RADIOACTIVE MATERIAL," and, if practicable, the radiation symbol described in WAC 246-221-120.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the department will consider information which includes, but is not limited to:

- (a) Primary containment (source capsule);
- (b) Protection of primary containment;
- (c) Method of sealing containment;
- (d) Containment construction materials;
- (e) Form of contained radioactive material;
- (f) Maximum temperature withstood during prototype tests;
- (g) Maximum pressure withstood during prototype tests;
- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under WAC 246-233-020((4)), or under equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove

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the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive in one year a radiation dose in excess of ten percent of the limits specified in the table in WAC 246-221-010(1).

(4) Each person licensed under subsection (1) of this section to distribute or initially transfer devices to generally licensed persons shall, prior to the transfer to the intended user or the initial transfer to an intermediate person, if used:

(a) Furnish to the intended user and to each person to whom a device is transferred as an intermediary, the following:

(i) A copy of the general license contained in WAC 246-233-020((4)) to each person to whom the person directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license contained in WAC 246-233-020(4)). If WAC 246-233-020 (3)(b), (c), and (d) or (k) do not apply, those subsections may be omitted;

(ii) A copy of WAC 246-232-050, 246-221-230, 246-221-240, and 246-221-250;

(iii) A list of the services that can only be performed by a specific licensee; and

(iv) Information on acceptable disposal options including estimated costs of disposal;

(b) Furnish to the intended user in another jurisdiction and to each person to whom a device is transferred as an intermediary, the following:

(i) A copy of the ((general license)) appropriate regulations, equivalent to WAC 246-233-020, 246-232-050, 246-221-230, 246-221-240, and 246-221-250, contained in the United States Nuclear Regulatory Commission's, agreement state's, or licensing state's regulation ((equivalent to WAC 246-233-020(4)), or alternatively, furnish a copy of the general license contained in WAC 246-233-020(4) to each person to whom, directly or through an intermediate person, is transferred radioactive material in a device for use pursuant to the general license of the United States Nuclear Regulatory Commission, the agreement state or the licensing state)). If a copy of the general license in WAC 246-233-020((4)) is furnished to such a person, it shall be accompanied by a note explaining that the use of the device is regulated by the United States Nuclear Regulatory Commission, agreement state or licensing state under requirements substantially the same as those in WAC 246-233-020((4)). If certain subsections do not apply to the particular device, those subsections may be omitted;

(ii) A list of the services that can only be performed by a specific licensee;

(iii) Information on acceptable disposal options including estimated cost of disposal;

(iv) The name or title, address, and phone number of the contact at the appropriate regulatory agency from which additional information may be obtained; and

(v) An indication that U.S. Nuclear Regulatory Commission policy is to issue high civil penalties for improper disposal;

(c) Report to the department all transfers of such devices to persons for use under the general license in WAC 246-233-020((4)) and all receipts of devices from persons licensed under WAC 246-233-020.

(i) Such report shall ((identify)) include:

(A) The identity of each general licensee by name and mailing address((-an individual by name and/or position who may constitute a point of contact between the department and the general licensee;)) for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type ((and)), model number and serial number of device transferred(;-); and

(E) The quantity and type of radioactive material contained in the device.

(ii) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user.

(iii) For devices received from persons generally licensed under WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(iv) If the licensee makes changes to a device possessed by a person generally licensed under WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(v) If no transfers have been made to or from persons generally licensed under WAC 246-233-020((4)) during the reporting period, the report shall so indicate.

(vi) The report shall cover each calendar quarter, shall clearly indicate the period covered by the report, and shall be filed within thirty days ((thereafter)) of the end of the calendar quarter.

(vii) The report shall clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(d) Reports to other departments.

(i) Report to the United States Nuclear Regulatory Commission all transfers of such devices to persons for use under the United States Nuclear Regulatory Commission general license in Section 31.5 of 10 CFR Part 31 and all receipts of devices therefrom.

(ii) Report to the responsible department all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to WAC 246-233-020(~~((4))~~) and all receipts of devices from persons generally licensed under WAC 246-233-020 or equivalent.

(iii) Such reports shall (~~((identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee;))~~) include:

(A) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type and model of the device transferred(;;); and

(E) The quantity and type of radioactive material contained in the device.

(iv) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user.

(v) For devices received from persons generally licensed under WAC 246-233-020, the report must include:

(A) The identity of the general licensee by name and address;

(B) The type, model number, and serial number of the device received;

(C) The date of receipt; and

(D) In the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(vi) If the licensee makes changes to a device possessed by a person generally licensed under WAC 246-233-020, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(vii) The report shall be submitted within thirty days after the end of each calendar quarter in which such a device is transferred to the generally licensed person and shall clearly indicate the period covered by the report.

~~((+))~~ (viii) The report shall clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(ix) If no transfers have been made to United States Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the United States Nuclear Regulatory Commission.

~~((+))~~ (x) If no transfers have been made to general licensees within a particular state during the reporting period, this information shall be reported to the responsible department upon request of the department.

(e) ~~Keep records ((showing the name, address and the point of contact for each general licensee to whom the person directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license provided in WAC 246-233-020(4), or equivalent regulations of the United States Nuclear Regulatory Commission, an agreement state or a licensing state. The records shall show the date of each transfer, the radionuclide and the quantity of radioactivity in each device transferred, the identity of any intermediate person, and compliance with the report requirements of subsection (4) of this section))~~ concerning transfers and receipts of devices that support the reports required by this section. Records required by this section shall be maintained for a period of three years following the date of the recorded event.

(f) If a notification of bankruptcy has been made under WAC 246-233-050 or the license is to be terminated, each person licensed under this section shall provide, upon request, to the department, the United States Nuclear Regulatory Commission, an agreement state, or a licensing state, records of final disposition required under subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-095 Manufacture, assembly, or distribution of luminous safety devices, certain calibration sources or ice detectors under general license. (1) *Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft.* An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under WAC (~~((246-233-020(5)))~~) 246-233-025 will be approved subject to the following conditions:

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, 32.56, 32.101 of 10 CFR Part 32 or their equivalent.

(2) *Special requirements for license to manufacture calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under WAC (~~((246-233-020(7)))~~)* 246-233-035. An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under WAC (~~((246-233-020(7)))~~) 246-233-035 will be approved subject to the following conditions:

(a) The applicant satisfies the general requirement of WAC 246-235-020; and

(b) The applicant satisfies the requirements of Sections 32.57, 32.58, 32.59, 32.102 of 10 CFR Part 32 and Section 70.39 of 10 CFR Part 70 or their equivalent.

(3) *Licensing the manufacture and distribution of ice detection devices.* An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under WAC (~~((246-233-020(9)))~~) 246-233-030 will be approved subject to the following conditions:

- (a) The applicant satisfies the general requirements of WAC 246-235-020; and
- (b) The criteria of Sections 32.61, 32.62, 32.103 of 10 CFR Part 32 are met.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-097 Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of WAC ((246-233-020(8))) 246-233-040 will be approved if:

- (1) The applicant satisfies the general requirements specified in WAC 246-235-020;
- (2) The radioactive material is to be prepared for distribution in prepackaged units of:
 - (a) Iodine-125 in units not exceeding 10 microcuries each;
 - (b) Iodine-131 in units not exceeding 10 microcuries each;
 - (c) Carbon-14 in units not exceeding 10 microcuries each;
 - (d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries each;
 - (e) Iron-59 in units not exceeding 20 microcuries each;
 - (f) Cobalt-57 in units not exceeding 10 microcuries each;
 - (g) Selenium-75 in units not exceeding 10 microcuries each;
 - (h) Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(3) Each prepackaged unit bears a durable, clearly visible label:

- (a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 50 microcuries of hydrogen-3 (tritium); 20 microcuries of iron-59; or Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each;
- (b) Displaying the radiation caution symbol described in WAC 246-221-120 (1)(a) and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for internal or external use in humans or animals."

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state

with which the commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

.....
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in WAC 246-221-170 of these regulations.

AMENDATORY SECTION (Amending WSR 94-06-017, filed 2/22/94, effective 3/25/94)

WAC 246-239-080 Calibration and reference sources. (1) Any licensee who owns, receives, acquires, possesses, uses, or transfers calibration reference sources pursuant to the general license authorized in WAC ((246-233-020(7))) 246-233-035 shall:

- (a) Maintain a file or log identifying such sources, including nuclide, activity, model and serial numbers, manufacturer, date of receipt, date of transfer, and to whom transferred (where applicable);
- (b) Possess at any one time, and at any one location of storage or use, no more than five uCi (0.185 megabecquerels) of Am-241 and five uCi (0.185 megabecquerels) of Pu and five uCi (0.185 megabecquerels) of Ra-226 in such sources;
- (c) Store such source(s), except when the source(s) is being used, in a closed container adequately designed and constructed to contain Americium-241, Plutonium, or Radium 226 which might otherwise escape during storage; and
- (d) Not use such source(s) for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(2) Any licensee who receives, possesses, or uses calibration and reference standards pursuant to the group licensing provisions of WAC 246-235-080 (3)(c):

- (a) Shall conduct leak tests in accordance with WAC 246-235-080 (3)(d);
- (b) Shall follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, and agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and

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maintain such instruction in a legible and conveniently available form; and

(c) Shall conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventory shall be maintained for inspection by the department, and shall include, but not be limited to, the quantities and kinds of radioactive material, the serial number of each source, location of sources, the initials or name of the person performing the inventory, and the date of inventory.

(3) Any licensee authorized for medical Group I, II, or III is also authorized to receive, use, possess, store, transfer and/or dispose of sealed sources containing Cobalt-57 in amounts not exceeding 22 millicuries (814 megabecquerels) per source which are designed, intended, and used solely for required imaging system or dose calibrator quality assurance tests.

AMENDATORY SECTION (Amending WSR 03-14-034, filed 6/23/03, effective 7/24/03)

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

(a) Five thousand five hundred 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 four hundred 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 six hundred 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 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 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 forty dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand four hundred 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 nine hundred thirty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

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

(j) Two thousand two hundred ten dollars for a license authorizing possession of less than or equal to one gram of

unsealed special nuclear material or five hundred kilograms of source material at a single facility.

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

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

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

(4) General licensees required to register in accordance with WAC 246-233-020 (3)(k) shall forward an annual fee of two hundred fourteen dollars to the department.

WSR 04-04-056

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed January 30, 2004, 1:57 p.m.]

Date of Adoption: January 14, 2004.

Purpose: The purpose is to adopt revisions to Group A public drinking water supplies, chapter 246-290 WAC. The revisions are necessary to be consistent with federally promulgated Environmental Protection Agency rules and regulations for arsenic and long-term 1 enhanced surface water treatment rules.

Citation of Existing Rules Affected by this Order: Amending WAC 246-290-010, 246-290-025, 246-290-130, 246-290-300, 246-290-310, 246-290-320, 246-290-480, 246-290-601, 246-290-630, 246-290-660, 246-290-664, 246-290-666, 246-290-72010, and 246-290-72012.

Statutory Authority for Adoption: RCW 43.20.050.

Other Authority: RCW 70.119A.080.

Adopted under notice filed as WSR 03-24-106 on December 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 14, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

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

January 30, 2004

Don Sloma

Executive Director

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)**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;
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;
GWU - ground water under the direct influence of surface water;
HAA5 - haloacetic acids (five);
HPC - heterotrophic plate count;
IAPMO - International Association of Plumbing and Mechanical Officials;
kPa - kilo pascal (SI units of pressure);
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;
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 under chapter 246-294 WAC. Place-

ment 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. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. 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 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 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 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 sup-

ply, 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 established 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 ecology, 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 03-08-037, filed 3/27/03, effective 4/27/03)

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, ((2002)) 2003, 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;
- 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. excluding (i)(2)
- 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 (f)(22)
- 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)
- 141.24 (h)(20)
- 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, excluding (b) 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.

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- 141.84 Lead service line replacement requirements.
- 141.85 Public education and supplemental monitoring requirements.
- 141.86 (a) Monitoring requirements for lead and copper
- (f) 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.
- 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.
- 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**
- Subpart T - Enhanced Filtration and Disinfection - Systems Serving Fewer Than 10,000 People**
- 141.530 - Disinfection profile and benchmark.
- 141.544
- 141.563 Follow-up actions required.

141.570. Reporting requirements.
excluding (c)

- 143.1 - Secondary contaminants.
143.4

Copies of the incorporated sections and subsections of Title 40 CFR are available from the Department of Health, Airstrial 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 03-08-037, filed 3/27/03, effective 4/27/03)

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.

(h) Purveyors required to conduct disinfection profiling and benchmarking in accordance with 40 CFR 141.530 through 141.544 shall retain the results on file indefinitely.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours 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, cate-

gory, 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.

(g) Systems monitoring for unregulated contaminants in accordance with WAC 246-290-300(9), shall send a copy of the results of such monitoring 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 03-08-037, filed 3/27/03, effective 4/27/03)

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*;

(e) *Cryptosporidium* for systems serving at least ten thousand people and beginning January 14, 2005, for systems serving less than 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 03-08-037, filed 3/27/03, effective 4/27/03)

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;

(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) Community and nontransient noncommunity systems serving less than ten thousand persons must meet the disinfection profiling and benchmarking provisions required in accordance with 40 CFR 141.530 through 141.544.

(14) Systems required to develop a disinfection profile under 40 CFR 141.530 shall provide that profile and a calculated disinfection benchmark, as described in 40 CFR 141.543 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 in accordance with WAC 246-290-416.

(15) 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) or 40 CFR 141.563, 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 03-08-037, filed 3/27/03, effective 4/27/03)

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(A) until January 14, 2005, and Table 11(B) beginning January 14, 2005; and

(ii) Never exceeds 5.0 NTU for any system using slow sand, diatomaceous earth((-Ø#));

(iii) Never exceeds 5.0 NTU for any system serving less than ten thousand people and using conventional, direct, or in-line filtration((-

(###)) until January 14, 2005, and never exceeds 1.0 NTU beginning January 14, 2005;

(iv) Never exceeds 1.0 NTU for any system serving at least ten thousand people and using conventional, direct, or in-line filtration((-);

((iv+)) (v) 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(A)

TURBIDITY PERFORMANCE REQUIREMENTS (UNTIL JANUARY 14, 2005)

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).	

Table 11(B)

TURBIDITY PERFORMANCE STANDARDS (BEGINNING JANUARY 14, 2005)

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
Conventional, Direct and In-line	0.30
Slow Sand	1.0
Diatomaceous Earth	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 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)					
	<i>Giardia</i>		Virus		<i>Cryptosporidium</i>	
	Percent	log	Percent	log	Percent	log
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.

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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 and enhanced softening 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:

(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 03-08-037, filed 3/27/03, effective 4/27/03)

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 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) Beginning January 14, 2005, systems serving less than ten thousand people shall record continuous turbidity measurements from each individual filter unit at equal intervals of at least every fifteen minutes;

(iv) Systems serving less than ten thousand people and consisting of two or fewer filters may record continuous turbidity measurements from the combined filter effluent at equal intervals of at least fifteen minutes in lieu of recording individual filter turbidity measurements; and

(v) 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, 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:

(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:

<u>Population Served</u>	<u>Number/day</u>
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

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(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 03-08-037, filed 3/27/03, effective 4/27/03)

WAC 246-290-666 Reporting for filtered systems. (1)

The purveyor shall notify the department, as soon as possible, but no later than 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:

(i) Exceeds 1.0 NTU at any time for a system serving at least ten thousand people and using conventional, direct, or in-line filtration;

(ii) Beginning January 14, 2005, the turbidity of the combined filter effluent exceeds 1.0 NTU at any time for a system serving less than ten thousand people 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) 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) 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;

(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). Beginning January 14, 2005, systems serving less than ten thousand people shall report and take follow-up action as prescribed by 40 CFR 141.563 and 141.570. Required follow-up action may include development of a filter profile, a filter self-assessment, as described in 40 CFR 141.175 (b)((4))(3) and 141.563(b), 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 246-290-130 Source approval. (1) Every purveyor shall obtain drinking water from the highest quality source feasible. No new source, previously unapproved source, or modification of an existing source shall be used as a public water supply without department approval. No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(2) Before initiating source development or modification, the purveyor shall contact the department to identify submittal requirements.

(3) Any party seeking source approval shall provide the department sufficient documentation, in a project report, construction documents, or in supplemental documents, that the source:

(a) Is reasonable and feasible for the type and size of the system;

(b) May legally be used in conformance with state water rights laws;

(c) Supplies water that is physically and reliably available in the necessary quantities, as shown in:

(i) A hydrogeologic assessment of the proposed source;

(ii) A general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow, which includes seasonal variation and upstream water uses that may significantly affect the proposed source;

(iii) For ground water and spring sources, well source development data that are available from a pump test at the maximum design rate and duration, or are available from other sources of information, that establish pump settings (depth) in the well and demonstrate adequacy of water quantity to meet design criteria while not leading to water quality problems;

(iv) For ground water and spring sources, installation of a source meter or other equivalent device that reliably measures volume of flow into the system;

(d) Is, or is not, a GWI under WAC 246-290-640, and meets or can meet the applicable requirements for GWI sources as described in that section including treatment;

(e) Adequately provides for source protection, as shown in:

(i) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of this chapter;

(ii) For wells, a preliminary department susceptibility assessment or equivalent information, and preliminary WHPA delineation and contaminant inventory, under the requirements for sanitary control and wellhead protection under WAC 246-290-135;

(f) Is designed and constructed in conformance with this chapter, and relevant requirements of chapter 173-160 WAC (department of ecology well construction standards);

(g) Meets water quality standards under WAC 246-290-310, as shown in an initial water quality analysis that includes, at a minimum, the following:

(i) Bacteriological;

(ii) Complete inorganic chemical and physical except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems;

(iii) Complete VOC;

(iv) Radionuclides, if source approval is requested for a community system;

(v) SOC, except where waived or not required under WAC 246-290-310; and

(vi) Any other information required by the department relevant to the circumstances of the particular source.

Sources that otherwise would not meet water quality standards may be approved if treatment is provided.

(4) The required documentation under subsection (3) of this section shall include, at a minimum:

(a) A copy of the water right, or other written evidence of the existence of the right;

(b) A map showing the project location and vicinity;

(c) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drain-

age patterns, and any other natural or man-made features affecting the quality or quantity of water;

(d) The dimensions, location, and legal documentation of the sanitary control area (SCA) under WAC 246-290-135;

(e) A copy of the on-site inspection form completed by the department or local health department representative;

(f) A copy of the water well report including the unique well identification tag number, depth to open interval or top of screened interval, overall depth of well from the top of the casing, vertical elevation, and location (both plat location and latitude/longitude); and

(g) Documentation of source meter installation. The purveyor may utilize other documents, such as a water system plan, susceptibility assessment, wellhead protection program, project report, or construction documents, to provide such documentation and information to the department, provided that such documents are current, and the purveyor indicates the location in the document of the relevant information.

(5) If treatment of a source is necessary to meet water quality standards, the purveyor may be required to meet the provisions of WAC 246-290-250 and Part 6 of this chapter, if applicable, prior to or as a condition of approval.

(6) An intertie must be adequately described in a written agreement between the purveyor and the supplier of the water, and otherwise meet the requirements of WAC 246-290-132.

(7) The purveyor shall not construct facilities for source development and use without prior approval of the department pursuant to the provisions of WAC 246-290-120.

(8) The purveyor shall receive a written source approval when:

(a) The purveyor has complied with the relevant provisions of subsections (1) through (7) of this section; and

(b) The developed source provides water complying with this chapter.

(9) The purveyor may receive a conditional source approval, such as one that sets limits on use or requires interim treatment, if further analysis of the quality of the source is required before final approval.

(10) For sources or supplies of water used by bottled water or ice plants to produce bottled water or ice:

(a) If the bottled water or ice plant is a Group A community water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice shall meet the applicable Group A requirements;

(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a Group A community water system, the owner or operator shall obtain source approval from the department, and the source water shall meet the ongoing source water quality monitoring requirements for a Group A community system;

(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water shall meet the minimum requirements for a Group A community water system, and the owner or operator of the plant shall ensure that the water meets such requirements;

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(d) The source or supply for the water that is bottled or made into ice shall be protected from contamination prior to the bottling or ice making process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water shall be subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

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 EPA-approved methods. The analyses shall be performed by a laboratory accredited by the state. Qualified water utility, accredited laboratory, 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 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 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 require-

ments 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 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, disinfection by-product (including THMs) and distribution system disinfectant residual concentration monitoring requirements, provided the receiving system:

- (i) Purchases water from a purveyor that has a department-approved regional monitoring program; and
- (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:

(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 bacteriological 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.

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(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. (Except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems.)

(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 introductory text, 141.23(a) through 141.23(j), excluding (i)(2), 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), excluding (i)(2), 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 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 at least ten thousand 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 meet the monitoring requirements in subsection (7) of this section.

(iii) Purchased surface water sources. Purveyors of consecutive 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.

(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 chlorite 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.

(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 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.

(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 (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.

(10) Radionuclides. Monitoring for radionuclides shall be conducted in accordance with 40 CFR 141.26.

(1.1) 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 a point representative of the source, after treatment and prior to entry to distribution system.
Organic Chemicals (VOCs & SOCs)	From a point representative of the source, after treatment and prior to entry to distribution system.

Sample Type	Sample Location
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 03-08-037, filed 3/27/03, effective 4/27/03)

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:
 - (A) Samples invalidated under WAC 246-290-320(2)(d); and
 - (B) Special purpose samples.
 - (3) Inorganic chemical and physical.

(a) The primary and secondary MCLs are listed in Table 4 and 5:

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TABLE 4
INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	((0.05)) 0.010*
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* Does not apply to TNC systems.
With regard to community and NTNC water systems, new systems or systems that use a new source of water, certified as complete in accordance with WAC 246-290-120(5) after January 22, 2004, must demonstrate compliance with this MCL within a period of time specified by the department.
With regard to existing community and NTNC water systems, this arsenic MCL is effective January 23, 2006, for the purpose of compliance. Until that time, the MCL is 0.05 mg/L.

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

(b) Compliance with the MCLs in this subsection is determined by a running annual average at each sampling point. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling and at least one sampling point is in violation of the MCL. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

(i) If any sample will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(ii) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(iii) If a sample result is less than the detection limit, zero will be used to calculate the running annual average.

(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).

(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.

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(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 C1 ₂)
Chloramines	4.0 (as C1 ₂)
Chlorine Dioxide	0.8 (as C1O ₂)

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 CFR 141.133.

(7) Radionuclides.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226 and radium-228, gross alpha particle activity, beta particle and photon radioactivity, and uranium shall be as listed in 40 CFR 141.66.

(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).

(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 03-08-037, filed 3/27/03, effective 4/27/03)

WAC 246-290-320 Follow-up action. (1) General.

(a) When an MCL or MRDL violation or exceedance 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 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 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 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

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(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)
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:

(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 (c)(9), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);

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(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), and 141.24 (f)(22); or

(b) For SOCs, 40 CFR 141.24(b), 141.24(c) and 141.24 (h)(7) through 141.24 (h)(11), and 141.24 (h)(20).

(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 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 03-08-037, filed 3/27/03, effective 4/27/03)

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 levels above 0.005 mg/L and up to and including ~~(0.01)~~ 0.010 mg/L:

(a) Must include in its report a short informational statement about arsenic, using language such as: 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 03-08-037, filed 3/27/03, effective 4/27/03)

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, some of the elderly, and people with severely-compromised immune systems.

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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
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 in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
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) ((*Effective 12/08/03))	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) ((*Effective 12/08/03))	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) ((*Effective 12/08/03))	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) ((*Effective 12/08/03))	30 micro g/l	-	30	0	Erosion of natural deposits	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.
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.

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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
Arsenic (ppb) *Effective 1/23/06	.05 ((0.01)) <u>0.010</u>	1000 1000	50 10	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.
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.

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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
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 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.
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.

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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
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.
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.

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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
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 well 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.
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.

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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
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.
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.

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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
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.
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)) <u>disinfection</u>	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.

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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
Chloramines (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who 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 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)) <u>disinfection</u>	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.
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.

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
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.
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.

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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
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)) <u>disinfection</u>	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.
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	Leaching from PVC piping; 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 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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-04-067
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Medical Quality Assurance Commission)
 [Filed February 2, 2004, 10:20 a.m.]

Date of Adoption: September 23, 2003.

Purpose: These rules are being proposed for expedited amendments because they are correcting typographical errors, changing names or adding clarifying language to the rule without changing its effect.

Citation of Existing Rules Affected by this Order: Amending WAC 246-919-110 Commission meetings, 246-919-320 Approved United States and Canadian medical schools, and 246-919-360 Examinations accepted for reciprocity or waiver.

Statutory Authority for Adoption: RCW 18.71.017.

Adopted under notice filed as WSR 03-15-068 on July 15, 2003.

Changes Other than Editing from Proposed to Adopted Version: We pulled WAC 246-919-360 [246-919-330] from WSR 03-15-068 because there are issues surrounding the proposed amendments.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

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

January 28, 2004

D. Maniece

Executive Director

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-110 Commission meetings. Regular commission meetings shall be held at least four times yearly. Additional regular or special meetings may be called at the discretion of the chair or by a quorum of the commission.

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-320 Approved United States and Canadian medical schools. For the purposes of the Medical Practice Act, the commission approves those medical schools ((listed as)) accredited ((medical schools in the United States set forth in Appendix II, Table I, and as accredited schools in Canada set forth in Appendix III, Table I, as published in the Journal of the American Medical Association for March 7, 1980)) by the Liaison Committee on Medical Education.

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-360 Examinations accepted for reciprocity or waiver. (1) The commission may accept certain examinations as a basis for licensure. These examinations include USMLE, FLEX, NBE, or those given by the other states, or territories of the United States, with the exception of Florida and Hawaii. Those who have taken the Licentiate of the Medical Council of Canada (L.M.C.C.) and holds a valid LMCC certification obtained after 1969, may be granted a license without examination.

(2) Examination combination acceptable. Any applicant who has successfully completed Part I (NBE) or Step 1 (USMLE) plus Part II or Step 2 plus Part III or Step 3; or FLEX Component 1 plus Step 3; or Part I or Step 1, plus Part II or Step 2, plus FLEX Component 2 shall be deemed to have successfully completed a medical licensure examination as required by RCW 18.71.070. (For clarification, see Table 1.)

Accepted Examinations taken in Sequence	Other Acceptable Combinations
NBME Part I <i>plus</i> NBME Part II <i>plus</i> NBME Part III	NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> NBME Part III or USMLE Step 3
FLEX Component 1 <i>plus</i> FLEX Component 2	FLEX Component 1 <i>plus</i> USMLE Step 3 or NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> FLEX Component 2

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Accepted Examinations taken in Sequence	Other Acceptable Combinations
USMLE Step 1 <i>plus</i> USMLE Step 2 <i>plus</i> USMLE Step 3	

**WSR 04-04-070
 PERMANENT RULES
 OFFICE OF THE
 INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2003-02—Filed February 2, 2004, 1:33 p.m.]

Date of Adoption: February 2, 2004.

Purpose: The commissioner is adopting the 2001 commissioner's standard ordinary (CSO) mortality tables adopted by the National Association of Insurance Commissioners (NAIC) in 2002. The new tables address plans of insurance that have separate rates for nonsmokers and smokers and for plans of insurance that have the same rates for males and females. The 2001 CSO mortality tables reflect changes in mortality since the development of the 1980 CSO table. The 1980 CSO tables are the current mortality tables used by life insurers; the 2001 tables provide an alternative minimum valuation standard of mortality for life insurance products.

Statutory Authority for Adoption: RCW 48.02.060, 48.74.030, and 48.76.050.

Adopted under notice filed as WSR 03-23-105 on November 18, 2003.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 7, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, 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.

February 2, 2004

Mike Kreidler

Insurance Commissioner

NEW SECTION

WAC 284-74-400 Purpose. The purpose of this regulation, WAC 284-74-400 through 284-74-460, is to recognize

and prescribe the use of the 2001 commissioners standard ordinary (CSO) mortality table in compliance with RCW 48.74.030 (1)(a)(iii), 48.76.050 (4)(h)(vi), and WAC 284-74-340 (1) and (2).

NEW SECTION

WAC 284-74-410 Definitions. (1) "2001 CSO mortality table" means that mortality table, consisting of separate rates of mortality for male and female lives, adopted by the National Association of Insurance Commissioners (NAIC) in December of 2002. The 2001 CSO mortality table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO mortality table" includes both the ultimate form and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(2) "2001 CSO mortality table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO mortality table.

(3) "2001 CSO mortality table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO mortality table.

(4) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(5) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

NEW SECTION

WAC 284-74-420 2001 CSO mortality table. (1) The 2001 commissioners standard ordinary (CSO) mortality table may be used as allowed in RCW 48.74.030 (1)(a)(iii), 48.76.050 (4)(h)(vi), and WAC 284-74-340 (1) and (2), subject to the conditions in this regulation.

(2) An insurer may elect to use the 2001 CSO mortality table as the minimum standard for policies issued on or after January 1, 2004, until January 1, 2009. This table may be used for any one or more specified plans of insurance subject to the conditions in this regulation. If the insurer elects to use the 2001 CSO mortality table, it must do so for both valuation and nonforfeiture purposes.

(3) An insurer must use the 2001 CSO mortality table as the minimum standard for policies issued on or after January 1, 2009.

NEW SECTION

WAC 284-74-430 Conditions. (1) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

(a) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by RCW 48.74.070 and use com-

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posite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(2) The composite mortality tables must be used for plans of insurance without separate rates for smokers and nonsmokers.

(3) The insurer for each plan of insurance may use the 2001 CSO mortality table in its ultimate or select and ultimate form to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits. This is subject to the restrictions of WAC 284-74-440 and WAC 284-74-300 through 284-74-380 regarding the use of the select and ultimate form.

(4) When the 2001 CSO mortality table is the minimum reserve standard for any plan for an insurer, the actuarial opinion in the annual statement filed with the commissioner must be based on an asset adequacy analysis as specified in WAC 284-07-380. The commissioner may exempt an insurer from this requirement if it only does business in Washington.

NEW SECTION

WAC 284-74-440 Applicability to WAC 284-74-300 through 284-74-380. (1) The 2001 CSO mortality table may be used in applying WAC 284-74-300 through 284-74-380 in the following manner, subject to the transition dates for use of the 2001 CSO mortality table in WAC 284-74-420 of this regulation (unless otherwise noted, the references in this section are to WAC 284-74-300 through 284-74-380):

(a) WAC 284-74-320 (1)(b)(ii): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO mortality table.

(b) WAC 284-74-330(2): All calculations are made using the 2001 CSO mortality rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in (d) of this subsection. The value of " q_{x+t+1} " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(c) WAC 284-74-340(1): The 2001 CSO mortality table is the minimum standard for basic reserves.

(d) WAC 284-74-340(2): The 2001 CSO mortality table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in WAC 284-74-340 (3)(a) through (i). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO mortality table with those tests that utilize the 2001 CSO mortality table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant actuarial standards of practice.

(e) WAC 284-74-350(3): The valuation mortality table used in determining the tabular cost of insurance is the ultimate mortality rates in the 2001 CSO mortality table.

(f) WAC 284-74-350 (5)(e): The calculations specified in WAC 284-74-350(5) must use the ultimate mortality rates in the 2001 CSO mortality table.

(g) WAC 284-74-350 (6)(e): The calculations specified in WAC 284-74-350(6) must use the ultimate mortality rates in the 2001 CSO mortality table.

(h) WAC 284-74-350 (7)(b): The calculations specified in WAC 284-74-350(7) must use the ultimate mortality rates in the 2001 CSO mortality table.

(i) WAC 284-74-360 (1)(a)(ii): The one-year valuation premium must be calculated using the ultimate mortality rates in the 2001 CSO mortality table.

(2) Nothing in this section expands the applicability of WAC 284-74-300 through 284-74-380 to include life insurance policies exempted under WAC 284-74-320(1).

NEW SECTION

WAC 284-74-450 Gender blended tables. (1) On or after January 1, 2004, an insurer may substitute a blended mortality table for the 2001 CSO mortality table for any ordinary life insurance policy delivered or issued for delivery in this state. The ordinary life policy must have (a) utilized the same premium rates and charges for male and female lives and (b) been issued in circumstances where applicable law does not permit distinctions on the basis of gender. The substituted table may blend the 2001 CSO mortality table (M) and the 2001 CSO mortality table (F) for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. The table may be used for any one or more specified plans of insurance subject to the conditions in this regulation. No change in minimum valuation standards is implied by this subsection.

(2) The insurer may choose from among the blended tables developed by the American Academy of Actuaries CSO task force and adopted by the NAIC in December of 2002. The mortality table chosen must be based on the blend of lives by gender expected for the policies to be issued. The 2001 CSO mortality table (M) and 2001 CSO mortality table (F) may only be used where the proportion of individuals insured is anticipated to be ninety percent or more of one gender or the other.

(3) An insurer shall not use gender blended mortality tables unless:

(a) The Norris decision (Arizona Governing Committee v. Norris, 463 U.S. 1073, 103 S. Ct. 3492, 77 1. Ed 2d 1236 (1983)) or other federal law is known to apply to the policies involved; or

(b) The insurer has a bona fide concern that the Norris decision or other federal law might reasonably be construed to apply by a court having jurisdiction.

(4) It is not a violation of RCW 48.30.300 for an insurer to issue the same kind of policy of life insurance on both a gender distinct and gender neutral basis.

NEW SECTION

WAC 284-74-460 Effective date. The effective date of this regulation is January 1, 2004.

WSR 04-04-072
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed February 2, 2004, 4:01 p.m.]

Date of Adoption: January 30, 2004.

Purpose: As mandated by ESHB 2257, adopted in the 2003 legislative session, the department is reducing the maximum resource allocation for a community spouse from \$90,660 to \$40,000 for clients institutionalized on or after August 1, 2003; and to permanently adopt the federal standard increases that have been in effect since April 1, 2003, and January 1, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.575; ESHB 2257 (chapter 28, Laws of 2003 1st sp.s.).

Other Authority: Section 1924 of the Social Security Act (42 U.S.C. 1396R-5).

Adopted under notice filed as WSR 03-24-102 on December 3, 2003, and WSR 04-02-056 on January 6, 2004.

Changes Other than Editing from Proposed to Adopted Version: Added the January 1, 2004, federal increase of the maximum monthly maintenance needs allowance for a community spouse to WAC 388-513-1380 (6)(b). The new amount is \$2,319.

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 2, 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: Thirty-one days after filing.

January 30, 2004

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 availability 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:

(i) A single client; or

(ii) A legally married client with a community spouse, subject to the provisions described in subsections (5) through (8); 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)~~) 388-475-0300, Resource eligibility and limits;

(b) WAC (~~(388-470-0010)~~) 388-475-0250, 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~~) (d) 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)~~) 388-475-0350 through 388-475-0550;

(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~~) determines the amount of resources (~~(ordinarily allowed by law)~~) that are allocated to the com-

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community spouse before determining nonexcluded resources used to establish eligibility for the institutionalized spouse. ~~The maximum allocation amount is eighty-seven thousand dollars effective January 1, 2001.~~

~~(7))~~, as follows:

(a) If the client's current period of institutional status began on or after October 1, 1989 and before August 1, 2003, the department allocates the maximum amount of resources ordinarily allowed by law. The maximum allocation amount is ninety-two thousand seven hundred sixty dollars effective January 1, 2004; or

(b) If the client's current period of institutional status began on or after August 1, 2003, the department allocates the greater of:

(i) A spousal share equal to one-half of the couple's combined nonexcluded resources as of the beginning of the current period of institutional status, up to the amount described in subsection (6)(a); or

(ii) The state spousal resource standard of forty thousand dollars.

(7) The amount of the spousal share described in (6)(b)(i) is determined sometime between the date that the current period of institutional status began and the date that eligibility for LTC services is determined. The following rules apply to the determination of the spousal share:

(a) Prior to an application for LTC services, the couple's combined countable resources are evaluated from the date of the current period of institutional status at the request of either member of the couple. The determination of the spousal share is completed when necessary documentation and/or verification is provided; or

(b) The determination of the spousal share is completed as part of the application for LTC services if the client was institutionalized prior to the month of application, and declares the spousal share exceeds the state spousal resource standard. The client will be required to provide verification of the couple's combined countable resources held at the beginning of the current period of institutional status.

(8) 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))~~ (9) 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))~~ (10)(a), (b), or (c) applies.

~~((9))~~ (10) 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))~~ (8) to the com-

munity 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)) 2004~~, two thousand ~~((one)) three~~ hundred ~~((seventy-five)) nineteen~~ 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)) six~~ hundred ~~((fifty-two)) ninety-two~~ 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)) six~~ hundred ~~((fifty-two)) ninety-two~~ 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.

WSR 04-04-088

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:35 p.m.]

Date of Adoption: January 16, 2004.

Purpose: The adopted language will clarify that the extension of time to complete certificate revalidation requirements is limited to those individuals who are called up to active duty for more than thirty consecutive days.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-117 Uniform expiration date.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130.

Adopted under notice filed as WSR 03-23-052 on November 14, 2003.

Changes Other than Editing from Proposed to Adopted Version: Listed military branches in the language.

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

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

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

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 03-14-120, filed 6/30/03, effective 7/31/03)

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.

(3) Any educator in the National Guard, U.S. military branch reserves, or U.S. Coast Guard reserve who is called up to active duty by one of the U.S. military branches by order of an authorized agency or official of Washington state government, or by the U.S. Department of Homeland Security for more than thirty consecutive days 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 04-04-089

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:36 p.m.]

Date of Adoption: January 16, 2004.

Purpose: The purpose of the amendments to this rule is to require candidates for the residency teacher certificate to have completed a draft professional growth plan in order for a college/university to verify an individual has completed a teacher preparation program. In addition, effective teaching shall include instructional strategies for students at all levels of academic abilities and talents with an awareness of the influence of culture and gender on student learning.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-270.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-23-028 on November 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 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.

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-78A-270 Approval standard—Knowledge and skills. Building on the mission to prepare educators who demonstrate a positive impact on student learning based on the Improvement of Student Achievement Act of 1993 (1209), the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 180-78A-220(5):

(1) **TEACHER.** Teacher candidates will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

Foundational knowledge

(a) The state learning goals and essential academic learning requirements.

(b) The subject matter content for the area(s) they teach, including relevant methods course work and the knowledge and skills for each endorsement area for which the candidate is applying (chapter 180-82 WAC).

(c) The social, historical, and philosophical foundations of education, including an understanding of the moral, social, and political dimensions of classrooms, teaching, and schools.

(d) The impact of technological and societal changes on schools.

(e) Theories of human development and learning.

(f) Inquiry and research.

(g) School law and educational policy, including laws pertaining to school health and safety.

(h) Professional ethics.

(i) The responsibilities, structure, and activities of the profession.

(j) Issues related to abuse including the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abil-

ities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(k) The standards, criteria and other requirements for obtaining the professional certificate, including a draft professional growth plan.

Effective teaching

(l) Research and experience-based principles of effective practice for encouraging the intellectual, social, and personal development of students.

(m) Different student approaches to learning for creating instructional opportunities adapted to learners of both sexes and from diverse cultural or linguistic backgrounds.

(n) Areas of exceptionality and learning — including, but not limited to, learning disabilities, visual and perceptual difficulties, and special physical or mental challenges.

(o) Effective instructional strategies for students at all levels of academic abilities and talents with an awareness of the influence of culture and gender on student learning.

(p) Instructional strategies for developing reading, writing, critical thinking, and problem solving skills.

(q) The prevention and diagnosis of reading difficulties and research-based intervention strategies.

(r) Classroom management and discipline, including:

(i) Individual and group motivation for encouraging positive social interaction, active engagement in learning, and self-motivation.

(ii) Effective verbal, nonverbal, and media communication for fostering active inquiry, collaboration, and supportive interactions in the classroom.

(s) Planning and management of instruction based on knowledge of the content area, the community, and curriculum goals.

(t) Formal and informal assessment strategies for evaluating and ensuring the continuous intellectual, social, and physical development of the learner.

(u) Collaboration with school colleagues, parents, and agencies in the larger community for supporting students' learning and well-being.

(v) Effective interactions with parents to support students' learning and well-being.

Professional development

(w) The opportunity for candidates to reflect on their teaching and its effects on student growth and learning.

(x) Educational technology including the use of computer and other technologies in instruction, assessment and professional productivity.

(y) Strategies for effective participation in group decision making.

(2) PRINCIPAL AND PROGRAM ADMINISTRATOR.

(a) Effective August 31, 1997, through August 31, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program which shall include:

(i) Specific performance domains. An approved preparation program shall require the candidate to demonstrate in course work and the internship the following:

(A) **Leadership:** Formulating goals with individuals or groups; initiating and maintaining direction with groups and guiding them to the accomplishment of tasks; setting priorities for one's school in the context of community and district priorities and student and staff needs; integrating own and others' ideas for task accomplishment; initiating and planning organizational change.

(B) **Information collection:** Gathering data, facts, and impressions from a variety of sources about students, parents, staff members, administrators, and community members; seeking knowledge about policies, rules, laws, precedents, or practices; managing the data flow; classifying and organizing information for use in decision making and monitoring.

(C) **Problem analysis:** Identifying the important elements of a problem situation by analyzing relevant information; framing problems; identifying possible causes; identifying additional needed information; framing and reframing possible solutions; exhibiting conceptual flexibility; assisting others to form reasoned opinions about problems and issues.

(D) **Judgment:** Reaching logical conclusions and making high quality, timely decisions given the best available information.

(E) **Organizational oversight:** Planning and scheduling one's own and others' work so that resources are used appropriately, and short-term and long-term priorities and goals are met; monitoring projects to meet deadlines.

(F) **Implementation:** Making things happen; putting programs and plans into action; applying management technologies; applying methods of organizational change including collaborative processes; facilitating tasks; establishing progress checkpoints; considering alternative approaches; providing "mid-course" corrections when actual outcomes start to diverge from intended outcomes; adapting to new conditions.

(G) **Delegation:** Assigning projects or tasks together with clear authority to accomplish them and responsibility for their timely and acceptable completion.

(H) **Instructional program:** Envisioning and enabling instructional and auxiliary programs for the improvement of teaching and learning; recognizing the developmental needs of students; insuring appropriate instructional methods that address students' gender and cultural differences; designing positive learning experiences; accommodating differences in cognition and achievement; mobilizing the participation of appropriate people or groups to develop these programs and to establish a positive learning environment.

(I) **Curriculum design:** Interpreting school district curricula; planning and implementing with staff a framework for instruction that shall include the implementation of the state learning goals and essential academic learning requirements; initiating needs analyses and monitoring social and technological developments as they affect curriculum; responding to international content levels; adjusting content as needs and conditions change.

(J) **Student guidance and development:** Providing for student guidance, counseling, and auxiliary services; utilizing community organizations; responding to family needs; enlisting the participation of appropriate people and groups to design and conduct these programs and to connect schooling

with plans for adult life; planning for a comprehensive program of student activities.

(K) **Staff development:** Identifying with participants the professional needs of individuals and groups; planning and organizing programs to improve staff effectiveness; supervising individuals and groups; engaging staff and others to plan and participate in recruitment and development; initiating self-development.

(L) **Measurement and evaluation:** Determining what diagnostic information is needed about students, staff, and the school environment; examining the extent to which outcomes meet or exceed previously defined standards, goals, or priorities for individuals or groups; drawing inferences for program revisions; interpreting measurements or evaluations for others; relating programs to desired outcomes; developing equivalent measures of competence.

(M) **Resource allocation:** Planning and developing the budget with appropriate staff; seeking, allocating, and adjusting fiscal, human, and material resources; utilizing the physical plant; monitoring resource use and reporting results.

(N) **Motivating others:** Building commitment to a course of action; creating and channeling the energy of self and others; planning and encouraging participation; supporting innovation; recognizing and rewarding effective performance; providing coaching, guidance, or correction for performance that needs improvement; serving as a role model.

(O) **Sensitivity:** Perceiving the needs and concerns of others; dealing with others tactfully; working with others in emotionally stressful situations or in conflict; managing conflict; obtaining feedback; recognizing multicultural sensibilities.

(P) **Oral expression:** Making oral presentations that are clear and easy to understand; clarifying and restating questions; responding, reviewing, and summarizing for groups; utilizing appropriate communicative aids; adapting for audiences.

(Q) **Written expression:** Expressing ideas clearly in writing; writing appropriately for different audiences such as students, teachers, and parents; preparing brief memoranda.

(R) **Philosophical and cultural values:** Acting with a reasoned understanding of the role of education in a democratic society and in accord with accepted ethical standards; recognizing philosophical and historical influences in education; reflecting an understanding of American culture, including current social and economic issues related to education; recognizing global influences on students and society.

(S) **Legal and regulatory applications:** Acting in accordance with relevant federal and Washington state laws, rules, and policies; recognizing governmental influences on education; working within local rules, procedures, and directives; administering contracts.

(T) **Policy and political influences:** Identifying relationships between public policy and education; recognizing policy issues; examining and affecting policies individually and through professional and public groups; relating policy initiatives to the welfare of students; addressing ethical issues.

(U) **Public and media relationships:** Developing common perceptions about school issues; interacting with parental and community opinion leaders; understanding and

responding skillfully to the electronic and printed news media; initiating and reporting news through appropriate channels; enlisting public participation; recognizing and providing for market segments.

(ii) **Performance assessment.** An approved preparation program for principals shall require that prior to the internship each candidate shall engage in a performance assessment through a process determined by each preparation program. The results of this assessment shall be utilized by the college/university supervisor, the cooperating principal, and the principal candidate to cooperatively design the internship plan.

(b) Effective September 1, 2004, principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(i) **Successful demonstration of standards.** A school administrator is an educational leader who promotes the success of all students by:

(A) Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(B) Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(C) Ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(D) Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(E) Acting with integrity, fairness, and in an ethical manner; and

(F) Understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

(ii) **Performance assessment.** An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the state board of education and published by the office of the superintendent of public instruction. The benchmarks may not be changed without prior state board approval. All candidates shall exit the residency certificate program with a draft professional growth plan.

(3) **SUPERINTENDENT.** Superintendent candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in an approved preparation program for superintendents which shall include specific performance domains for superintendents. An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following:

(a) **Strategic leadership:** The knowledge, skills and attributes to identify contexts, develop with others vision and purpose, utilize information, frame problems, exercise leadership processes to achieve common goals, and act ethically for educational communities. This includes:

- (i) Professional and ethical leadership.
- (ii) Information management and evaluation.

(b) **Instructional leadership:** The knowledge, skills and attributes to design with others appropriate curricula and instructional programs which implement the state learning goals and essential academic learning requirements, to develop learner centered school cultures, to assess outcomes, to provide student personnel services, and to plan with faculty professional development activities aimed at improving instruction. This includes:

(i) Curriculum, instruction, supervision, and learning environment.

(ii) Professional development and human resources.

(iii) Student personnel services.

(c) **Organizational leadership:** The knowledge, skills and attributes to understand and improve the organization, implement operational plans, manage financial resources, and apply decentralized management processes and procedures. This includes:

(i) Organizational management.

(ii) Interpersonal relationships.

(iii) Financial management and resource allocation.

(iv) Technology and information system.

(d) **Political and community leadership:** The knowledge, skills and attributes to act in accordance with legal provisions and statutory requirements, to apply regulatory standards, to develop and apply appropriate policies, to be conscious of ethical implications of policy initiatives and political actions, to relate public policy initiatives to student welfare, to understand schools as political systems, to involve citizens and service agencies, and to develop effective staff communications and public relations programs. This includes:

(i) Community and media relations.

(ii) Federal and Washington state educational law, public policy and political systems.

(4) **SCHOOL COUNSELOR.** School counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Human growth and development (studies that provide an understanding of the nature and needs of individuals at all developmental levels).

(b) Social and cultural foundations (studies that provide an understanding of issues and trends in a multicultural and diverse society).

(c) Helping relationships (studies that provide an understanding of counseling and consultation processes).

(d) Group work (studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills, and other group work approaches).

(e) Career and lifestyle development (studies that provide an understanding of career development and related life factors).

(f) Appraisal (studies that provide an understanding of individual and group approaches to assessment and evaluation), including assessment of the state learning goals and essential academic learning requirements.

(g) Research and program evaluation (studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research).

(h) Professional orientation (studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing).

(i) Foundations of school counseling including:

(i) History, philosophy, and trends in school counseling;

(ii) Role and function of the school counselor in conjunction with the roles of the professional and support personnel in the school;

(iii) Knowledge of the school setting and curriculum including the state learning goals and essential academic learning requirements;

(iv) Ethical standards and guidelines of the American School Counselor Association (ASCA);

(v) State and federal policies, laws, and legislation relevant to school counseling; and

(vi) Implications of sociocultural, demographic, and lifestyle diversity relevant to school counseling.

(j) Studies that provide an understanding of the coordination of counseling program components as they relate to the total school community including:

(i) Referral of children and adolescents for specialized help;

(ii) Coordination efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives;

(iii) Methods of integration of guidance curriculum in the total school curriculum;

(iv) Promotion of the use of counseling and guidance activities and programs by the total school community to enhance a positive school climate; and

(v) Methods of planning and presenting guidance-related educational programs for school personnel and parents.

(k) Theory, knowledge and skills for the practice of school counseling including:

(i) Program development, implementation and evaluation. Studies in this area include:

(A) Use of surveys, interviews, and needs assessments;

(B) Design, implementation and evaluation of a comprehensive, developmental school program;

(C) Implementation and evaluation of specific strategies designed to meet program goals and objectives;

(D) Preparation of a counseling schedule reflecting appropriate time commitments and priorities in a developmental school counseling program; and

(E) Use of appropriate technology and information systems.

(ii) Counseling and guidance. Studies in this area include:

(A) Individual and group counseling and guidance approaches appropriate for the developmental stage and needs of children and adolescents;

(B) Group guidance approaches that are systematically designed to assist children and adolescents with developmental tasks;

(C) Approaches to peer helper programs;

(D) Issues which may affect the development and function of children and adolescents (e.g., abuse, eating disorders, attention deficit hyperactivity disorder, exceptionality, substance abuse, violence, suicide, dropout);

(E) Developmental approaches to assist students and parents at points of educational transition (e.g., postsecondary education, career and technical education, and career options);

(F) Crisis intervention and referral; and

(G) System dynamics, including family, school, community, etc.

(iii) Consultation. Studies in this area shall include:

(A) Methods of enhancing teamwork within the school community; and

(B) Methods of involving parents, teachers, administrators, support staff and community agency personnel.

(5) **SCHOOL PSYCHOLOGIST.** School psychologist candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Knowledge of the field. The candidate has knowledge and skill in relevant fields of study, including:

(i) Learning theory.

(ii) Personality theory and development.

(iii) Individual and group testing and assessment.

(iv) Individual and group counseling and interviewing theory and techniques.

(v) Basic statistics.

(vi) Child development.

(vii) Exceptional children.

(viii) Social and cultural factors.

(ix) Deviant personality.

(x) Curriculum, including the state learning goals and essential academic learning requirements.

(xi) Research design.

(xii) Physiological and biological factors.

(b) Assessment and diagnosis. The candidate has knowledge and skill necessary to select, administer, score, and interpret instruments and techniques in the following areas:

(i) Intellectual and cognitive assessment.

(ii) Individual and group academic skills: Standardized norm-referenced and criteria-referenced measurements and curriculum-based measurements.

(iii) Personality assessment.

(iv) Assessment of perceptual skills.

(v) Assessment of adaptive behavior; assessment of language skills.

(c) Behavior observation and analysis. The candidate has knowledge and skill in behavior observation, including:

(i) Data taking.

(ii) Frequency measures.

(iii) Qualitative and quantitative analysis of classroom behavior.

(iv) Developmental and personality analysis, including perceptual, cognitive, social, and affective and language development in children.

(d) Counseling and interviewing. The candidate has the knowledge and skill necessary to:

(i) Provide individual and group counseling to students and parents.

(ii) Conduct interviews essential to information collecting from parents, teachers, and other professionals.

(e) Program development. The candidate has the knowledge and skill to make educational prescriptions, including specification of remedial environmental changes, both curricular and behavioral, for a particular student.

(f) Consultation. The candidate has the knowledge and skill to:

(i) Function on multidisciplinary teams in evaluating and placing students.

(ii) Confer with and make recommendations to parents, specialists, teachers, referral personnel, and others relative to student's characteristics and needs in the educational and home environments.

(g) Program evaluation and recordkeeping. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required records.

(h) Professionalism. The candidate has knowledge of professional standards regarding ethical and legal practices relevant to the practice of school psychology. The candidate demonstrates knowledge and skill in written and oral reporting of assessment and remedial recommendations which will meet ethical and legal standards.

(i) Research. The candidate has knowledge and skill to:

(i) Evaluate and perform research.

(ii) Apply school-oriented research.

(iii) Construct criterion-referenced instruments with reference to such educational decisions as:

(A) Retention in grade.

(B) Acceleration and early entrance.

(C) Early entrance.

(6) **SCHOOL SOCIAL WORKER.** School social worker candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete a well-planned sequence of courses and/or experiences in which they acquire and apply knowledge about:

(a) Knowledge for social work practice. The candidate has knowledge and skills in relevant fields of study including:

(i) Values.

(A) Knowledge of profession including values, skills, and ethics; and

(B) National Association of Social Workers (NASW) Code of Ethics and school social work guidelines for practice.

(ii) Human behavior and the social environment.

(A) Community theory and community change (e.g., community organization and development, social planning, networking, and case management);

(B) Systems and organizational theory (e.g., school as a bureaucracy);

(C) Social disorganization (e.g., poverty, family and community violence, unemployment, addictions, multiple losses), and context of family in a changing society;

(D) Family dynamics and theories of family therapy;

(E) Human/child growth and development;

(F) Diverse populations of: Race, culture, social class, life style, age, gender and the disabled;

(G) Theories of personality; and

(H) Use of computer technology for social work practice.

(b) Service delivery and program development. The candidate will have knowledge and skills in the following activities:

(i) Direct practice.

(A) Referring, developing, and coordinating resources and services in the local education agency and community;

(B) Knowledge and skills related to families;

(C) Case management;

(D) Working with vulnerable and "hard to reach" individuals and families, including those from diverse populations;

(E) Crisis intervention, conflict resolution, stress management and decision-making skills;

(F) Individual and group counseling to improve students' self-knowledge and interactional skills for personal empowerment;

(G) Interviewing and counseling students in relation to social-personal problems adjudged to be impairing student's ability to learn;

(H) Family interventions including parent education; referral to resources; family counseling;

(I) Teaching children communication and interpersonal relationship skills through individual/group/classroom interventions;

(J) Collaborating and consulting with parents and community to assure readiness to learn for all students;

(K) Multidimensional assessment of student's social-emotional adjustment, adaptive behaviors, individual strengths, and environmental assets;

(L) Intervention case planning processes; and

(M) Career and academic guidance to students in their school to work transitions.

(ii) Indirect practice.

(A) Liaison and facilitator between and among home, school and community;

(B) Collaborate and consult with other educational staff to assure student progress;

(C) Use computer technology for practice and efficiency;

(D) Develop strategies for increased parental and community involvement with the school;

(E) Develop programs of remediation for students and their families;

(F) Design, coordinate and facilitate programs such as suicide prevention, truancy and drop-out prevention, and prevention of teenage pregnancy;

(G) Provide staff development programs;

(H) Work collaboratively with educational staff to develop programs to address school-community identified needs; and

(I) Function as change agents.

(c) Research and evaluation. The candidate will have necessary skills and knowledge to:

(i) Collect and interpret data in order to evaluate student, school, and community needs;

(ii) Evaluate own practice;

(iii) Become consumer of research findings;

(iv) Understand use of program evaluation methods; and

(v) Utilize computer technology for research and evaluation.

(d) Context for educational system. The candidate will have necessary knowledge and skills to apply the following:

(i) State learning goals and essential academic learning requirements;

(ii) Theories of learning;

(iii) School law and professional ethics;

(iv) Computer technology in the workplace; and

(v) Understanding of policies, laws, and procedures.

WSR 04-04-090

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:37 p.m.]

Date of Adoption: January 16, 2004.

Purpose: The adopted language takes into consideration the partnership agreement between Washington state and the National Council for the Accreditation of Teacher Education (NCATE), as such agreement relates to the NCATE accreditation cycle of seven year. The board will conduct site visits on a seven year cycle.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-100.

Statutory Authority for Adoption: RCW 28A.305.130 and 28A.410.010.

Adopted under notice filed as WSR 03-23-029 on November 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 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.

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-78A-100 Existing approved programs. Chapter 180-78A WAC rules shall govern all policies related

to programs upon adoption by the state board of education, which shall provide assistance to colleges and universities in the revision of their existing programs.

(1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 180-78A WAC by August 31, 2000. Colleges and universities may permit individuals accepted into preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 180-78 WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003: Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(2) All principal/program administrator programs shall be reviewed for approval under the 2002 program approval standards of chapter 180-78A WAC by August 31, 2004. Colleges and universities may permit individuals accepted into principal/program administrator programs on or before August 31, 2004, to obtain certification by meeting requirements of programs approved under 1997 approval standards described in chapter 180-78A WAC if the individuals complete the program on or before August 31, 2006, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2006. Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(3) Institutions shall be given at least one year notification prior to a state board of education review for compliance with these standards: Provided, That if an institution requests a visit with less than a year's notice, the state board of education shall consider that request.

(4) The state board of education shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under the 1997 program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and the National Council for the Accreditation of Teacher Education (NCATE) as such agreement relates to the NCATE accreditation cycle.

(5) Each institution shall submit its program for review when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards to the state board of education for the year prior to the site visit.

(6) Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the state board of education approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

(7) In submitting a request for approval under these standards, the approved program shall provide a description of

the criteria that the program will use to assess, in multiple ways, over time, its certification candidates' knowledge and skills, including, where appropriate, evidence related to positive impact on student learning. Based on the documentation submitted and/or an on-site visit, the state board of education shall grant approval or request specific revisions that need to be made in order to obtain state board of education approval.

WSR 04-04-091

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:39 p.m.]

Date of Adoption: January 16, 2004.

Purpose: The adopted amendment balances the right of citizens to seek a transfer of territory and the impacts on the district and other district residents.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 180-24-225.

Statutory Authority for Adoption: Chapter 28A.315 RCW.

Adopted under notice filed as WSR 03-23-031 on November 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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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.

January 31, 2004

Larry Davis

Executive Director

NEW SECTION

WAC 180-24-225 Frequency of petitions—Limitation. (1) The authority for this section is RCW 28A.315.195 (4) which authorizes the state board of education to establish rules limiting the frequency of petitions that may be filed pertaining to territory included in whole or in part in a previous petition.

(2) An educational service district superintendent may not accept a petition to transfer territory if any portion of such territory was included in a previous petition brought before the regional committee, unless five years have expired since the date of final disposition of the previous petition.

WSR 04-04-092
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed February 3, 2004, 1:40 p.m.]

Date of Adoption: January 16, 2004.

Purpose: Change the title of the "High School + Education Plan" to "High School and Beyond Plan."

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-061.

Statutory Authority for Adoption: RCW 28A.230.090.

Adopted under notice filed as WSR 03-23-030 on November 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 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.

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-114, filed 6/20/01, effective 7/21/01)

WAC 180-51-061 Minimum requirements for high school graduation. (1) The statewide minimum subject areas and credits required for high school graduation, beginning July 1, 2004, for students who enter the ninth grade or begin the equivalent of a four-year high school program, shall be as listed below.

(2) State board of education approved private schools under RCW 28A.305.130(6) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.665.060.

PERMANENT

Subject Area	Essential Content	Minimum State Credits ¹	Assessment Includes
English • Reading • Writing • Communications (Student Learning Goal 1)	The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content	3	Secondary WASL ² (beginning 2008)
Mathematics (Student Learning Goal 2)	The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content	2	Secondary WASL ² (beginning 2008)
Science • Physical • Life • Earth (Student Learning Goal 2)	The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content At least one credit in laboratory science, which shall be defined locally	2	The assessment of achieved competence in this subject area remains at the local level ³

Subject Area	Essential Content	Minimum State Credits ¹	Assessment Includes
<p>Social Studies</p> <ul style="list-style-type: none"> • Civics • History • Geography <p>(Student Learning Goal 2)</p>	<p>The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content</p> <p>U.S. history and government, Washington state history and government, and including study of the U.S. and Washington state Constitutions³</p> <p>Contemporary world history, geography, and problems⁴</p>	<p>2.5</p>	<p>The assessment of achieved competence in this subject area remains at the local level⁵</p>
<p>Health and Fitness⁶</p> <p>(Student Learning Goal 2)</p>	<p>The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content</p>	<p>2</p>	<p>The assessment of achieved competence in this subject area remains at the local level⁵</p>
<p>Arts</p> <p>(Student Learning Goal 2)</p>	<p>The Essential Academic Learning Requirements through benchmark three, plus content that is determined by the district to be beyond benchmark three level content</p> <p>May be satisfied in the visual or performing arts</p>	<p>1</p>	<p>The assessment of achieved competence in this subject area remains at the local level⁵</p>
<p>Occupational Education</p>	<p>"Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the superintendent of public instruction.</p>	<p>1</p>	<p>The assessment of achieved competence in this subject area remains at the local level⁵</p>

PERMANENT

Subject Area	Essential Content	Minimum State Credits ¹	Assessment Includes
Electives ⁷	See footnote #7	5.5	The assessment of achieved competence in this subject area remains at the local level ⁵
TOTAL		19	
Culminating Project ⁸	See footnote #8		The assessment of achieved competence in this subject area remains at the local level ⁵
High School ((+ Education)) and Beyond Plan ⁹	See footnote #9		The assessment of achieved competence in this subject area remains at the local level ⁵

- 1 See WAC 180-51-050 for definition of high school credit.
- 2 See WAC 180-51-063 for effective date.
- 3 The study of Washington state history and government is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state. The study of the U.S. and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal pursuant to written district policy. Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. For purposes of the Washington state history and government requirement only, the term "secondary school students" shall mean a student who is in one of the grades seven through twelve.
- 4 Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.
- 5 Locally determined assessment means whatever assessment or assessments, if any, the district determines are necessary.
- 6 The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally pursuant to WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement pursuant to RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement. "Directed athletics" shall be interpreted to include community-based organized athletics.
- 7 Study in a world language other than English or study in a world culture may satisfy any or all of the required electives.
- 8 Each student shall complete a culminating project for graduation. The project consists of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.
- 9 Each student shall have an education plan for their high school experience, including what they expect to do the year following graduation.

WSR 04-04-093
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed February 3, 2004, 1:42 p.m.]

Date of Adoption: January 16, 2004.

Purpose: To clarify terms "plan or process" and "parent." The adopted language distinguishes between a "plan" for school improvement and a "continuous improvement process" to monitor and update the plan. In addition, the language has substituted the word "families" for the word "parents." Language also includes advising schools and districts to confer with colleges and universities regarding adoption of local district policies to award credit on a competency basis. Also, the language requires the State Board of Education to inform the State Board for Community and Technical Colleges and the Higher Education Coordinating Board of schools that do not award competency-based high school credits.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-55-150; and amending WAC 180-16-220, 180-16-225, 180-16-227, 180-18-050, 180-18-055, 180-18-080 [new section 180-51-090], 180-51-050, 180-55-005, 180-55-015, and 180-55-020.

Statutory Authority for Adoption: RCW 28A.150-.220(4), 28A.305.140, and 28A.305.130(6).

Adopted under notice filed as WSR 03-23-027 on November 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 1, Amended 10, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 10, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

PERMANENT

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

January 31, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-16-220 Supplemental basic education program approval requirements. The following requirements are hereby established by the state board of education as related supplemental condition to a school district's entitlement to state basic education allocation funds, as authorized by RCW 28A.150.220(4).

(1) **Current and valid certificates.** Every school district employee required by WAC 180-79A-140 to possess an education permit, certificate, or credential issued by the superintendent of public instruction for his/her position of employment, shall have a current and valid permit, certificate or credential. In addition, classroom teachers, principals, vice principals, and educational staff associates shall be required to possess endorsements as required by WAC 180-82-105, 180-82-120, and 180-82-125, respectively.

(2) **Annual school building approval.**

(a) Each school in the district shall be approved annually by the school district board of directors under an approval process determined by the district board of directors.

(b) At a minimum the annual approval shall require each school to have ~~((in place, and reviewed annually for implementation progress and possible changes.))~~ a school improvement plan ~~((or process))~~ that is data driven ~~((and))~~, promotes a positive impact on student learning, and includes a continuous improvement process that shall mean the ongoing process used by a school to monitor, adjust, and update its school improvement plan. For the purpose of this section "positive impact on student learning" shall mean:

(i) Supporting the goal of basic education under RCW 28A.150.210, "... to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives...";

(ii) Promoting continuous improvement of student achievement of the state learning goals and essential academic learning requirements; and

(iii) Recognizing nonacademic student learning and growth related, but not limited to: Public speaking, leadership, interpersonal relationship skills, teamwork, self-confidence, and resiliency.

(c) The school improvement plan ~~((or process))~~ shall be based on a self-review of the school's program for the purpose of annual building approval by the district. The self-review shall include active participation and input by building staff, students, families, parents, and community members.

(d) The school improvement plan ~~((or process))~~ shall address, but is not limited to:

(i) The characteristics of successful schools as identified by the superintendent of public instruction and the educational service districts, including safe and supportive learning environments;

(ii) Educational equity factors such as, but not limited to: Gender, race, ethnicity, culture, language, and physical/mental ability, as these factors relate to having a positive impact on student learning. The state board of education strongly encourages that equity be viewed as giving each student what ~~((they))~~ she or he needs and when and how ~~((they))~~ she or he needs it to reach their achievement potential;

(iii) The use of technology to facilitate instruction and a positive impact on student learning; and

(iv) Parent, family, and community involvement, as these factors relate to having a positive impact on student learning.

(3) Nothing in this section shall prohibit a school improvement plan ~~((or process))~~ from focusing on one or more characteristics of effective schools during the ensuing three school years.

(4) School involvement with school improvement assistance under the state accountability system or involvement with school improvement assistance through the federal Elementary and Secondary Education Act shall constitute a sufficient school improvement plan ~~((or process))~~ for the purposes of this section.

AMENDATORY SECTION (Amending Order 5-86, filed 6/10/86)

WAC 180-16-225 Waiver—Substantial lack of classroom space—Grounds and procedure. (1) **Grounds.** The state board of education may waive one or more of the basic education allocation entitlement requirements set forth in WAC 180-16-200 through 180-16-220(1) only if a school district's failure to comply with such requirement(s) is found by the state board to be caused by substantial lack of classroom space.

As a condition to a waiver based on substantial lack of classroom space the state board will consider and a school district must demonstrate, at least, that the facilities of the school district do not contain enough classroom space or other space that can reasonably be converted into classroom space, and that necessary classroom space may not reasonably be acquired by lease or rental~~((;))~~ to enable the district to comply with the referenced entitlement requirements.

(2) **Waiver procedure.** In order to secure a waiver pursuant to subsection (1) of this section a school district must submit a petition together with a detailed explanation and documentation in support of its request not later than thirty days prior to either:

(a) The state board of education meeting immediately preceding commencement of the school year; or

(b) The March (or such other meeting as the state board shall have established) meeting of the board at which the board will consider certifications of compliance and noncompliance with these entitlement requirements.

A school district that can reasonably foresee an inability to comply with entitlement requirements by reason of substantial lack of classroom space should petition for a waiver as early as the state board meeting immediately preceding commencement of the school year in order to allow for the possibility that the request may be denied.

PERMANENT

(3) **Nonwaiverable requirements.** ~~((The))~~ Certification requirements, including endorsements, and the ~~((student learning objectives))~~ school improvement plan requirement~~((s))~~ set forth in WAC 180-16-220 (2) ~~((and (3)))~~ may not be waived ~~((for any reason))~~.

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-16-227 Implementation timeline for WAC 180-16-220(2). The provisions of WAC 180-16-220(2) shall take effect beginning the 2003-04 school year. If a school district already requires its schools to have a school improvement plan ~~((or process))~~, but such plan ~~((or process))~~ does not include some or all of the required elements listed in WAC 180-16-220 (2)(c) and (d) as of the beginning of the 2003-04 school year, the district may request from the state board of education an extension of the timeline to the beginning of the 2004-05 school year.

AMENDATORY SECTION (Amending WSR 95-20-054, filed 10/2/95, effective 11/2/95)

WAC 180-18-050 Local restructuring plan requirements to obtain waiver. (1) State board of education approval of district waiver requests pursuant to WAC 180-18-030 and 180-18-040 shall occur at a state board meeting prior to implementation. A district's waiver application shall be in the form of a resolution adopted by the district board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more schools which consists of at least the following information:

- (a) Identification of the requirements to be waived;
- (b) Specific standards for increased student learning that the district expects to achieve;
- (c) How the district plans to achieve the higher standards, including timelines for implementation;
- (d) How the district plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan; and

(f) Evidence that opportunities were provided for families, parents, and citizens to be involved in the development of the plan.

(2) The district plan for restructuring the educational program of one or more schools in the district may consist of the school improvement plans required under WAC 180-16-220, along with the requirements of subsection (1)(a) through (d) of this section.

(3) The application for a waiver and all supporting documentation must be received by the state board of education at least thirty days prior to the state board of education meeting where consideration of the waiver shall occur. The state board of education shall review all applications and supporting documentation to insure the accuracy of the information. In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.

AMENDATORY SECTION (Amending WSR 99-10-094, filed 5/4/99, effective 6/4/99)

WAC 180-18-055 Alternative high school graduation requirements. (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district, or high school~~((s))~~ with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years, or until any new graduation requirements the state board of education may adopt take effect, whichever comes first.

(4) The waiver application shall be in the form of a resolution adopted by the district or private school board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

- (a) Identification of the requirements of chapter 180-51 WAC to be waived;
- (b) Specific standards for increased student learning that the district or school expects to achieve;
- (c) How the district or school plans to achieve the higher standards, including timelines for implementation;
- (d) How the district or school plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(f) Evidence that students, families, parents, and citizens were involved in developing the plan; and

(g) Identification of the school years subject to the waiver.

(5) The plan for restructuring the educational program of one or more high schools may consist of the school improvement plans required under WAC 180-16-220, along with the requirements of subsection (4)(a) through (d) of this section.

(6) The application also shall include documentation that the school is successful as demonstrated by indicators such as, but not limited to, the following:

- (a) The school has clear expectations for student learning;
- (b) The graduation rate of the high school for the last three school years;
- (c) Any follow-up employment data for the high school's graduate for the last three years;
- (d) The college admission rate of the school's graduates the last three school years;

(e) Use of student portfolios to document student learning;

~~(f) ((Student scores on the state eleventh grade test the last three school years;~~

~~(g))~~ Student scores on the ~~((secondary))~~ high school Washington assessments of student learning;

~~((h))~~ ~~(g)~~ The level and types of family and parent involvement at the school;

~~((i))~~ ~~(h)~~ The school's annual performance report the last three school years; and

~~((j))~~ ~~(i)~~ The level of student, family, parent, and public satisfaction and confidence in the school as reflected in any survey done by the school the last three school years.

~~((k))~~ ~~(7)~~ A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.

~~((l))~~ ~~(8)~~ A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to: College in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.

~~((m))~~ ~~(9)~~ The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any waiver granted under this section.

~~((n))~~ ~~(10)~~ Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

~~((o))~~ ~~(11)~~ Any school or district granted a waiver under this chapter shall report annually to the state board of education, in a form and manner to be determined by the board, on the progress and effects of implementing the waiver.

NEW SECTION

WAC 180-18-090 Alternative option to WAC 180-18-055. See WAC 180-51-050 (1)(b) as another option to award high school credit on the basis of competency.

AMENDATORY SECTION (Amending WSR 00-23-032, filed 11/8/00, effective 12/9/00)

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve or the equivalent of a four-year high school program, and grades seven and eight under the provisions of RCW 28A.230.090 (4) and (5):

(a) One hundred fifty hours of planned instructional activities approved by the district; or

(b) Satisfactory demonstration by a student of clearly identified competencies established pursuant to a process defined in written district policy. Districts are strongly advised to confirm with the higher education coordinating board that the award of competency-based high school credit meets the minimum college core admissions standards set by the higher education coordinating board for admission into a public, baccalaureate institution.

(2) College and university course work. At the college or university level, five quarter or three semester hours shall equal 1.0 high school credit: Provided, That for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community college high school completion program - Diploma awarded by community college. Five quarter or three semester hours of community college high school completion course work shall equal 1.0 high school credit: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program.

(4) Community college high school completion program - Diploma awarded by school district. A minimum of .5 and a maximum of 1.0 high school credit may be awarded for every five quarter or three semester hours of community college high school completion course work: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program.

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) Each high school district board of directors shall adopt a written policy regarding the recognition and acceptance of earned credits. The policy shall apply to all high schools in the district. The policy may include reliance on the professional judgment of the building principal or designee in determining whether or not a credit meets the district's standards for recognition and acceptance of a credit. The policy shall include an appeal procedure to the district if it includes reliance on the professional judgment of the building principal or designee.

(7) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

(8) The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any school or school district that awards high school credit as authorized under subsection (1)(b) of this section.

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-55-005 Purposes and authority. (1) **Purposes.** The provision of school accreditation procedures by the state board of education is designed to serve the following purposes:

(a) Support the state board's long-term vision of a performance-based education system under WAC 180-51-001 by aligning school accreditation requirements to continuous improvement of student learning, achievement, and growth;

(b) Promote educational excellence and equity for every student through enhancement of the quality and effectiveness of the school's educational program in safe and supportive learning environments;

(c) Promote staff growth and commitment to the learning of every student;

(d) Build stronger links with families, parents, and the community by reaching consensus about educational expectations through family, parent, and community involvement;

(e) Provide a statement of accountability to the public;

(f) Assure that school districts, under the district policy on recognizing earned credits under WAC 180-51-050, shall accept credits earned from schools or programs, accredited by the state board of education, the Northwest Association of Schools, ~~((Colleges and Universities,))~~ or other accrediting body as may be recognized by the state board of education pursuant to WAC 180-55-150; and

(g) Facilitate the sharing of effective schools practices and positive impacts on student learning through an external appraisal process.

(2) **Authority.** The authority for this chapter is RCW 28A.305.130(6).

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-55-015 Definitions. (1) An "accredited school" is a public or state board of education approved private school that meets statutory requirements and rules established by the state board of education, and one that has satisfactorily completed the accreditation procedures described by the state board of education pursuant to RCW 28A.305.130(6) and WAC 180-55-005 through 180-55-032.

(2) "Approved private school" shall mean a school approved by the state board of education pursuant to chapter 28A.195 RCW and chapter 180-90 WAC.

(3) "Accredited" status shall be assigned to public or state board of education approved private schools that:

(a) Complete and meet fully state board of education requirements for accreditation as described in WAC 180-55-020, or;

(b) Participate and qualify in accordance with standards and procedures established by the Northwest Association of Schools ~~((Colleges and Universities))~~ (NAS~~((CU))~~ ~~(see WAC 180-55-032))~~).

(4) "School improvement plan ~~((or process))~~" shall mean the same as described under WAC 180-16-220 (2)(b) and (d).

(5) "Continuous improvement process" shall mean the ongoing process used by a school to monitor, adjust, and update its school improvement plan.

(6) "Self-review" shall mean the same as described under WAC 180-16-220 (2)(c).

~~((6))~~ (7) "Appraisal" shall mean an objective, external appraisal of a school's self-review activities and school improvement plan ~~((or process))~~ pursuant to WAC 180-55-020(5).

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-55-020 ~~((Compliance with requirements for entitlement to basic education allocation funds is))~~ Prerequisite to application for accreditation by public schools~~((—Compliance with requirements for approved private school status is prerequisite to application for accreditation by))~~/private schools—Types of accreditation—Conditions—Effective periods—Administration of accreditation procedures. (1)(a) Certification by the state board of education of compliance by a school district with basic education program approval requirements under WAC 180-16-220, or receipt of a waiver from WAC 180-16-225 or 180-18-030, shall be prerequisite to a public school's application to the state board of education for accreditation under WAC 180-55-015 (3)(b).

(b) Certification by the state board of education of compliance with private school approval requirements under chapter 28A.190 RCW and chapter 180-90 WAC shall be prerequisite to a private school's application to the state board of education for accreditation under WAC 180-55-015 (3)(b).

(2) **Standard accreditation - six years**, shall be granted to a school after a satisfactory external appraisal of the school's self-review activities and school improvement plan ~~((or process))~~, and approval by the state board of education of the appraisal findings and recommendations by the ~~((superintendent of public instruction under WAC 180-55-030))~~ external site appraisal team.

(3) **Conditional accreditation - one year**, for a school where the external appraisal identifies omissions, inaccuracies or weaknesses in the building's self-review activities, or school improvement plan or continuous improvement process.

(4) **Application.** Application for school accreditation shall be made to the state board of education or other body or entity designated by the state board of education. Such application shall be submitted jointly by the appropriate officials of the school and school district, or private school and governing board ~~((in the case of private schools))~~, in accordance

with procedures and timelines established by the state board of education.

(5)(a) **External appraisal.** The state (~~(superintendent of public instruction)~~) board of education, or other body or entity designated by the state board of education, shall direct an external appraisal (~~(program)~~) process for school accreditation purposes. The state (~~(superintendent)~~) board may place yearly limits on the number of schools that may participate in the external appraisal (~~(program)~~) process using the state board accreditation option. The external appraisal shall be conducted by persons external to the school and district. The external site appraisal team shall include, but is not limited to, certificated teachers and administrators who may earn continuing education clock hours pursuant to WAC 180-85-033(2).

(b) The external appraisal shall focus on the provisions of WAC 180-16-220 (2)(~~b~~), (c) and (d), and 180-55-005(1). The appraisal shall (~~(give weight to the district's school approval process and)~~) focus on(~~(, but not be restricted to;)~~) an (~~(appraisal)~~) analysis of the (~~(progress and impact of)~~) school's self-review activities, the school's improvement plan (~~(or)~~) and its progress and impact, in particular relating to WAC 180-55-005 (1)(c), and the school's continuous improvement process.

AMENDATORY SECTION (Amending WSR 02-18-056, filed 8/28/02, effective 9/28/02)

WAC 180-55-034 Temporary extension of accreditation status. (1) The state board of education may, in its discretion, grant to a school an extension of its accreditation status for a period not to exceed two school years under the following conditions:

(a) Staffing and resources directly or indirectly available to the state board for administration of the accreditation program are insufficient to timely process applications for accreditation under regular procedures;

(b)(i) The school has current accredited status through the state board accreditation (~~(process)~~) option; or

(ii) The school has current accredited status through the Northwest Association of Schools(~~(, Colleges and Universities)~~) (NAS(~~(CU)~~)) accreditation (~~(process)~~) option and desires to switch to the state board (~~(process)~~) option upon termination of the validity period of its NAS(~~(CU)~~) accreditation; or

(iii) The school began the process for first-time accreditation or renewal accreditation, using the state board of education accreditation option, before January 1, 2001.

(2) In order to be considered for a temporary extension of accredited status, a school must submit to the state board a written request for an extension, signed by the building principal.

~~((3) This section shall expire June 30, 2003, unless program staffing and funding support issues are not resolved.)~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-55-150

Standards and criteria study and report.

PERMANENT



WSR 04-02-039

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 2, 2004, 9:36 a.m., effective January 4, 2004]

Date of Adoption: December 31, 2003.

Purpose: To implement changes to the unemployment insurance program adopted by 2ESB 6097, passed by the 2003 legislature. The rules clarify issues related to job separations, job search requirements, penalties for failure to meet reporting requirements, the filing by employers of wage and tax reports, penalties for filing late or incomplete reports, penalties to employers for willfully misrepresenting their payroll, benefit charging and conditions for relief of benefit charges.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-011, 192-12-012, 192-12-020, 192-12-180, 192-12-184, 192-12-190, 192-12-300, 192-12-310, 192-12-320, 192-12-330, 192-12-340, 192-16-019, 192-16-023, 192-23-014, 192-23-015, 192-23-016, 192-23-017, 192-23-019, 192-23-061, 192-23-096, 192-23-800, 192-23-810, 192-28-105, 192-28-110, 192-28-115 and 192-28-120; and amending WAC 192-04-040, 192-04-050, 192-16-009, 192-16-015, 192-16-016, 192-150-050, 192-150-055, 192-150-060, 192-150-065, 192-150-085, 192-150-090, 192-180-010, 192-180-015, 192-180-020, 192-180-025, 192-180-030, 192-240-035, 192-240-040, 192-300-050, 192-310-010, 192-310-025, 192-310-030, and 192-320-070.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.12.042.

Other Authority: RCW 50.20.010.

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

Reasons for this Finding: 2ESB 6097 was signed by the governor on June 20, 2003. Most of the provisions related to the payment of unemployment insurance benefits, and a number of the provisions related to unemployment insurance taxes, are effective January 4, 2004. The department has conducted several meetings with stakeholders and other interested parties, but has been unable to complete the rule-making process prior to this effective date. Emergency rules are adopted to provide guidance to employers, unemployment insurance claimants, and the general public regarding the department's interpretation of the legislation and how it will be implemented.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 42, Amended 23, Repealed 26.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 42, Amended 23, Repealed 26.

Effective Date of Rule: January 4, 2004.

December 31, 2003

Dr. Sylvia P. Mundy

Commissioner

AMENDATORY SECTION (Amending WSR 89-20-064, filed 10/4/89, effective 10/9/89)

WAC 192-04-040 Interested parties. In all cases adjudicated under Title 50 RCW the employment security department is an interested party. Other interested parties are

(1) Benefit appeals. The claimant and any employer entitled to notice under WAC 192-~~130-060~~ ~~42-329~~ or defined as an interested employer in WAC 192-28-125, in cases involving the payment or recovery of benefits, including but not limited to the entitlement to, eligibility for or qualification for waiting period credit or benefits.

(2) Tax appeals. Employers whose contributions, experience rating, benefit charges, or rate of contribution are affected by:

(a) An assessment for contributions;

(b) A denial of a claim for refund of contributions, interest, penalties;

(c) A denial of a request for relief of benefit charges made to their account; or

(d) Their determined or redetermined rate of contribution.

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

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

WAC 192-04-050 Appeals—Petitions for hearing—Right to notice. Notice of appeal or petition for hearing rights shall be set forth on the face of, or as an attachment to, each of the following:

(1) Redetermination of an initial monetary determination.

(2) Determination of allowance or denial of waiting period credit or benefits.

(3) Redetermination of allowance or denial of waiting period credit or benefits.

(4) An overpayment assessment or a denial of a request for waiver of an overpayment.

(5) Order and notice of assessment of contributions, interest, or penalties.

(6) Denial of a claim for refund of contributions, interest, or penalties.

(7) Denial of a request for relief of benefit charges made to an employer's account.

(8) Denial of a redetermination or adjustment of an employer's determined or redetermined rate of contribution.

(9) Denial of approval or extension of standby status.

(10) Denial of a request for commissioner approved training or training benefits.

EMERGENCY

(11) Notice to separating employer of liability for all benefits paid on a claim as provided in RCW 50.29.021 (2)(c).

AMENDATORY SECTION (Amending WSR 82-17-052, filed 8/17/82)

WAC 192-16-009 Interpretative regulations—Disqualification for leaving work voluntarily—Meaning of good cause for claims with an effective date prior to January 4, 2004—RCW 50.20.050 (1) and (3). (1) General rule. Except as provided in WAC ~~192-16-011~~ 150-050 and ~~192-16-013~~ 150-055, in order for an individual to establish good cause within the meaning of RCW 50.20.050(1) for leaving work voluntarily it must be satisfactorily demonstrated:

(a) That he or she left work primarily because of a work connected factor(s); and

(b) That said work connected factor(s) was (were) of such a compelling nature as to cause a reasonably prudent person to leave his or her employment; and

(c) That he or she first exhausted all reasonable alternatives prior to termination: Provided, That the individual asserting "good cause" may establish in certain instances that pursuit of the otherwise reasonable alternatives would have been a futile act, thereby excusing the failure to exhaust such reasonable alternatives.

(2) **Exceptions.** Notwithstanding the provisions of subsection (1) above, neither the distance of the work from the individual's residence, if known at the time of hire nor any other work factor which was generally known and present at the time of hire will provide good cause for voluntarily leaving work unless the individual demonstrates to the satisfaction of the department:

(a) That the distance from the individual's residence at time of hire is substantially greater than the distance customarily traveled by workers in the individual's job classification and labor market; or,

(b) That the related work connected circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor; or

(c) That other work related circumstances would work an unreasonable hardship on the individual if he or she were required to continue in the employment.

(3) **Definitions.** For purposes of subsection (2) above:

(a) "Distance customarily traveled" means a distance normally traveled by a significant portion of the work force in the individual's job classification in the labor market area;

(b) "Generally known" means commonly known without reference to specific cases or individuals; and

(c) "Individual's job classification" means the job classification in which the individual was working when the individual voluntarily left work; and

(d) A "labor market" is the geographic area in which those workers in the individual's job classification, living in the vicinity of his or her residence, customarily work; and

(e) "Substantial involuntary deterioration" means an actual and considerable worsening of the work factor outside the control of the individual; and

(f) "Unreasonable hardship" means a result, not due to the individual's voluntary action, that would cause a reasonable person to leave that employment.

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 80-10-052, filed 8/6/80)

WAC 192-16-015 Interpretative regulations—Leaving work for marital or domestic reasons—RCW 50.20.050(4)(d). This regulation applies only to claims with an effective date prior to January 4, 2004. (1) General rule. An individual whose marital status or domestic responsibilities are the primary cause of his or her voluntarily leaving employment shall be disqualified from benefits pursuant to the terms of RCW 50.20.050(4) (1)(d). This rule applies whether or not the individual took reasonable precautions to preserve his or her employment. Domestic responsibilities mean obligations or duties relating to the individual's immediate family, and include the illness, disability, or death of a member of the claimant's "immediate family" as defined in WAC ~~192-16-013~~ 150-055.

(2) Exception. Notwithstanding the provisions of subsection (1) above, an individual who leaves employment because of the illness, disability, or death of a member of his or her immediate family as defined in WAC ~~192-16-013~~ 150-055 and who establishes good cause under RCW 50.20.050 (2)(b) (1)(b)(ii), will not be subject to disqualification under RCW 50.20.050(4) (1)(d): Provided, That if such individual fails to establish good cause under RCW 50.20.050 (2)(b) (1)(b)(ii), disqualification will be imposed under RCW 50.20.050(4) (1)(d) rather than under RCW 50.20.050(1).

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 82-17-052, filed 8/17/82)

WAC 192-16-016 Interpretive regulations—Satisfying disqualification under RCW 50.20.050(4)(d) when separation is for reasons of marital status and marriage occurs after date of separation. This regulation applies only to claims with an effective date prior to January 4, 2004.

In *Yamauchi v. Department of Employment Security*, 96 Wn.2d 773 (1982), the Washington state supreme court held that an individual who leaves work to be married and relocate to a place outside of reasonable commuting distance and who is not married at the time of the leaving does so for reasons of marital status and should be disqualified from benefits pursuant to RCW 50.20.050(4) (1)(d) if there is a causal nexus between the marital status and leaving work. However, the court also ruled that an individual who so leaves work shall not benefit from the lesser disqualification of RCW 50.20.050(4) (1)(d) prior to the date of the marriage and move.

(1) An individual who voluntarily leaves work to marry and relocate to a place outside of reasonable commuting distance has left work for reasons of marital status pursuant to

RCW 50.20.050(4) (1)(d) if there is a causal nexus between the marriage and leaving work.

(2) Any individual who leaves work for reasons of marital status as described in subsection (1) above shall be granted no credit toward satisfying the disqualification of benefits under RCW 50.20.050(4) (1)(d) described as the alternate method of satisfying the disqualification in WAC ~~192-16-017(2)~~ 192-150-090, for any week ending prior to marriage or relocation, whichever is the latter.

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

NEW SECTION

WAC 192-100-010 Reasonably prudent person defined. A reasonably prudent person is an individual who uses good judgment or common sense in handling practical matters. The actions of a person exercising common sense in a similar situation are the guide in determining whether an individual's actions were reasonable.

NEW SECTION

WAC 192-100-020 Continued claim defined. (1) You are a continued claim recipient if you:

- (a) Are monetarily entitled to benefits; and
- (b) Are nonmonetarily eligible for benefits; and
- (c) Have received credit for your waiting week or payment of benefits for one or more weeks in your benefit year and in the current continued claim series.

(2) Continued claim status will end following any combination of four or more consecutive weeks for which you do not file a claim or during which you are not an unemployed individual as defined in RCW 50.04.310.

NEW SECTION

WAC 192-100-030 Week defined. The term "week" means a period of seven consecutive calendar days beginning on Sunday at 12:01 a.m. and ending at midnight the following Saturday.

NEW SECTION

WAC 192-110-200 Maximum benefits payable—RCW 50.20.120 (1)(b). When the three-month seasonally adjusted total unemployment rate reaches six and eight-tenths percent or less, the maximum benefits payable on a claim will be reduced to 26 times an individual's weekly benefit amount or one-third of the individual's base year wages, whichever is less.

NEW SECTION

WAC 192-110-210 Claim cancellation. If you choose to cancel a claim in order to refile with a new effective date, any nonmonetary eligibility decision issued under that claim will be null and void. A new decision will be issued which addresses your eligibility for benefits based on the effective date of your new claim.

NEW SECTION

WAC 192-120-050 Conditional payment of benefits.

(1) If you are a continued claim recipient and your eligibility for benefits is questioned by the department, you will be conditionally paid benefits without delay for any week(s) for which you file a claim for benefits, until and unless you have been provided adequate notice and an opportunity to be heard.

(2) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

NEW SECTION

WAC 192-130-060 Notice to employer. (1) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to:

(a) The claimant's last employer, and

(b) Any prior employer from whom the claimant has a potentially disqualifying separation where there is insufficient subsequent employment to purge a separation disqualification. An individual will be presumed to have a potentially disqualifying separation when:

(i) For claims with an effective date prior to January 4, 2004, it has been less than seven weeks or the individual has not earned at least seven times his or her weekly benefit amount since the job separation; or

(ii) For claims with an effective date January 4, 2004, and later, it has been less than ten weeks or the individual has not earned at least ten times his or her weekly benefit amount since the job separation.

(2) Whenever an individual files an initial application for unemployment benefits and a benefit year is established, a notice will be mailed to all base year employers. This notice to base year employers will include information on wages reported and benefit charging related information and will request an employer response if the wage information is incorrect or if the employer wishes to request relief of benefit charging.

(3) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to any separating employer as provided in WAC 192-320-075. This notice will include information that the employer may be liable for all benefits paid on the claim as provided in RCW 50.29.021 (2)(c).

(4) Whenever an individual files an additional claim for benefits (reopens an existing claim after subsequent employment), a notice will be mailed to the last employer reported by the claimant and to any prior employer from who the claimant has a potentially disqualifying separation who has not previously been notified.

NEW SECTION

WAC 192-130-065 Mailing addresses for notice to employer. Notices to employers required by RCW 50.20.150 and WAC 192-130-060 will be mailed as follows:

(1) The notice to the last employer of the claimant will be mailed to the address provided by the claimant. However, an alternative mailing address may be used in the following circumstances:

(a) If the department has been notified that the employer is represented for unemployment insurance purposes by an employer representative or cost control firm, the notice to the last employer may be mailed directly to that firm; or

(b) If an employer has notified the department that unemployment claim notices should be mailed to a specified address, the notice to the last employer may be mailed directly to that address.

(2) The notice to any base year employer who has reported wages to the department will be mailed to the employer's mailing address of record provided by the employer for tax purposes.

(3) The notice to any other employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed to the address provided by the claimant.

NEW SECTION

WAC 192-130-070 Mailing of eligibility determinations—RCW 50.20.180. (1) An eligibility determination based on a job separation issue will be mailed to the following:

(a) The last employer, if the claimant was separated from employment for reasons other than lack of work;

(b) A previous employer from whom the claimant has a potentially disqualifying separation as provided in WAC 192-130-060 if the claimant was separated from employment for reasons other than lack of work;

(c) For claims with an effective date prior to January 4, 2004, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for a felony or gross misdemeanor connected with the work;

(d) For claims with an effective date of January 4, 2004 or later, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for gross misconduct connected with the work, or whose wage credits are deleted from the claimant's record as a result of the claimant's gross misconduct.

(2) An eligibility determination based on an issue other than a separation from employment will be mailed to an employer if the employer provides relevant information relating to eligibility for a specific week.

NEW SECTION

WAC 192-130-080 Procedure—Separation issues.

(1) No decision on a separation issue (RCW 50.20.050, 50.20.060, RCW 50.20.066) will be issued until both parties to the separation have had an opportunity to present information and rebuttal, if necessary and appropriate, on the matters at issue.

(2) If an employer does not respond within ten days to the notice required by WAC 192-130-060, the department may make a decision at that time based on available information.

(3) If the department receives information from the employer after the end of the ten day response period, but before the decision has been made, the information provided

by the employer will be considered before making the decision if the information was mailed to the unemployment claims telecenter identified on the notice.

(4) If the department receives information from the employer after the end of the ten day period and within thirty days following the mailing of a decision, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the decision.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-130-060, may be considered a request for relief of benefit charges under RCW 50.29.020 or RCW 50.29.021.

NEW SECTION

WAC 192-140-070 What happens if I do not establish that I am able to or available for work? (1) If you report that you were not able to work or not available for work in any week or do not report whether you were able to work or were available for work, and do not provide details regarding your ability to or availability for work as requested, the department will presume you are not able or not available for work and benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for a definite period of time, which is the week or weeks in which information on your ability to work or availability for work is incomplete.

(2) If you provide information that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed, and you do not provide information regarding your ability to or availability for work, benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

NEW SECTION

WAC 192-140-075 What happens if I do not demonstrate that I am actively looking for work? (1) If you report that you were not actively seeking work in any week, do not report whether you made an active search for work, or do not report complete job search details and other information as required, and do not provide details regarding your job search activities as requested, the department will presume you are not actively seeking work and benefits will be denied under RCW 50.20.010 (1)(c).

(2) For the purpose of this section, "complete job search details" includes those elements required under WAC 192-180-015.

(3) This denial is for a definite period of time, which is the week or weeks in which your job search information is incomplete.

NEW SECTION

WAC 192-140-080 What happens if I do not comply with a job search directive? (1) If you have been issued a job search directive as provided in WAC 192-180-010, do not report a job search that meets the requirements outlined in the

directive, and you do not provide additional job search information as requested or you respond with information that does not meet these requirements, the department will presume you are not actively seeking work as directed and benefits will be denied under RCW 50.20.010 (1)(c).

(2) This denial is for a definite period of time, which is the week or weeks in which your job search information does not meet the specific requirements of the directive.

NEW SECTION

WAC 192-140-085 What happens if I do not respond to a request for information regarding a late claim? (1) If you file a claim late as defined in WAC 192-140-005 and do not respond to a request for an explanation of why the claim was filed late, the department will presume that the claim was filed late without good cause and benefits will be denied under RCW 50.20.010 (1)(b) and WAC 192-140-005.

(2) This denial is for a definite period of time, which is the week or weeks that were filed late.

NEW SECTION

WAC 192-140-090 What happens if I do not report for reemployment services when directed? The commissioner may direct you in writing to report in person for reemployment services as provided in RCW 50.20.010 (1)(e).

(1) **Exceptions.** You will not be required to participate in reemployment services if you:

(a) Are a member in good standing of a full referral union;

(b) Are attached to an employer as provided in WAC 192-180-005; or

(c) Within the previous year have completed, or are currently scheduled for or participating in, similar services.

(2) **Minimum services.** The services will consist of one or more sessions which include, but are not limited to:

(a) Local labor market information;

(b) Available reemployment and training services;

(c) Successful job search attitudes;

(d) Self assessment of job skills and interests;

(e) Job interview techniques;

(f) The development of a resume or fact sheet; and

(g) The development of a plan for reemployment.

(3) **Sanctions.** If you have received a directive, and fail to participate in reemployment services during a week, you will be disqualified from benefits for that week unless justifiable cause is demonstrated.

(4) **Justifiable cause.** Justifiable cause for failure to participate in reemployment services as directed will include factors specific to you which would cause a reasonably prudent person in similar circumstances to fail to participate. Justifiable cause includes, but is not limited to:

(a) Your illness or disability or that of a member of your immediate family;

(b) Your presence at a job interview scheduled with an employer; or

(c) Severe weather conditions precluding safe travel.

Reasons for absence may be verified. In all such cases, your ability to or availability for work is in question.

NEW SECTION

WAC 192-140-100 What happens if I do not respond to a request for information regarding a discharge from work? (1) If you do not respond to a request for information regarding a discharge from work or have not provided sufficient information to identify or contact the employer, the department will presume you were discharged for misconduct connected with the work. For claims with an effective date prior to January 4, 2004, benefits will be denied under RCW 50.20.060. For claims with an effective date of January 4, 2004, and later, benefits will be denied under RCW 50.20.066. If you have provided the department with sufficient information to contact the employer, benefits will not be denied unless the employer establishes by a preponderance of evidence that you were discharged for misconduct connected with your work.

(2) This denial is for an indefinite period of time and will continue until you meet the requalification provisions of RCW 50.20.060 or RCW 50.20.066, as applicable.

NEW SECTION

WAC 192-140-120 What happens if I do not provide information regarding attendance at school? (1) If you or another party notifies the department that you are in school and you do not respond to a request for information regarding school attendance, the department will presume that you are registered for academic instruction of 12 or more credit hours and have a limited attachment to the labor market, and are not available for work. Benefits will be denied under RCW 50.20.095 and RCW 50.20.010 (1)(c).

(2) This denial of benefits is indefinite in nature and will continue until you establish that you are eligible under RCW 50.20.095 and RCW 50.20.010 (1)(c).

NEW SECTION

WAC 192-140-200 What happens if I certify that I am not able to or available for work? (1) Benefits will be reduced under RCW 50.20.010 (1)(c) and RCW 50.20.130 without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work on one or two days of a week or weeks being claimed; and

(b) The day or days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial is for a definite period of time and applies only to the day or days for which you specifically indicate you are ineligible for benefits.

(2) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work for three or more days of a week or weeks being claimed; and

(b) The days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial for a definite period of time and applies only to the week or weeks for which you specifically indicate you are ineligible for benefits.

(3) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed.

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

(4) If you file a weekly claim with information clearly stating that you do not intend to claim benefits for the week or weeks, benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview.

This denial is for a specific period of time, which is the week or weeks for which you specifically indicate you are ineligible for benefits.

(5) Any denial of benefits under this section will be issued without delay.

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

NEW SECTION

WAC 192-140-210 What happens if I return to full-time work or report hours worked consistent with full-time work? (1) If you report that you have returned to full-time work or report hours worked consistent with full-time work for that occupation, this information is sufficient to find that are no longer an unemployed individual as defined in RCW 50.04.310 and benefits will be denied under RCW 50.20.010 without requiring additional information or interview.

(2) This denial is for a definite period of time, which is the week or weeks claimed in which you report your return to full-time work or report hours worked consistent with full-time work.

(3) Any denial of benefits under this section will be issued without delay.

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

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-150-050 Leaving work to accept bona fide job offer—RCW 50.20.050 (1)(b)(i) and (2)(b)(i). If you leave work to accept a bona fide offer of employment, you will have good cause within the meaning of RCW 50.20.050 (4) if you satisfactorily demonstrate that:

(1) Prior to leaving work, you received a definite offer of employment; and

(2) You had a reasonable basis for believing that the person making the offer had the authority to do so; and

(3) A specific starting date and the terms and conditions of the employment were mutually agreed upon; and

(4) You continued in your previous employment for as long as was reasonably consistent with whatever arrangements were necessary to start working at the new job; and

(5) The new job is in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

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 02-14-035, filed 6/25/02, effective 7/26/02)

WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

(a) You left work primarily because of such illness, disability, or death; and

(b) The illness, disability, or death necessitated your leaving work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including

(i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking that you to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(d) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-(c) above, you terminate your employment and give up your right to be reinstated in the same or similar position.

(2) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

(3) **Definitions.** For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, children (including unborn children), step-children, foster children, or parents of either spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household.

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 02-08-072, filed 4/2/02, effective 5/3/02)

WAC 192-150-060 Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) If you leave work because of a disability you must notify your employer about your disabling condition before the date you leave work or begin a leave of absence. Notice to the employer shall include any known restrictions on the type or hours of work you may perform.

(2) Any restrictions on the type or hours of work you may perform must be supported by a physician's statement or by the terms of a collective bargaining agreement or individual hiring contract.

(3) Nothing in unemployment insurance law requires your employer to offer you alternative suitable work when you have a disability, or modify your duties so that you can perform your current job. However, any offer from your employer of other suitable work must be made prior to the date you leave work or begin a leave of absence. You are not required to request alternative work from your employer to be found available for work.

(4) If your employer offers you alternative work or otherwise offers to accommodate your disability, you must demonstrate good cause to refuse the offer. This may include, but is not limited to, information from your physician that the accommodation offered by your employer was inadequate to reasonably accommodate your medical condition, or information demonstrating that the alternative work offered you by your employer was not suitable.

(5) If you refuse an offer of work from any employer after your job separation or after beginning a leave of absence, the department will determine whether you refused an offer of suitable work as provided in RCW 50.20.080.

(6) If you are on a leave of absence due to your disability, you must promptly request reemployment from your employer when you are again able to return to work.

(7) This section also applies to individuals on a leave of absence because of a pregnancy-related disability.

(8) For claims with an effective date of January 4, 2004, or later, in addition to the requirements of this section, you must also notify your employer of your intention to terminate employment and waive reinstatement rights to the same or similar position.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-150-065 What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (2)(e) (1)(b)(iii)? (1) **This section applies only to claims with an effective date prior to January 4, 2004.**

(2) If your spouse's employer requires your spouse to relocate to another labor market area to retain a current job or to accept another job with that employer, the relocation will be considered an employer-initiated mandatory transfer. Examples of employer-initiated mandatory transfers include, but are not limited to:

(a) A plant closure where employees must move to another labor market area to continue employment with that employer;

(b) A change in job responsibilities, such as a promotion, with that same employer where the employer requires a move to another labor market area; or

(c) A restructuring of business operations by the employer requiring employees to move to another labor market area if they want to continue in their customary occupation.

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

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-150-085 How to qualify after benefits have been denied. (1) Benefits may be denied under RCW 50.20.050(4) for voluntarily leaving work, RCW 50.20.060 for being discharged for misconduct, and RCW 50.20.080 for refusing an offer of suitable work or job referral. The denial of benefits will continue indefinitely until you show that:

(1a) At least seven calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(2b) You have obtained bona fide work and earned wages of at least seven times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

(2) For claims with an effective date of January 4, 2004, or later, benefits may be denied under RCW 50.20.066 for being discharged for misconduct or gross misconduct. The denial of benefits will continue indefinitely until you show that:

(a) At least ten calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least ten times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

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 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-150-090 How to qualify for benefits after leaving work for marital or domestic reasons. **This section applies only to claims with an effective date prior to January 4, 2004.** RCW 50.20.050(14)(d) says that benefits will be denied if you quit your job for family reasons. In such cases, the law provides an alternative means for qualifying for benefits other than through work and earnings. Under this alternative method, you must report in person to your local employment center in ten different weeks and establish that you are able to work, available for work, and actively seeking work each week.

If you are an interstate claimant or living in a remote area, you can qualify for benefits under this alternative

method by calling the unemployment information and weekly claims line in each of ten different weeks and certifying that you are able to work, available for work, and actively seeking work each week. For purposes of this section, you are living in a remote area if a round trip of more than two hours by reasonably available public or private transportation is required to reach the nearest local employment center and return.

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

NEW SECTION

WAC 192-150-110 Mandatory military transfers—RCW 50.20.050 (2)(b)(iii). (1) Any military transfer will be considered mandatory if your spouse receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may establish good cause to quit work if you relocate for your spouse's employment that was due to a mandatory military transfer if:

(a) Your spouse's new duty station is outside your existing labor market and in Washington or another state that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You continued in your previous employment for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated reserve members of any of these service branches, activated members of the National Guard, commissioned officers of the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) The department will maintain a list of states that allow unemployment benefits to an individual who quits to accompany a military spouse. This list will be updated at least annually.

(5) Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse to a new duty location; or

(b) Your spouse leaves military service and you elect to relocate to your home of record or elsewhere.

NEW SECTION

WAC 192-150-115 Reduction in compensation of 25% or more—RCW 50.20.050 (2)(b)(v). (1) "Compensation" means remuneration as defined in RCW 50.04.320.

(2) "Usual" includes amounts actually paid to you by your employer or, if payment has not yet been made, the compensation agreed upon by you and your employer as part of your hiring agreement.

(3) To constitute good cause for quitting work under this section, employer action must have caused the reduction in your usual compensation.

(4) All reductions in compensation occurring since the beginning of your base period to the date of separation will be included in the determination as to whether your compensation was reduced by 25% or more.

(5) The percentage of reduction will be based on your most recent pay grade, salary, or other benefits you received or have accepted on a permanent basis. It does not include any temporary raises or other compensation for performing temporary duties.

NEW SECTION

WAC 192-150-120 Reduction in hours of 25% or more—RCW 50.20.050 (2)(b)(vi). (1) Your "usual hours" will be determined based on:

(a) The hours of work agreed on by you and your employer as part of your individual hiring agreement;

(b) For seasonal jobs, the number of hours you customarily work during the season; or

(c) For piecework, the number of hours you customarily work to complete a fixed volume of work.

(2) To constitute good cause for quitting under this section, employer action must have caused the reduction in your usual hours.

(3) All reductions in hours occurring since the beginning of your base period through the date of separation will be included in the determination as to whether your hours were reduced by 25% or more.

(4) In determining the percentage of reduction, the department will not consider any temporary overtime or additional hours performed on a temporary basis.

NEW SECTION

WAC 192-150-125 Change in worksite—RCW 50.20.050 (2)(b)(vii). (1) The location of your employment must have changed due to employer action. The change must have:

(a) Substantially increased the distance you travel to the new worksite or increased the difficulty or inconvenience of travel; and

(b) Resulted in a commute distance or time that is greater than is customary for workers in your job classification and labor market area.

(2) For purposes of this section:

(a) "Job classification" means your occupation at the time you quit work;

(b) "Labor market area" means the geographic area in which workers in your location and occupation customarily work. In determining whether a labor union's jurisdictional area is consistent with an individual member's labor market, the department will determine where the majority of union members in that member's location and occupation customarily work.

(3) Good cause for quitting work cannot be established under this section if the worksite location and distance to work was known at the time of hire.

NEW SECTION**WAC 192-150-130 Worksite safety—RCW 50.22.050**

(2)(b)(viii). (1) At the time of hire, you can reasonably expect that your worksite complies with applicable federal and state health and safety regulations. If, after beginning work or accepting the job offer, you become aware of a safety issue that was not previously disclosed by your employer, the department will consider the safety of the worksite to have deteriorated.

(2) To establish good cause for quitting work under this section, you must notify your employer of the safety issue and give your employer a reasonable period of time to correct the situation. For purposes of this section:

(a) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the safety condition at issue;

(b) "Reasonable period of time" means the amount of time a reasonably prudent person would have remained at the worksite or continued working in the presence of the condition at issue. In addition:

(i) For health or safety issues that present imminent danger of serious bodily injury or death to any person, your employer must take immediate steps to correct the situation;

(ii) If your employer has been issued a citation by a regulatory agency charged with monitoring health or safety conditions, the employer must correct the condition within the time period specified in the citation.

(c) "Serious bodily injury" means bodily injury which creates a probability of death, or which causes serious permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ.

NEW SECTION

WAC 192-150-135 Illegal activities at the worksite—RCW 50.20.050 (2)(b)(ix). (1) Illegal activities include violations of both civil and criminal law.

(2) To establish good cause for quitting work under this section, you must notify your employer of the illegal activity and give your employer a reasonable period of time to correct the situation. You are not required to notify your employer before quitting when your employer is conducting the illegal activity and doing so could jeopardize your safety or is contrary to other federal and state laws (for example, whistleblower protection laws).

(3) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the illegal activity at issue;

(4) A "reasonable period of time" is the period a reasonably prudent person would be expected to continue working in the presence of the activity at issue.

NEW SECTION

WAC 192-150-140 Change in usual work that violates religion or sincere moral beliefs—RCW 50.20.050 (2)(b)(x). (1) For purposes of this section, "usual work" means job duties or conditions:

(a) Originally agreed upon by you and your employer in your hiring agreement; or

(b) Customary for workers in your job classification; or
(c) You consistently performed during your base period;

or

(d) Mutually agreed to by you and your employer prior to the employer action changing your job duties.

(2) The following criteria will be used to determine whether you had good cause for quitting work under this section:

(a) The change in your usual work must be the result of action taken by your employer;

(b) The work must require you to violate your religious beliefs or sincere moral convictions; mere disapproval of the employer's method of conducting business is not good cause for leaving work under this section;

(c) You must request alternative work from your employer, unless doing so would be futile;

(d) The work or activity must directly, rather than indirectly, affect your religious or moral beliefs; and

(e) The objectionable condition must exist in fact, rather than be a matter of speculation.

(3) You will not have good cause for quitting work under this section if:

(a) You are inconsistent or insincere in your objections;

(b) The objection is raised as a sham or a means of avoiding work; or

(c) You knew of the objectionable aspects of the work at the time of hire, or you continued working under the objectionable conditions.

NEW SECTION

WAC 192-150-150 When is a separation considered a refusal of new work? (1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 prohibit the denial of benefits to individuals who refuse to accept new work when the wages, hours, or other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will determine whether the change constitutes an offer of new work. If it does, the department will also determine if the new work is substantially less favorable than similar work in your labor market area.

(a) If the department determines the change constitutes an offer of new work, and the new work is substantially less favorable, the separation will be treated as a layoff due to lack of work and the issue of the refusal of new work adjudicated under RCW 50.20.080.

(i) The refusal of new work will be adjudicated even if you have not claimed benefits for the week in which the refusal occurred; and

(ii) The employer offering the new work is an interested party to the work refusal decision.

(b) If the department determines the change does not constitute an offer of new work, or the new work is not substantially less favorable, the separation from work will be adjudicated as a voluntary quit under RCW 50.20.050(2).

(4) If the reduction in your pay or hours is ten percent or less, the department will presume that it is not substantially less favorable and adjudicate the separation under RCW 50.20.050(2). You can overcome this presumption by providing additional information to the department to support a finding that the job was not suitable as provided in RCW 50.20.110.

(5) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. Whether a wage rate is prevailing for your labor market area will be determined based on information provided by the department's labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantially less favorable" means the work is materially reduced below the standard under which the greatest number of individuals in your occupation and labor market area customarily work, or the work would have a significantly unfavorable impact on you.

NEW SECTION

WAC 192-150-200 General provisions—Misconduct and gross misconduct—RCW 50.04.294 and RCW 50.20.066. (1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) The action or behavior must result in harm or create the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an acci-

dent or mistake and is not likely to result in serious bodily injury.

NEW SECTION

WAC 192-150-205 Definitions—Misconduct and gross misconduct—RCW 50.04.294 and RCW 50.20.066. For purposes of this chapter, the following definitions will apply:

(1) "Willful" means intentional behavior done deliberately or knowingly, where you are aware that you are violating or disregarding the rights of your employer or a co-worker.

(2) "Wanton" means intentional, malicious behavior showing extreme indifference to a risk, injury, or harm to another that is known or should have been known to you. It includes a failure to act when there is a duty to do so, knowing that injury could result.

(3) "Carelessness" and "negligence" mean failure to exercise the care that a reasonably prudent person usually exercises.

(4) "Serious bodily harm" means bodily injury which creates a probability of death, or which causes significant permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ.

(5) "Criminal act" means any act classified as a felony, gross misdemeanor, or misdemeanor under state or federal law.

(6) "Flagrant and wanton" means conspicuously bad or offensive behavior showing contemptuous disregard for the law, morality, or the rights of others. This blatant behavior must be so obviously inconsistent with what is right or proper that it can neither escape notice nor be condoned.

NEW SECTION

WAC 192-150-210 Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2). (1) "Repeated inexcusable tardiness" means repeated instances of tardiness that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be tardy. Your employer must have warned you at least twice, either verbally or in writing, about your tardiness, and violation of such warnings must have been the immediate cause of your discharge.

(2) "Dishonesty related to employment" means the intent to deceive the employer on a material fact. It includes, but is not limited to, making a false statement on an employment application and falsifying the employer's records.

(3) "Repeated and inexcusable absences" means repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent. Previous warnings from your employer are not required, but your repeated absences must have been the immediate cause of your discharge.

(4) A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.

(5) The department will find that you knew or should have known about a company rule if you were provided an employee orientation on company rules, you were provided a

copy or summary of the rule in writing, or the rule is posted in an area that is normally frequented by you and your co-workers, and the rule is conveyed or posted in a language that can be understood by you.

(6) You are considered to be acting within your "scope of employment" if you are:

- (a) Representing your employer in an official capacity;
- (b) On your employer's property whether on duty or not;
- (c) Operating equipment under your employer's ownership or control;
- (d) Delivering products or goods on behalf of your employer; or
- (e) Acting in any other capacity at the direction of your employer.

NEW SECTION

WAC 192-150-215 Discharges for felony or gross misdemeanor or for gross misconduct—Responsibility for providing information. In any job separation where there is a potential disqualification under RCW 50.20.065 or RCW 50.20.066, the employer is responsible for notifying the department in a timely manner of any resolution of issues.

If an employer notifies the department of a potential disqualification under RCW 50.20.065 or RCW 50.20.066 within ten days of receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

NEW SECTION

WAC 192-150-220 Discharges for gross misconduct or for felony or gross misdemeanor. (1) **Effective dates.** The provisions of RCW 50.20.065 will apply to claims with an effective date prior to January 4, 2004. The provisions of RCW 50.20.066 will apply to claims with an effective date of January 4, 2004, and thereafter.

(2) **Definitions.**

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" may be:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or

(ii) An administrative law judge; or

(iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW 50.20.065 and RCW 50.20.066.

(3) **Canceling wage credits.**

(a) For claims with an effective date prior to January 4, 2004: If you have been discharged because of a felony or

gross misdemeanor connected with your work of which you have been convicted or have admitted committing, all your hourly wage credits based on that employment since the beginning of your base period will be canceled.

(b) For claims with an effective date of January 4, 2004, and later: If you have been discharged for gross misconduct connected with your work:

(i) All your hourly wage credits based on that employment since the beginning of your base period will be canceled;

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

(c) Wage credits may only be canceled based upon an admission of a criminal act if:

(i) You admit to each and every element of the criminal act which caused you to be discharged; and

(ii) The admission is made to a competent authority.

AMENDATORY SECTION (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010 (1)(c)(3) and 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

(a) Attached to an employer; or

(b) Participating in a training program approved by the commissioner; or

(c) On strike or locked out by your employer as provided in RCW 50.20.090.

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) **What are my weekly job search requirements?**

(a) At a minimum, you must:

(i) Make job search contacts with at least three employers each week; or

(ii) If your claim is effective prior to January 4, 2004, participate in a documented in-person job search activity at the WorkSource Office or local employment center; or

(iii) If your claim is effective January 4, 2004 or later, participate in three documented in-person job search activities at the WorkSource Office or local employment center, or any combination of three employer contacts or in-person job search activities.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities a each week.

~~(c) This subsection does not apply if~~ you are a member of a full referral union- you must be in good standing with your union, eligible for dispatch, and comply with your union's dispatch or referral requirements. Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** Usually a job search contact is contact with an employer in person or by telephone. You may use other job search methods that are customary for your occupation and labor market area. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department determines the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) **What is an "in-person job search activity"?** This is an activity provided through the WorkSource Office or local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, ~~resume development~~, job search workshops, training classes, and computer tutorials. For intrastate claimants, an in-person job search activity must be documented in the department's Services, Knowledge and Information Exchange System (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3).

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of seeking work (such as from resumes to in-person contacts);
- (c) Expand the geographic area in which your job search is conducted; or
- (d) Seek work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

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 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-015 Tracking job search activities—RCW 50.20.240. (1) **Do I need to keep track of my job search activities?** You must keep a record or log of your job search contacts and the services you receive through the WorkSource Office or local employment center unless you are:

- (a) A member of a full referral union; or
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

(a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; the type of work you applied for; and the results of your contact;

(b) For in-person job search activities at the local reemployment center, record the date contact was made; a description of the services you received or the activities in which you participated; and the results of your contact.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as all information required by this subsection is recorded.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or sixty days after receiving your final benefit payment on a claim, whichever is later.

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

AMENDATORY SECTION (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-020 Monitoring job search activities—RCW 50.20.240. (1) **Will my job search activities be monitored?** Every week that you file a claim for benefits, you must certify that you meet the job search requirements. The department may review your job search activities at any time. If you have been paid benefits for five or more weeks in any benefit year, you must provide the department with a copy of your job search log upon request. You must bring a copy of your job search log to any eligibility job search review interview (see WAC 192-180-025) for which you have been scheduled.

(2) **Will the department verify the information on my job search log?** Employer contacts and other job search activities on your log will be verified whenever the department has a question about the information reported. In addition, when you are scheduled for an eligibility job search review interview, your log will be verified on a random basis.

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 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-025 Eligibility Job search review interviews. (1) **What is an eligibility job search review (JSR) interview (ERI)?** The ~~ERI~~ JSR is an interview between you and a representative of the WorkSource Office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job

search efforts. For interstate claimants, this interview may be conducted by telephone.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?** The interviewer will review at least one week of your job search documentation. If the job search documentation is unsatisfactory, or you do not appear for the JSR interview, you will be scheduled for a second interview in which all weeks claimed will be reviewed. For purposes of this section, "all weeks" means the latest of the following:

(a) Weeks claimed since January 4, 2004;

(b) Weeks claimed since you filed your application for benefits; or

(c) Weeks claimed since your last JSR interview, if applicable.

(4) **Do I need to bring anything else to the JSR interview?** You must be prepared to present proof of your identity during the JSR interview. This includes:

(a) State or government issued photo identification; or

(b) Two of the following government-issued documents:

(i) Voter's registration card;

(ii) U.S. Military identification card or draft record;

(iii) Military dependent's identification card;

(iv) U.S. Coast Guard Merchant Mariner Card;

(v) Native American tribal document;

(vi) U.S. social security card;

(vii) Certification of Birth Abroad issued by the U.S.

Department of State;

(viii) Original or certified copy of a birth certificate;

(ix) U.S. Citizen ID Card;

(x) ID Card for use of Resident Citizen in the United States; or

(xi) Unexpired employment authorization document issued by the Bureau of Citizenship and Immigrant Services.

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 99-13-002, filed 6/3/99, effective 7/4/99)

WAC 192-180-030 Penalties. (1) **Is there a penalty if I don't look for work?** Benefits will be denied if you fail to:

(a) Meet the minimum job search requirements;

(b) Provide information about your job search activities and, once you have been paid five weeks of benefits, provide a copy of your job search log upon request;

(c) Comply with any job search directive issued by the department; or

(d) Report to a scheduled ~~eligibility~~ **job search** review interview.

(2) **How long will my benefits be denied?** Benefits will be denied for the specific week or week(s) in which you fail to act as described in subsection (1).

(3) What is the penalty if I don't attend a JSR that has been scheduled to review all weeks claimed? If you fail to appear for a review of all weeks claimed, fail to produce your job search logs for those weeks, or your logs fail to establish that you have met the minimum job search requirements, such failure will be treated as nondisclosure under RCW 50.20.160(3) and your benefits may be denied for any weeks at issue.

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

NEW SECTION

WAC 192-180-040 Directive to attend job search workshop or training course—RCW 50.20.044. (1) The department may direct you, in writing, to attend a job search workshop or training course when it finds that your chances of finding employment will be improved by enrollment in such activity.

(2) You will not be directed to attend a job search workshop or training course if:

(a) You have an offer of bona fide work that begins within two weeks; or

(b) The workshop or training location is outside your labor market or would require you to travel further than the nearest WorkSource office or local employment center; or

(c) You are a member in good standing of a full referral union, unless you are also being required to begin an independent search for work or have been identified as a dislocated worker as defined in RCW 50.04.075.

(3) If you receive a directive and fail without good cause to attend a substantial portion of the workshop or training course during a week, you will be ineligible for benefits for the entire week. Good cause includes your illness or disability or that of a member of your immediate family, or your presence at a job interview scheduled with an employer. Reasons for absence may be verified and may result in a denial of benefits under RCW 50.20.010.

(4) Participation in a job search workshop when directed meets the definition of an "in-person job search activity" as defined in WAC 192-180-010.

(5) When attending a job search workshop or training course as directed, you will not be ineligible for benefits for failure to be available for work, to actively seek work, or to apply for or accept suitable work under the provisions of:

(a) RCW 50.20.010 (1)(c);

(b) RCW 50.20.080;

(c) RCW 50.20.240; or

(d) RCW 50.22.020(1).

NEW SECTION

WAC 192-200-005 Disqualification of students—RCW 50.20.095. (1) **General rule.** If you are registered in a course of study that provides scholastic instruction of 12 or more credit hours per week, you are disqualified from receiving benefits or credit for your waiting week.

(2) **Period of disqualification.** The disqualification starts with the week the instruction begins or the week you left employment to return to school, whichever is earlier. The

disqualification ends at midnight on Saturday of the week prior to the first full week in which you are no longer registered for 12 or more hours of instruction. You will be required to certify to the department that you are not currently registered for 12 or more credit hours and will not be registered for 12 or more credit hours for at least 60 days. If you begin classes within 60 days, all benefits paid since the date of your certification will be considered an overpayment. This overpayment is subject to recovery under RCW 50.20.190. If you are registered for classes that begin more than 60 days in the future, you will not be disqualified under this subsection.

(3) **Disqualification not applicable.** The disqualification does not apply if you:

(a) Are in approved training as provided by RCW 50.20.043; or

(b) When you apply, you demonstrate by a preponderance of the evidence that your student status does not significantly interfere with your actual availability for work.

(4) **Definitions.** As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education as defined in RCW 50.44.037;

(b) "Scholastic instruction" includes all teaching or opportunity for learning subjects other than those of a strictly vocational nature. Subjects of a vocational nature are those embraced in the definition of "training" contained in WAC 192-200-005.

(c) "Twelve or more hours per week" means 12 or more credit hours per week or its equivalent;

(d) "Preponderance of evidence" means evidence sufficient to persuade a reasonable person considering all the evidence that the proposal is more probably true than not true.

(5) **Students.** Students who claim benefits are subject to all of the provisions of Title 50 RCW including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause;

(b) RCW 50.20.010 (1)(c) requiring claimants to be able and available for and actively seeking work; and

(c) RCW 50.20.240 requiring claimants to provide evidence of their job search activities as requested by the department.

NEW SECTION

WAC 192-200-010 Training defined—RCW 50.20.043. (1) The term "training" means a course of education with the primary purpose of training in skills that will allow you to obtain employment.

(2) The term "training" does not include beginning a course of education primarily intended to meet the requirements of a baccalaureate or higher degree.

NEW SECTION

WAC 192-200-030 Unemployment benefits while in training. (1) To be eligible for unemployment benefits while in training, the following criteria must be met:

(a) The training must be full-time as defined by the training facility;

(b) You must be making satisfactory progress in training as defined in WAC 192-270-065; and

(c) You must notify the department if you discontinue or suspend training, or reduce enrollment to less than full-time.

(2) If your enrollment drops below full-time or you are not making satisfactory progress, you may be required to show that you are meeting the availability for work and job search requirements of RCW 50.20.010 (1)(c) and RCW 50.20.240, and the provisions of RCW 50.20.080 regarding failure to apply for, or refusal to accept suitable work.

CHAPTER 192-220 WAC OVERPAYMENT NOTICE AND ASSESSMENT

NEW SECTION

WAC 192-220-010 Overpayments—Notification to individual. (1) If a potential overpayment exists, the department will provide you with an overpayment advice of rights, in writing, explaining the following:

(a) The reasons you may have been overpaid;

(b) The amount of the possible overpayment as of the date the notice is mailed;

(c) The fact that the department will collect overpayments as provided in WAC 192-230-100;

(d) The fact that final overpayments are legally enforceable debts which must be repaid whether or not you are claiming unemployment benefits;

(e) The fact that these debts can be the basis for warrants which can result in liens, notices to withhold and deliver personal properties, garnishment of salaries, and possible sale of real and personal properties;

(f) An explanation that if you are not at fault, you may request a waiver of the overpayment. Waiver means the overpayment does not have to be repaid; and

(g) A statement that you have 10 days to submit information about the possible overpayment and whether you are at fault. Failure to do so means the department will make a decision based on available information about the overpayment and your eligibility for waiver.

NEW SECTION

WAC 192-220-020 Overpayments—Fault provisions. (1) When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by you and your employer and from information contained in the department's records. After reviewing all such information, you will be considered to be at fault when the overpayment is:

(a) The result of fraud, misrepresentation, or willful non-disclosure;

(b) The result of a discharge for a felony or gross misdemeanor under RCW 50.20.065;

(c) The result of a discharge for gross misconduct under RCW 50.04.294; or

(d) Based on the presence of all of the following three elements:

(i) You were paid benefits in an amount greater than you were entitled to receive and you accepted and retained those benefits; and

(ii) The payment of these benefits was based on incorrect information or a failure to furnish information which you should have provided as outlined in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department; or information which you caused another person to fail to disclose; and

(iii) You had notice that the information should have been reported.

(2) You may be considered at fault, even though you provided the department with all relevant information before the benefit eligibility decision was issued, if the overpayment is the result of payment that you should reasonably have known was improper. The following are some, but not all, examples where you should reasonably have known that a payment was improper and as a result are at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) You correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) You reported that you were unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) You received a retroactive pension payment that you had applied for and were reasonably sure would be awarded.

(d) You did not inform the department that you were eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner or a court because of new information that you did not disclose to the department.

(f) Other circumstances in which department fact finding indicates that you knew the payment was improper.

(3) In deciding whether or not you are at fault, the department will also consider education, mental abilities, emotional state, your experience with claiming unemployment benefits, and other elements of your personal situation which affect your knowledge and ability to comply with reporting all relevant information. This includes information contained in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department.

(4) You will be considered to be without fault when you provided the department with all relevant information before the benefit eligibility decision is issued and the overpayment is the result of payment that you would not reasonably have known was improper. The following are some, but not all, examples of instances in which you may not reasonably have known that a payment was improper and as a result are not at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) You received a retroactive pension which was backdated by the pension source, not at your request.

(c) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(d) Extended benefits were paid by the department when you would have been eligible for a new claim against Washington or another state.

(e) A lower level decision, in which you had provided all information, was reversed by the office of administrative hearings, the commissioner or a court.

(f) Other circumstances in which department fact finding indicates you did not know the payment was improper.

NEW SECTION

WAC 192-220-030 Overpayments—Equity and good conscience provisions. (1) The department will not consider or grant waiver of an overpayment and will not consider or accept an offer in compromise of an overpayment that is:

(a) Based on an overpayment decision written by a state other than Washington;

(b) The result of a conditional payment as provided in WAC 192-23-900; or

(c) For claims with an effective date of January 4, 2004, and later, the result of being discharged for misconduct or gross misconduct as provided in RCW 50.20.066(5).

(2) Except as provided in subsection (1), the department will grant waiver of an overpayment when it is found that you were without fault in the overpayment and when it is determined that to require repayment would be against equity and good conscience. It will be against equity and good conscience to deny waiver when repayment of the overpayment would deprive you of income required for necessary living expenses unless there are unusual circumstances which would argue against waiver.

(3) You will be required to provide financial information to the department to determine if the overpayment will be waived. Your failure to provide such information within 10 days from the request date will result in the department making a decision, based on available information, regarding your eligibility for waiver. The department may verify any financial information you provide. Any amount waived based on information that is later found to be fraudulent or misrepresented will be restored to the overpayment balance.

(4) The financial information requested includes:

(a) Your income and, to the extent available to you, other financially contributing members of the household for the previous month, the current month and the month following the date the financial information is requested.

(b) Your current and readily available liquid assets. Liquid assets may include, but are not limited to, checking and savings account balances, stocks, bonds and cash on hand.

(c) Your expenses for the previous month, the current month and the month following the date the financial information is requested.

(5) If your average monthly expenses equal or exceed your average monthly income and there are no substantial liquid assets available, waiver of the overpayment will be considered. The presence of unusual circumstances may justify waiver on other than a financial basis when not to waive would be unconscionable.

(6) When you have been denied waiver or waiver was not considered, you may enter into a payment agreement with the department.

(7) Except as provided in subsection (1), when you have been denied waiver or have been unable to reach a payment agreement with the department you may make an offer in compromise as provided in RCW 50.24.020. The basis for allowing or denying an offer in compromise will be the same criteria used by the department for allowing or denying waiver of an overpayment. Any overpayment amount compromised based on information that is later found to be fraudulent or misrepresented will be restored to the overpayment balance.

CHAPTER 192-240 WAC **RECOVERY OF OVERPAYMENTS**

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

NEW SECTION

WAC 192-230-100 Recovery of benefit overpayment—By repayment or offset against past or future benefits. (1) If you do not repay an overpayment in full or make the minimum monthly payments provided for in WAC 192-28-130, the overpayment will be deducted from benefits payable for any week(s) you claim.

(2) For overpayments assessed under RCW 50.20.010 because you asked to have your unemployment insurance claim cancelled, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. The department will ensure you are informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

(3) If you are currently claiming benefits, the overpayment will not be offset from future weeks payable unless you have missed two or more payments as provided in WAC 192-230-xxx. If you have missed two or more payments, the overpayment will be offset as described in (a) and (b) below:

(a) If the overpayment was caused by a denial for fraud, misrepresentation, or willful nondisclosure as provided in RCW 50.20.070, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim.

(4) If the overpayment has been assessed by another state, the amount deducted will be as follows:

(a) For overpayments caused by a denial for fraud, misrepresentation, or willful nondisclosure, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim.

(5) If you have been denied waiver, or if waiver was not considered, you will be notified in writing of your right to enter into a payment agreement with the department or to make an offer in compromise. An offer in compromise will

not be approved if the overpayment was caused by a denial under RCW 50.20.065 or RCW 50.20.070 unless there are unusual circumstances which would justify a compromise. An offer in compromise will not be approved if the overpayment was caused by a denial under RCW 50.20.066.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-035 How to qualify for regular shareable or extended benefits after leaving work for marital or domestic reasons—RCW 50.22.020(7). This section applies only to claims with an effective date prior to January 4, 2004. If you were denied benefits because you left work for family reasons as provided in RCW 50.20.050(4) (1)(d), you could qualify for regular benefits either through work and earnings or by reporting in person to your local employment center for each of ten weeks. However, you are not eligible for regular shareable or extended benefits unless, after leaving work, you obtained work and earned wages of seven times your weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

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

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

WAC 192-240-040 Penalties. (1) If you claim regular shareable or extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and 50.20-110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and 50.20.080.

(2) If you claim regular shareable or extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020, except as provided in subsection (4).

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

(4) If you fail to meet the job search requirements of WAC 192-240-030 because you are hospitalized for treatment of an emergency or life-threatening condition, benefits will be denied under RCW 50.20.010(3) (1)(c). The denial

period is only for the week or weeks in which the hospitalization occurred.

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

AMENDATORY SECTION (Amending WSR 00-05-068, filed 2/15/00, effective 3/17/00)

WAC 192-300-050 Predecessor-successor relationship defined. This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, or goodwill. Employees are not operating assets.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (5) below.

(5) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that occurred as a result of the business acquisition or reorganization, beginning when the acquisition started and ending when the primary entity is transferred.

(6) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by either the predecessor, successor, or a combination of both.

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-010 Employer reports—RCW 50.12-070. (1) **Master application.** Every person or entity, which has one or more individuals performing services for it in the

state of Washington, must file a master application with the department ~~a master application~~ in a format prescribed by the commissioner.

(2) **Quarterly tax and wage reports:**

(a) **Tax report.** Each employer must file a quarterly tax report with the commissioner listing the total wages paid to all individuals in its employ during that calendar quarter.

(b) **Report of employee's wages.** Each employer must file a quarterly report of employee's wages with the commissioner. This report must list each employee by name, social security number, hours worked, and wages paid during that calendar quarter.

(c) **Format.** The quarterly tax and wage reports must be filed in a one of the following formats prescribed by the commissioner:

(i) Electronically, using the current version of UIFast-Tax, UIWEBTax, or ICESA Washington; or

(ii) Paper forms supplied by the department (or a certified version of those forms).

(d) **Due dates.** They quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. Therefore, reports are due by April 30, July 31, October 31, and January 31, respectively. Exceptions to the time and manner of filing the report must be approved in advance by the commissioner.

(de) **Termination of business.** Each employer who ceases business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due to the date such account is closed;

(ii) A report of employee's wages for the current calendar quarter which includes all wages paid to the date such account is closed.

~~(3) Report form instructions. All form preparation instructions issued by the employment security department have the same force and effect as if they had been incorporated into this regulation.~~

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 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-025 Application of payments. (1) A payment received with a tax report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and taxes due for that quarter will be applied to any other debt as provided in subsection (2). If no debt exists, a credit statement will be issued for any overpayments.

(2) A payment received without a tax report will be applied in the following order of priority, beginning with the oldest quarter:

(a) Lien fees Costs of audit and collection.

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- ~~(b) Warrant fees~~ Penalties for willful misrepresentation of payroll.
- ~~(c) Late tax report penalty~~ Lien fees.
- ~~(d) Late tax payment penalty~~ Warrant fees.
- ~~(e) Interest charges~~ Late tax report penalty.
- ~~(f) Tax payments~~ Penalties for incomplete reporting or reporting using incorrect format.
- ~~(g) Late tax payment penalty.~~
- ~~(h) Interest charges.~~
- ~~(i) Tax payments.~~

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 98-14-068, filed 6/30/98, effective 7/31/98)

WAC 192-310-030 Reports and tax payments subject to penalty. (1) Late tax reports. An employer who files a ~~late or incomplete~~ tax report as described in WAC 192-310-010 (2)(a) but does not file it within the time frame prescribed in WAC 192-310-010 (2)(c) is subject to a penalty of ~~ten~~ twenty-five dollars per violation, unless the penalty is waived by the department.

(2) Incomplete Tax Reports. An employer is required to file the report required by WAC 192-310-010 in a complete manner and in the format required by the commissioner.

(a) An "incomplete report" is defined as any report submitted by either a contributory or reimbursable employer where:

- (i) The entire wage report is not submitted timely; or
 - (ii) A required element is not reported (social security number, name, hours worked, or wages paid); or
 - (iii) A significant number of employees are not reported;
- or
- (iv) A significant number of any given element is not reported such as, but not limited to, missing social security numbers, names, hours, wages; or
 - (v) No employer reference number or Unified Business Identifier (UBI) number is included with the tax or wage report.

(b) An "incorrect format" means any report that is not submitted in the format required by the commissioner under WAC 192-310-010(c).

(3) Penalty for filing an incomplete or incorrect format tax report. An employer who fails to file a report required by RCW 50.12.070 is subject to penalty as follows:

(a) Incomplete tax report. The penalty for filing an incomplete tax report will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted an incomplete report, the following schedule will apply:

<u>(i) 1st Occurrence</u>	<u>\$75.00</u>
<u>(ii) 2nd Occurrence</u>	<u>\$150.00</u>
<u>(iii) 3rd and subsequent occurrences</u>	<u>\$250.00</u>

(b) Filing tax report in an incorrect format. The penalty for filing a tax report in an incorrect format will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted a tax report in an incorrect format, the following schedule will apply:

<u>(i) 1st Occurrence</u>	<u>\$150.00</u>
<u>(ii) 2nd and subsequent occurrences</u>	<u>\$250.00</u>

(4) Knowingly misrepresenting amount of payroll. If an employer knowingly misrepresents to the department the amount of his or her payroll, upon which contributions under this title are based, the employer is liable for a penalty of ten times the difference between the contributions paid, if any, and the amount of contributions the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer is also liable to the department for the reasonable expenses of auditing his or her books and collecting such sums as provided in WAC 192-340-100.

(2) (5) Report of employee's wages. Any decision to assess a penalty for filing a late or incomplete report of employee's wages as described in WAC 192-310-010 (2)(b) will be made on an individual basis by the chief administrative officer of the tax branch as provided in RCW 50.12.220.

(3) (6) Delinquent tax payments. For purposes of RCW 50.12.220, tax payments are delinquent as provided in WAC 192-310-020 and RCW 1.12.070.

(4) Late penalty. For tax payments due on wages paid, a minimum \$10.00 penalty will be assessed for late payments.

(5) (7) Penalty waivers. The department may, for good cause, waive penalties in the following situations:

- (a) The return was filed on time but inadvertently mailed to another agency;
- (b) The delinquency was due to an action of an employee of the department, such as providing incorrect information to the employer when the source can be identified, or not furnishing proper forms to permit the filing of tax reports or the payment of taxes on time;
- (c) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;
- (d) The delinquency was caused by the accidental destruction of the employer's place of business or business records; or

(e) The department finds the employer to be out of compliance during an employer-requested audit, but the department determines the employer made a good faith effort to comply with all applicable laws and rules.

(6) (8) Waiver requests. A request for a waiver of penalties must be written, contain all pertinent facts, be accompanied by available proof, and be filed through a tax office. In all cases the burden of proving the facts is on the employer.

(7) (9) Extensions. The department, for good cause, may extend the due date for filing a report. The employer must make a deposit with the department in an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and applied to the

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employer's debt. The amount of the deposit is subject to approval by the department.

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 00-05-069, filed 2/15/00, effective 3/17/00)

WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit. (1) For claims with an effective date prior to January 4, 2004, a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.020(2) may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.020(43) and WAC 192-320-065.

(2) For claims with an effective date on or after January 4, 2004, a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.021(3), may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.021(4) and WAC 192-320-065.

(34) Reasons for a voluntary quit not attributable to the employer may include, but are not limited to:

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

(b) The claimant's domestic responsibilities;

(c) Accepting a job with another employer;

(d) Relocating for a spouse's employment;

(e) Starting or resuming school or training;

(f) Being in jail;

(g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same, or the job location may have changed; but the distance traveled or difficulty of travel was not increased;

(h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market.

(43) Reasons for a voluntary quit considered attributable to employer are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. Such work-related factors may include, but are not limited to:

(a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;

(b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer; and the employer has failed to correct the hazards within a reasonable period of time;

(c) Employee skills no longer required for the job;

(d) Unreasonable hardship on the health or morals of the employee;

(e) Reductions in hours;

(f) Reduction in pay;

(g) Notification of impending layoff; and

(h) Such other work-related factors as the commissioner may deem pertinent.

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

NEW SECTION

WAC 192-320-075 Charges to the separating employer—RCW 50.29.021 (2)(c). (1) If a claimant voluntarily quits work to accept a job with a new employer, 100% of benefits paid on the claim will be charged to the new employer when this new employer is the claimant's last employer, a base period employer, and a contribution-paying employer.

(2) If a claimant quits work because of the working conditions listed in this subsection, the employer from whom the separation occurred will be charged for 100% of benefits paid on the claim if the employer is the claimant's last employer, a base period employer, and a contribution-paying employer. These working conditions include:

(a) A reduction in the individual's usual compensation of 25% or more under WAC 192-150-115;

(b) A reduction in the individual's usual hours of 25% or more under WAC 192-150-120;

(c) A change in the work location which caused a substantial increase in distance or difficulty of travel under WAC 192-150-125;

(d) A deterioration in the individual's worksite safety under WAC 192-150-130;

(e) Illegal activities in the individual's worksite under WAC 192-150-135; or

(f) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs under WAC 192-150-140.

(3) Benefits based on wages paid by the following entities will **not** be charged to the experience-rating account of the separating employer as described in subsections (1) and (2) if they were earned:

(a) In another state;

(b) From a local government employer;

(b) From the federal government; or

(c) From any branch of the United States military.

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

NEW SECTION

WAC 192-340-100 Reasonable audit expenses. Reasonable expenses for auditing an employer's books and collecting taxes may include:

(1) Salaries and benefits based on the payrolls documented for state staff conducting the audit (including reporting and follow-up costs).

(2) Communication costs such as telephone charges for arranging the audit, e-mails, mail or similar communication services.

(3) Travel costs for expenses such as transportation, lodging, subsistence and related items incurred by state employees traveling for the purpose of conducting the audit. Such costs may be charged on an actual cost basis or on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed by the department.

(4) Customary standard commercial airfare costs (coach or equivalent).

(5) Costs for materials and supplies (including the costs of producing reports and audit findings);

(6) Equipment costs necessary for conducting the audit (such as a laptop computer);

(7) Collection costs, including court costs, lien and warrant fees, and related costs; and

(8) Other costs which the department establishes that are directly related to the audit or collection of the penalty (i.e. appeal costs).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 192-12-011 Continued claim definitions.
- WAC 192-12-012 Conditional payment of continued claim recipients when eligibility is questioned.
- WAC 192-12-020 Week defined.
- WAC 192-12-180 Training defined.
- WAC 192-12-184 Training—Unemployment benefits while pursuing training.
- WAC 192-12-190 Directive to attend job search workshop or training or retraining course according to RCW 50.20.044.
- WAC 192-12-300 Mailing addresses for notice to employer.
- WAC 192-12-310 Notice to employer.
- WAC 192-12-320 Mailing of determination notices under RCW 50.20.180.
- WAC 192-12-330 Predetermination procedure—Separation issue.
- WAC 192-12-340 Discharges for misconduct for felony or gross misdemeanor—Responsibility for providing information.
- WAC 192-16-019 Interpretative regulations—Effective date of RCW 50.20.065—Discharges for felony or gross misdemeanor.

- WAC 192-16-023 Interpretative regulations—Disqualification of students—RCW 50.20.095.
- WAC 192-23-014 Failure to establish ability to or availability for work.
- WAC 192-23-015 Failure to establish active search for work.
- WAC 192-23-016 Failure to meet work search requirements.
- WAC 192-23-017 Failure to respond to a request for information regarding late filing of claims.
- WAC 192-23-019 Directive to report for reemployment services.
- WAC 192-23-061 Failure to respond to a request for information regarding a discharge from work.
- WAC 192-23-096 Failure to provide information regarding attendance at school.
- WAC 192-23-800 Certification of ineligibility.
- WAC 192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work.
- WAC 192-28-105 Recovery of benefit overpayment—Notification to individual.
- WAC 192-28-110 Recovery of benefit overpayment—Fault provisions.
- WAC 192-28-115 Recovery of benefit overpayment—Equity and good conscience provisions.
- WAC 192-28-120 Recovery of benefit overpayment—By repayment or offset against past or future benefits.

**WSR 04-04-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-10—Filed January 27, 2004, 4:26 p.m., effective January 31, 2004, 12:01 a.m.]

Date of Adoption: January 27, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900G and 232-28-61900H; and amending WAC 232-28-619.

EMERGENCY

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: Waters opened in this rule have sufficient numbers of hatchery winter steelhead available for harvest. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

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

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

Effective Date of Rule: January 31, 2004, 12:01 a.m.

January 27, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900H Exceptions to statewide rules—Cascade River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. January 31, 2004 through February 29, 2004 the following water is closed to the fishing for game fish:

- Cascade River (Skagit County) from the mouth upstream to the Rockport Cascade road bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 31, 2004:

WAC 232-28-61900G Exceptions to statewide rules—Cascade River, Skykomish River, Snoqualmie River, Wallace River and Tokul Creek. (04-07)

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

WAC 232-28-61900H Exceptions to statewide rules—Cascade River

WSR 04-04-030

EMERGENCY RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 28, 2004, 8:11 a.m.]

Date of Adoption: January 27, 2004.

Purpose: WAC 388-290-0130 What in-home/relative providers can I choose under the WCCC program?, is being amended to clarify that an in-home/relative provider is determined an eligible provider when the results of the criminal background inquiry are received. We must make this clear in the interest of safety of children, and the general welfare of the state.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-0130.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: RCW 74.13.085.

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: Emergency rules are needed to assure that in-home or relative providers paid by the department to provide child care do not have criminal convictions or background that would disqualify the provider or pose a threat to the safety of children under their care. The department has filed a notice of intent - WSR 02-20-055 - to adopt the rule as permanent, and is actively undertaking appropriate procedures to adopt the permanent rule. A CR-102 Proposed rule-making notice (WSR 04-02-047) for permanent adoption has been filed in January 2004, and public hearing is scheduled for March 9, 2004.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

January 27, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

EMERGENCY

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0130 What in-home/relative providers can I choose under the WCCC program? (1) To be authorized as an in-home/relative provider under the WCCC program, your in-home/relative provider must:

- (a) Be a U.S. citizen or legally residing in the country;
- (b) Meet the requirements in WAC 388-290-0135; and
- (c) ~~((Complete and submit a criminal background inquiry form prescribed by us; and~~
- ~~((d)))~~ Be one of the following adult relatives providing care in the home of either the child or the relative:

- (i) An adult sibling living outside the child's home;
- (ii) An extended tribal family member under chapter 74.15 RCW; or

(iii) A grandparent, aunt, uncle, or great-grandparent, great-aunt or great-uncle.

(2) Your in-home/relative provider is not an eligible provider (under WAC 388-290-0095 and 388-290-0100) any-time prior to the date the results of all applicable criminal background inquiries under WAC 388-290-0143(1) are received. Providers other than in-home/relative that you can use are described in WAC 388-290-0125.

(3) A nonrelative provider may be an adult friend or neighbor and must provide care in the child's own home.

- ~~((3)))~~ (4) The in-home/relative provider may not be:
 - (a) The child's biological, adoptive or step-parent;
 - (b) The child's legal guardian or the guardian's spouse; or
 - (c) Another adult acting in loco parentis or that adult's spouse.

**WSR 04-04-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-11—Filed January 30, 2004, 1:29 p.m.]

Date of Adoption: January 29, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100P and 220-32-05100Q; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Sturgeon management goals were determined at a sturgeon management task force meeting in mid-January. Concurrent with the establishment of pool specific guidelines, the size slot for sturgeon in Bonneville Pool was expanded to allow the treaty fisheries to focus on the relatively more abundant smaller fish in the pool. Fisheries are consistent with the interim management agreement and the biological opinion. Rule is consistent with action of the Columbia River compact on January 23, 2004.

Conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

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

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

Effective Date of Rule: Immediately.

January 29, 2004

J.P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions:

Open Periods: 12:00 p.m. February 2, 2004, through 12:00 p.m. March 21, 2004.

Open Areas: SMCRA 1F, 1G, 1H

Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

Allowable sale: Sturgeon between 45 inches and 60 inches in total length may be sold if caught in SMCRA 1F, sturgeon between 48 inches and 60 inches in total length may be sold if caught in SMCRA 1G or SMCRA 1H. Also, salmon, steelhead, walleye, and shad may be sold if caught in any of the open areas (SMCRA 1F, 1G, and 1H)

Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

- a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100P Columbia River salmon seasons above Bonneville Dam. (04-04)

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 21, 2004:

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam.

WSR 04-04-060

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 04-12—Filed January 30, 2004, 4:37 p.m., effective February 1, 2004, 12:01 a.m.]

Date of Adoption: January 30, 2004.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is consistent with management plans for sturgeon retention seasons in 2004. Plans were developed in cooperation with ODFW and the public during a joint state public hearing on January 15, 2004. This maintains consistent regulations between Washington and Oregon. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: February 1, 1004 [2004], 12:01 a.m.

January 30, 2004
Evan Jacoby
for Jeff Koenings
Director

Effective Date of Rule: Immediately.

February 2, 2004
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900I Exceptions to statewide rules—Columbia River (sturgeon). Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. February 1, 2004 until further notice it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from the Wauna power lines upstream to Bonneville Dam, except on Thursdays, Fridays, and Saturdays.

**WSR 04-04-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-13—Filed February 2, 2004, 3:43 p.m.]

Date of Adoption: February 2, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Q and 220-33-01000R; 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: The landing limit of twenty sturgeon per vessel is expected to spread the catch out through the remaining two days of the fishery and stay within the harvest guideline for this season of 1,800 fish. Regulation is consistent with compact action of February 2, 2004. There is insufficient time to promulgate permanent regulations.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

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

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

NEW SECTION

WAC 220-33-01000R Columbia River season below Bonneville. Notwithstanding the provision of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

AREA: SMCRA 1A, 1B, 1C, 1D, and 1E

SEASON: 6:00 a.m. Tuesday February 3, 2004 to 6:00 a.m. Wednesday, February 4, 2004

6:00 a.m. Tuesday February 10, 2004 to 6:00 a.m. Wednesday, February 11, 2004

GEAR: 9-inch minimum mesh and 9-3/4 inch maximum mesh

ALLOWABLE SALE: Sturgeon and adipose fin-clipped salmon. A maximum of 20 sturgeon may be possessed or sold for each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

SANCTUARIES: Sandy River.

OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

MISCELLANEOUS: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000Q Columbia River season below Bonneville. (03-318)

The following section of the Washington Administrative Code is repealed effective 6:01 a.m. February 11, 2004:

WAC 220-33-01000R Columbia River season below Bonneville.

**WSR 04-04-073
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed February 2, 2004, 4:04 p.m., effective February 5, 2004]

Date of Adoption: January 30, 2004.

EMERGENCY

Purpose: To comply with the federal requirements of Public Law 104-191 (Health Insurance Portability and Accountability Act (HIPAA) of 1996), which mandates that HIPAA-related changes be effective no later than October 16, 2003. The timeframe for adopting the rule through the permanent rule-making process does not allow the rule to be HIPAA-compliant by October 16, 2003. This CR-103 is an extension to the emergency CR-103 filed on October 8, 2003, as WSR 03-21-038. The department filed a CR-101 on September 30, 2003, WSR 03-20-103, to start the regular rule-making process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-535A-0050 and 388-535A-0060.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530.

Other Authority: Public Law 104—191 (Health Insurance Portability and Accountability Act of 1996).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This emergency rule is needed to continue to meet the requirements of the Health Insurance Portability and Accountability Act of 1996 while the department completes the permanent rule-making process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: February 5, 2004.

January 30, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-050, filed 12/11/01, effective 1/11/02)

WAC 388-535A-0050 Authorization~~(s)~~ and prior authorization~~(s, and expedited prior authorization)~~ for orthodontic services. (1) When MAA authorizes a service, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for the covered service at the time the service is provided.

(2) MAA does not require prior authorization for orthodontic treatment of a client with cleft lip, cleft palate, or craniofacial anomaly when the client is:

(a) Eligible under WAC 388-535A-0020; and

(b) Being treated by a department-recognized cleft palate or craniofacial team.

(3) MAA requires prior authorization for orthodontic treatment of:

(a) Severe handicapping malocclusions;

(b) Dental malocclusions that result in severe dental functional impairment;

(c) Those cases that result in a score less than thirty on the Washington Modified HLD Index Scale; and

(d) Services provided per WAC 388-535A-0030.

~~(((4) MAA allows orthodontists to use expedited prior authorization (EPA) for those cases that score thirty or more on the Washington Modified HLD Index Scale. The EPA process is designed to eliminate the need for telephone prior authorization for selected procedures. The orthodontist must create an authorization number using the process explained in MAA's orthodontic billing instructions. When MAA finds that a provider is using EPA inappropriately, MAA may:~~

~~(a) Require the provider to obtain prior authorization from MAA before providing services to any client; or~~

~~(b) Take one or more of the actions in WAC 388-502-0230(3).))~~

AMENDATORY SECTION (Amending WSR 02-01-050, filed 12/11/01, effective 1/11/02)

WAC 388-535A-0060 Reimbursement for orthodontic services. (1) MAA considers that a provider who furnishes covered orthodontic services to an eligible client has accepted MAA's rates and fees.

(2) Payment for orthodontic services is based on MAA's schedule of maximum allowances; fees listed in the fee schedule are the maximum allowable fees.

~~(3) ((MAA uses state assigned procedure codes to identify covered orthodontic services.~~

~~(4)) MAA does not cover out-of-state orthodontic treatment.~~

~~(((5))) (4) Orthodontic providers who are in department-designated border areas must:~~

~~(a) Meet the licensure requirements of their state; and~~

~~(b) Meet the same criteria for payment as in-state providers, including the requirements to contract with MAA.~~

~~(((6))) (5) MAA reimburses for interceptive orthodontic treatment for cleft palate or craniofacial anomaly per WAC 388-535A-0050.~~

~~(((7))) (6) With the exception of the conditions listed in subsection (((6))) (5) of this section, MAA reimburses for interceptive orthodontic treatment once per client's lifetime for clients with severe handicapping malocclusions.~~

~~(((8))) (7) MAA reimburses for limited transitional orthodontic treatment for a maximum of one year from original appliance placement. Follow up treatment is allowed in three-month increments, beginning three months after the initial placement.~~

~~(((9))) (8) MAA reimburses for comprehensive full orthodontic treatment up to a maximum of two years from original appliance placement. Six follow up treatments are allowed in three-month increments, beginning six months after the initial placement.~~

~~((10))~~ (9) If the client's eligibility for orthodontic treatment under WAC 388-535A-0020 ends before the conclusion of the orthodontic treatment, payment for any remaining treatment is the individual's responsibility; MAA does not reimburse for these services.

~~((11))~~ (10) The client is responsible for payment of any orthodontic service or treatment received during any period of ineligibility, even if the treatment was started when the client was eligible; MAA does not reimburse for these services.

~~((12))~~ (11) The client is responsible for paying for services when the client has not disclosed coverage to the provider, per WAC 388-502-0160 and 388-501-0200; MAA does not reimburse in these situations.

EMERGENCY

WSR 04-03-025
AGENDA
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed January 13, 2004, 10:43 a.m.]

Following, in accordance with RCW 34.05.314, is the Department of Labor and Industries' Semi-Annual Rules Development Agenda for January 1, 2004 - July 31, 2004.

Please contact Carmen Moore at (360) 902-4206 or e-mail moog235@lni.wa.gov, if you have any questions.

The Department of Labor and Industries
Semi-annual Rules Development Agenda
(January 1, 2004 - June 30, 2004)

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
DIVISION: WASHINGTON INDUSTRIAL SAFETY & HEALTH (WISHA)						
Chapter 296-24 WAC, General safety and health standards	Cranes	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	4/17/02	6/15/04	TBD	These rules are being rewritten and organized for clarity and ease of use. The project will include bridge style, mobile, tower/portal, personnel lifting, hoists, and derricks.
Chapter 296-24 WAC, General safety and health standards	Guardrails	Sally Elliott (360) 902-5484	NA	12/2/03 CR-105 Expedited rule filing	3/23/04	The department is changing the height requirements of the guardrail to be at-least-as-effective-as OSHA.
Chapter 296-24 WAC, General safety and health standards; chapter 296-155 WAC, Safety standards for construction work	Helicopters	Sally Elliott (360) 902-5484	9/30/03	12/29/03	4/20/04	The helicopter rules from construction and general industry are being combined into one rule and rewritten and organized for clarity and ease of use.
Chapter 296-24 WAC, General safety and health standards	Machine safety	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484	3/21/01	1/20/04	6/15/04	The machine safety rules are being rewritten and organized for clarity and ease of use. Some requirements are being updated and revised.
Chapter 296-24 WAC, General safety and health standards	Lockout/tagout	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	5/6/03	1/20/04	6/22/04	The lockout/tagout rules are being rewritten and organized for clarity and ease of use.
Chapter 296-24 WAC, General safety and health standards	Powered industrial trucks	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	5/6/03	3/23/04	8/17/04	The powered industrial trucks rules are being rewritten and organized for clarity and ease of use.
Chapter 296-24 WAC, General safety and health standards	Rigging	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	2/17/04	6/22/04	11/16/04	The rigging rules are being rewritten and organized for clarity and ease of use.
Chapter 296-24 WAC, General safety and health standards	Scaffolds	Carol Stevenson (360) 902-4778 Sally Elliott (360) 902-5484	1/21/03	5/18/04	10/19/04	The scaffold rules are being rewritten and organized for clarity and ease of use.
Chapter 296-45 WAC, Safety standards for electrical	Electrical	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484	TBD	TBD	TBD	The electrical rules are being updated in order to make the rules at-least-as-effective-as the federal rule.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-56 WAC, Safety standards for longshore, stevedore and related waterfront operations	Longshoring	Beverly Clark (360) 902-5516 Sally Elliott (360) 902-5484	NA	2/17/04 CR-105 Expedited rule filing	5/18/04	The longshoring rules are being updated in order to make the rules at-least-as-effective-as the federal rule.
Chapter 296-62 WAC, General occupational health standards	Access to records	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	2/4/03	11/18/03	4/20/04	The access to records rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Asbestos	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	2/17/04	6/22/04	10/04	The asbestos rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Benzene	Jamie Scibeli (360) 902-4568 Sally Elliott (360) 902-5484	1/6/04	4/20/04	9/21/04	The benzene rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Confined spaces	Carol Stevenson (360) 902-4778 Sally Elliott (360) 902-5484	6/19/02	9/16/03	1/20/04	The confined space rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Inorganic arsenic	Jamie Scibeli (360) 902-4568 Sally Elliott (360) 902-5484	1/6/04	8/3/04	12/14/04	The inorganic arsenic rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Hazardous waste	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	4/26/00	6/27/03	1/6/04	The hazardous waste rules are being rewritten and organized for clarity and ease of use.
Chapter 296-62 WAC, General occupational health standards	Trade secrets	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	2/4/03	2/17/04	6/1/04	The trade secret rules are being rewritten and organized for clarity and ease of use.
Chapter 296-155 WAC, Safety standards for construction work	Ground personnel	Jamie Scibeli (360) 902-4568 Sally Elliott (360) 902-5484	1/6/04	3/23/04	8/31/04	The ground personnel rules are being reviewed in order to increase worker protection from vehicular traffic on construction sites. In addition, the department intends to update references to the Washington State Department of Transportation's <i>Manual of Uniform Traffic Control Devices</i> as well as other technical changes.
Chapter 296-307 WAC, Safety standards for agriculture	Recordkeeping and reporting	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484	NA	2/17/04 CR-105 Expedited rule filing	5/18/04	The record-keeping and reporting rules are being reviewed due to the adoption of the cholinesterase monitoring rule.
Chapter 296-800 WAC, Safety and health core rules	Exit routes	Kimberly Johnson (360) 902-5008 Sally Elliott (360) 902-5484	11/4/03	TBD	TBD	The exit route rules are being updated in order to make the rules at-least-as-effective-as the federal rule.
Chapter 296-800 WAC, Safety and health core rules	First-aid	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484	10/21/03	12/16/03	3/23/04	The first-aid rules are being updated due to the Division II Court of Appeals finding, <i>Dep't of Labor & Indus. v. Nat'l Sec. Consultants</i> . The department plans to repeal the current first-aid rules in the core rules and the agriculture standards and adopt a rule in each that references the OSHA first-aid rule.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens	Bloodborne pathogens	Beverly Clark (360) 902-5516 Sally Elliott (360) 902-5484	TBD	TBD	TBD	The bloodborne pathogens rules are being updated in order to make the rules at-least-as-effective-as the federal rule.
DIVISION: INSURANCE SERVICES (WORKERS' COMPENSATION)						
Chapter 296-19A WAC	Vocational rehabilitation	Blake Maresh Health Services Analysis Program Analysis and Development (360) 902-6564	8/5/03	12/22/03	3/30/04	Changes to WAC 296-19A-210(2) broaden the description of qualifying experience required to become a supervisor of vocational rehabilitation interns.
Chapter 296-17 WAC	General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance—Retrospective rating program rules	Frank Romero Retrospective Rating (360) 902-4835	9/2/03	12/17/04	6/1/04	The retrospective rating program rules are being updated to allow use of paperless record management systems such as microfiche or imaging in lieu of maintaining paper copies of contracts. A rule will be added [to] cover disqualified employer participants and continued participation in previously approved group. Other rules will be amended to address newly identified concerns including explanation of probation, net premium assessment and final adjustment.
WAC 296-20-135	Conversion factors	Tom Davis Health Services Analysis (360) 902-6687	12/22/03	2/17/04	4/20/04	The conversion factors used by the department for calculating reimbursement rates for most professional health care and anesthesia services will be updated.
WAC 296-23-220	Physical therapy rules	Tom Davis Health Services Analysis (360) 902-6687	12/22/03	2/17/04	4/20/04	Update the maximum daily reimbursement level for physical therapy services so the department may, if necessary, give cost-of-living increases to affected providers.
WAC 296-23-230	Occupational therapy rules—Maximum daily reimbursement	Tom Davis Health Services Analysis (360) 902-6687	12/22/03	2/17/04	4/20/04	Update the maximum daily reimbursement level for occupational therapy services so the department may, if necessary, give cost-of-living increases to affected providers.
Chapter 296-20 WAC	Medical aid rules—Proper and necessary	Jami Lifka Office of the Medical Director (360) 902-4941	11/12/03	3/2/04	5/4/04	Pursuant to ESHB 1299 of the laws of 2003, the department will coordinate with other state agencies to amend WAC 296-20-01002 to make the definition of "proper and necessary" consistent, where possible, to the other agencies' definitions of "medical necessity."
Chapter 296-20 WAC	Medical aid rules—Drug WACs	Jami Lifka Office of the Medical Director (360) 902-4941	11/12/03	1/20/04	3/30/04	Pursuant to SB 6088 of the Laws of 2003, the department will write rules pertaining to the evidence-based prescription drug program and the development of any preferred drug list developed as part of that program.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapters 296-20 and 296-23 WAC	Independent medical examinations	Paulette Golden Health Services Analysis Provider Review and Education (360) 902-6299	10/14/03	11/5/03	1/27/03	Changes to chapters 296-20 and 296-23 WAC to improve the quality and timeliness of independent medical examinations (IMEs) and to ensure that providers know the requirements to be an IME examiner and the expectations and standards of that role. Additionally, the rules will clarify requirements of attending doctors or consultants when doing impairment rating examinations.
WAC 296-30-010	Definitions	Janice Deal Crime Victims Compensation (360) 902-5369	6/4/03	TBD	TBD	RCW 7.68.070(17) authorizes a benefit of counseling for immediate family members of a homicide victim. The statute refers to "immediate near term consequences of the related effects of the homicide." Currently the crime victims compensation program has an internal policy defining the language of RCW 7.68.070(17). This rule making would replace the internal policy.
WAC 296-30-081	What are the general obligations of a provider who provides medical or mental health services?	Janice Deal Crime Victims Compensation Program (360) 902-5369	1/27/04	TBD	TBD	WAC 296-30-081 (1) (a) instructs all medical providers comply with chapter 296-30 WAC and the department's rules and fees. WAC 296-30-081 (1) (b) instructs mental health providers that they must comply with chapter 296-30 WAC and the crime victims compensation programs mental health rules and fees. The purpose of the proposed rule is to require all providers to comply with this chapter, the department's rules and fees, and for the mental health providers the crime victims mental health rules and fees.
Chapter 296-14 WAC	Industrial insurance—Mortality assumptions	Valerie Grimm Policy and Quality Coordination (360) 902-5005	6/20/01	4/04	10/04	This rule making will provide updates to mortality assumptions used to determine pension reserves and actuarial benefit reductions.
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	8/02	6/04	12/04	This rule making will provide clarification on how to determine a worker's employment pattern at the time of injury or on the date of disease manifestation for the purpose of calculating the worker's wage.
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	3/04	9/04	3/05	This rule making will provide definitions for terms used within chapter 296-14 WAC and will identify and move definitions currently in chapter 296-20 WAC that need to be placed in chapter 296-14 WAC, such as total temporary disability. The rule will include amendment of the definition of temporary partial disability.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	4/04	10/04	4/05	This rule making will provide clarification on: <ul style="list-style-type: none"> The required elements of a valid transitional/light duty job offered from the employer of record. What is expected of the employer and worker? How to determine a worker's entitlement to time-loss compensation and loss of earning power benefits when a transitional/light duty job is offered.
Chapter 296-17 WAC	General reporting rules, classifications, audit and recordkeeping for workers' compensation insurance	Ken Woehl Employer Services (360) 902-4775	2/3/04	3/16/04	5/25/04	Amend general reporting rules and classification definitions for multiple industries as contained in the classification plan. Includes changes to the computer industry and housekeeping changes.
DIVISION: SPECIALTY COMPLIANCE SERVICES						
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	NA	1/20/04 CR-105 Expedited rule filing	3/23/04	The purpose of this rule making is to make changes to the prevailing wage rules (chapter 296-127 WAC) based on the enactment of chapter 301, Laws of 2003 (an act relating to job order contracting for public works - SSB [SHB] 1788).
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	2/3/04	3/16/04	5/1/04	The purpose of this rule making is to review WAC 296-127-01377 to clarify which prevailing wage rate applies to the application for asphalt paving subsequent to cable installation.
Chapter 296-96 WAC	Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances	Dotty Stanlaske (360) 902-6128 Josh Swanson (360) 902-5330	1/2/02	1/20/04	3/1/04	The purpose of this rule making is to: <ul style="list-style-type: none"> Make changes resulting from the enactment of chapter 98, Laws of 2002 (SHB 2629) and chapter 143, Laws of 2003 (ESSB 5942); Make substantive changes to the elevator rules that were adopted on 12/22/00 (see WSR 01-02-026); and Make clarifying and housekeeping changes.
Chapter 296-05 WAC	Apprenticeship rules	Nancy Mason (360) 902-5321 Josh Swanson (360) 902-5330	10/22/03	1/20/04	4/28/04	The purpose of this rule making is to review the apprenticeship rules (chapter 296-05 WAC) for possible changes relating to objections of apprenticeship program standards.
Chapter 296-46B WAC	Electrical safety standards, administration, and installation	Ron Fuller (360) 902-5249 Josh Swanson (360) 902-5330	7/22/03	2/17/04	4/27/04	The purpose of this rule making is to: <ul style="list-style-type: none"> Make changes resulting from the enactment of chapter 399, Laws of 2003 (ESSB 5713); Make changes resulting from the enactment of chapter 242, Laws of 2003 (SSB 5434);

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						<ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 211, Laws of 2003 (ESB 5210); • Make changes resulting from the enactment of chapter 78, Laws of 2003 (SSB 1848); • Review the rules for possible substantive changes; • Review the rules for possible fee increases; and • Make clarifying and house-keeping changes.
Chapter 296-400A WAC	Plumber certification rules	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-5330	4/17/02	2/17/04	4/1/04	<p>The purpose of this rule making is to:</p> <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 82, Laws of 2002 (ESHB 2470); • Review the rules for possible substantive changes; and • Make clarifying and house-keeping changes.
Chapter 296-400A WAC	Plumber certification rules	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-5330	7/22/03	2/17/04	4/1/04	<p>The purpose of this rule making is to:</p> <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 399, Laws of 2003 (ESSB 5713); • Review the rules for possible substantive changes; • Review the rules for possible fee increases; and • Make clarifying and house-keeping changes.
WAC 296-126-025	Deductions	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	9/30/03	2/17/04	4/1/04	<p>The purpose of this rule making is to review the rules relating to payroll deductions in WAC 296-126-025 for possible changes.</p>
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	9/30/03	2/17/04	4/1/04	<p>The purpose of this rule making is to revise WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials.</p>
Chapter 296-104 WAC	Board of boiler rules—Substantive	Robert Marvin (360) 902-5270 Josh Swanson (360) 902-5330	12/16/03	3/23/04	5/28/04	<p>The purpose of this rule making is to make clarification and technical changes to the Board of Boiler Rules—Substantive (chapter 296-104 WAC) based on actions and requests of the Board of Boiler Rules. In addition, the fees will be reviewed for possible changes.</p>
Chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, 296-150V, 296-96, 296-200A, and 296-400A WAC	Washington Administrative Codes for factory assembled structures; Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances; Contractor certificate of registration renewals—	Josh Swanson (360) 902-5330	5/6/03	3/23/04	5/28/04	<p>The purpose of this rule making is to review the fees for possible changes.</p>

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
	Security—Insurance; Electrical safety standards, administration, and installation; Board of Boiler Rules—Substantive; and Plumbers certification rules.					
Chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC	Washington Administrative Codes for factory assembled structures	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-5330	7/22/03	TBD	TBD	The purpose of this rule making is to: <ul style="list-style-type: none"> • Adopt the most recent International Building Codes based on 2003 legislative changes chapter 291, Laws of 2003 (SHB 1734) and other nationally recognized codes and standards; • Make clarifying and house-keeping changes; and • Review the rules for possible substantive changes.
Chapter 296-125 WAC	Nonagricultural employment of minors	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	9/19/01	TBD	TBD	The purpose of this rule making is to review these possible rule changes to ensure conformity with federal laws pertaining to employment of minors where those laws are more restrictive.
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-5330	7/19/00	TBD	TBD	The purpose of this rule making is to make substantive changes to the scope of work description rules that were adopted July 19, 2000 (WSR 00-15-077) with the assistance of an advisory committee. Clear rule-writing principles will be applied to these rules.

Carmen Moore
Rules Coordinator

MISC.

WSR 04-04-002

AGENDA

UNIVERSITY OF WASHINGTON

[Filed January 22, 2004, 9:02 a.m.]

**The University of Washington's
Semiannual Agenda for Rules Under Development
(Per RCW 34.05.314)
January 2004**

For more information concerning the above rules contact Rebecca Goodwin Deardorff, Director, Rules Coordination Office, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6302, campus mail Box 355509, phone (206) 543-9199, fax (206) 616-6294, or e-mail rules@u.washington.edu.

1. Rule making continues for chapter 478-116 WAC, Parking and traffic rules of the University of Washington, Seattle, during the first half of 2004.

2. Rule making will begin for chapter 478-168 WAC, Regulations for the University of Washington libraries, during the first half of 2004.

3. Rule making for a new chapter concerning shared facilities at the University of Washington, Bothell and Cascadia Community College colocated campus is anticipated during the second half of 2004.

WSR 04-04-003

AGENDA

HEALTH CARE AUTHORITY

[Filed January 22, 2004, 9:03 a.m.]

Washington State Health Care Authority
Melodie Bankers, Rules Coordinator (360) 923-2728

January 31, 2004 Semi-Annual Rule-Making Agenda

1. Approximate Preproposal Date	2. Subject Area	3. Contact/Telephone Number	Purpose of the Rule Why is this Significant?	Rule(s) Mandate	Other Agencies who may have Interest in the Subject of Rule(s)
1. Fall 2004	2. Chapter 182-50 WAC, Prescription drug program	3. Duane Thurman, (206) 521-2036	Update of rules.	SB 6088, Section 10.	MAA, L&I
1. Preproposal filed September 2003	2. Recoupment of subsidy overpayments	3. Rosanne Reynolds, (360) 923-2948	Add detail previously omitted and update processes.	No mandate.	DSHS/MAA and L&I
1. Spring 2004	2. WAC 182-12-115 (4) and (6)	3. Barbara Scott, (360) 923-2642	Defining "career seasonal/instructional employees" and "part-time faculty" consistent with settlement in <i>Mader vs. Health Care Authority</i> .		
1. January 2004	2. Premium payments and refunds	3. Barbara Scott, (360) 923-2642	Amend the rule to allow the administrator to approve refunds for up to 12 months of premium in cases where the requestor can demonstrate that extraordinary circumstances existed.	No mandate.	State agencies, state institutions of higher education and PEBB participating K-12 school districts, educational service districts and local governments.
1. February 2004	2. Group coverage when not in pay status	3. Barbara Scott, (360) 923-2642	Clarify provisions in chapters 182-08 and 182-12 WAC for continuation of health and life insurance coverage during periods of leave without pay and family medical leave.	No mandate.	State agencies, state institutions of higher education and PEBB participating K-12 school districts, educational service districts and local governments.
1. February 2004	2. Eligible dependents	3. Barbara Scott, (360) 923-2642	HCA plans to review and possibly amend dependent eligibility provisions in chapter 182-12 WAC for clarity and to update procedures and requirements.	No mandate.	State agencies, state institutions of higher education and PEBB participating K-12 school districts, educational service districts and local governments.
1. February 2004	2. Deferring coverage at or following retirement	3. Barbara Scott, (360) 923-2642	Rule clean up for readability.	No mandate.	State agencies, state institutions of higher education and PEBB participating K-12 school districts, educational service districts and local governments.
1. February 2004	2. Employer groups	3. Barbara Scott, (360) 923-2642	HCA plans to review and possibly amend eligibility provisions in subsection (4) of WAC 182-12-111 to achieve uniform eligibility rules.	No mandate.	Local governments participating in PEBB benefits.
1. February 2004	2. Appeals and hearings	3. Barbara Scott, (360) 923-2642	The rule needs revised to meet requirements of patient bill of rights (PBOR).	No mandate.	State agencies, state institutions of higher education and PEBB participating K-12 school districts, educational service districts and local governments.

Melodie Bankers
Rules Coordinator

WSR 04-04-013
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
JUDICIAL CONDUCT
 [Memorandum—January 21, 2004]

By direction of the chair of the Commission on Judicial Conduct, the 11:00 a.m., business session, previously scheduled for Friday, June 4, 2004, at the Holiday Inn Express Hotel & Suites, 19621 International Boulevard, SeaTac, WA 98188, has been changed. It will now be held on Friday, June 18, 2004, at the same time and location.

WSR 04-04-015
POLICY STATEMENT
UNIVERSITY OF WASHINGTON
 [Filed January 23, 2004, 9:47 a.m.]

The University of Washington recently published, revised, or rescinded the following policy statements:

UW Executive Order No. 36, "Patent, Invention, and Copyright Policy," revised effective October 27, 2003.

Administrative Policy Statement 59.4, "Technology Transfer," revised effective October 27, 2003.

Administrative Policy Statement 12.1, "Handling and Storage of Flammable/Combustible Liquids and other Hazardous Materials," rescinded effective December 9, 2003.

Administrative Policy Statement 16.1, "Fire Safety," effective December 9, 2003.

Administrative Policy Statement 31.6, "State Sales and Use Tax," revised effective December 9, 2003.

Administrative Policy Statement 13.1, "Emergency Management," revised effective December 15, 2003.

Administrative Policy Statement 1.5, "Open Public Meetings Act: Requirements to File Meeting Notices," revised effective December 29, 2003.

To view the UW Executive Order, go to the *University Handbook* website: <http://www.washington.edu/faculty/fac-senate/handbook/handbook.html>; to view a UW Administrative Policy Statement, go to the *Administrative Policy Statements* website: <http://www.washington.edu/admin/rules/APS/APSIndex.html>. Or, request a paper copy of any from Rebecca Goodwin Deardorff, Director, Rules Coordination Office, University of Washington at 4014 University Way N.E., Seattle, WA 98105-6203, or by e-mail at rules@u.washington.edu, or by fax at (206) 616-6294.

WSR 04-04-019
AGENDA
DEPARTMENT OF AGRICULTURE
 [Filed January 26, 2004, 10:01 a.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-05 issue of the Register.

WSR 04-04-023
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
 [Memorandum—January 26, 2004]

The board of trustees of Bates Technical College will have a special meeting on January 30, 2004, from 5:00 p.m. to approximately 7:00 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 and international travel. No action will be taken during executive session.

WSR 04-04-024
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE
 [Memorandum—January 7, 2004]

SPECIAL JOINT MEETING

TACOMA COMMUNITY COLLEGE
BOARD OF TRUSTEES
and
TACOMA PUBLIC SCHOOLS BOARD

January 26, 2004
 7:30 a.m. - 9:00 a.m.

The board of trustees of Tacoma Community College will conduct a joint meeting with Tacoma Public Schools Board at the TPS Central Office, 4th Floor Auditorium, 601 South 8th Street, Tacoma, WA, on January 26, 2004.

WSR 04-04-025
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—January 22, 2004]

On Friday, January 23, 2004, the Eastern Washington University board of trustees will meet in open session beginning at 1:00 p.m. in Tawanka Commons, Room 215, on the Cheney campus. The purpose of this meeting is to discuss university fees for FY 2005, room and board rates for 2004-2005, a request for additional spending authority within Fund 148—Ledger 2 for Academic Affairs, and the EWU strategic plan. Executive session will begin at 12:00 p.m. in Tawanka 215A.

Three committees of the board will meet Friday morning, and a quorum of the board may be present at these meetings. The academic affairs and student affairs committees will meet jointly in PUB 206 from 8:00 - 10:00 a.m. to discuss the academic strategic plan, the revised diversity policy, the faculty diversity plan and to hear an update on the diversity grant.

The advancement committee will meet in PUB 302 from 8:00 - 10:00 a.m. to hear a fundraising update, a communica-

tions report, an alumni relations report, and a campaign update.

The business and finance committee will meet in PUB 261 from 10:00 - 12:00 to discuss the FY 2004 second quarter financial reports, the FY 2004 second quarter capital reports, the residential life and housing options plan, the university fees for FY 2005, budget timelines and a request for additional expenditure authority within Fund 148. A portion of the business and finance committee meeting will be an executive session to consider the selection of a site or the acquisition of real estate by lease or purchase.

No final action will be taken on any items discussed at the committee meetings.

WSR 04-04-026
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
SERVICES FOR THE BLIND
 [Memorandum—January 23, 2004]

The date and location for the next Washington State Department of Services for the Blind community meeting is on Friday, March 5, 2004, at 4 p.m. - 6 p.m., at the Department of Services for the Blind, 3411 South Alaska Street, Seattle, WA 98118.

The date and location for the next State Rehabilitation Council meeting is on Saturday, March 6, 2004, at 9 a.m. - 4 p.m., at the Department of Services for the Blind, 3411 South Alaska Street, Seattle, WA 98118.

Agendas and information relating to specific agenda items, taped agendas, agendas in Braille, or interpreters are provided upon request by contacting Marla Oughton at the Department of Services for the Blind, at (206) 721-6430 or toll-free 1-800-552-7103 or by e-mail maroughton@dsb.wa.gov. Requests for information must be made no later than February 13, 2004. The meeting site is barrier free, including the restrooms.

Please call Marla Oughton direct at (206) 721-6430 or toll-free at (800) 552-7103 should you have any questions.

WSR 04-04-032
NOTICE OF PUBLIC MEETINGS
NOXIOUS WEED CONTROL BOARD
 [Memorandum—January 23, 2004]

The meeting schedule for the Washington State Noxious Weed Control Board for the remainder of 2004 is as follows:

March 16, Tuesday, 8:30 a.m.
 Regular Meeting
 Campbell's Resort
 104 West Woodin
 Chelan, WA

May 18, Tuesday, 8:30 a.m.
 Regular Meeting
 Civic Center Building
 322 North Commercial Street

2nd Floor
 Bellingham, WA

July 20, Tuesday, 8:30 a.m.
 Regular Meeting
 Public Service Building
 First Floor Auditorium
 North 310 Main
 Colfax, WA

September 21, Tuesday, 8:30 a.m.
 Regular Meeting
 Fellowship Hall
 430 West 3rd Street
 Newport, WA

November 16, Tuesday, 8:30 a.m.
 Regular Meeting and Hearing on 2005 Noxious
 Weed List
 Columbia Gorge Interpretive Center
 990 S.W. Rock Creek Drive
 Stevenson, WA 98648

WSR 04-04-051
AGENDA
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 30, 2004, 11:23 a.m.]

Semi-Annual Agenda for Rules Under Development
January 1, 2004 - June 30, 2004

DIVISION OF CONSUMER SERVICES

1. Chapter 208-690 WAC, Regulation of money services providers. Emergency rules for licensing in place. Plan to add examination and enforcement sections.

2. Chapter 208-630 WAC, Regulation of check cashers and sellers. Currently drafting new rules for the amended statute.

3. Chapter 208-660 WAC, Mortgage brokers and loan originators—Licensing. The rules were never amended after the last statutory amendment and are in need of updating. However, work will not begin in this area until the currently proposed statutory amendments are passed.

4. Chapter 208-620 WAC, Washington Consumer Loan Act. The rules are in need of updating and modification.

DIVISION OF CREDIT UNIONS

1. Chapter 208-418 WAC, Fees charged to credit unions and other persons. The division may increase the asset assessment fees up to the I-601 limitation for fiscal year 2005, except for credit unions under \$22 million total assets.

2. Chapter 208-460 WAC, Member business loans. The division will modernize the rules for credit unions to make member business loans. Before beginning the rule-making process, the division will apply to the National Credit Union Administration (NCUA) board for approval of the proposed changes as required by the Credit Union Membership Access Act of 1998. The requirement stipulates all state regulators obtain NCUA board approval on state rules for member business lending.

MISC.

3. Debt cancellation contracts - new rule. The division is in the process of meeting with an industry debt cancellation contracts task force. The task force may suggest guidance for debt cancellation contracts. Subsequently, rule making may be initiated on debt cancellation.

DIVISION OF SECURITIES

1. WAC 208-680G-050 Examination and investigation fees and expense. Amendments to clarify that both in-state and out-of-state licensees may be charged for examinations and investigations. This is necessary in order to make the escrow licensing program self-supporting.

2. Escrow - Trust account procedures. Adoption of a new rule, WAC 208-680E-025, concerning periodic reporting to help the division monitor compliance with chapter 18.44 RCW.

3. WAC 208-680F-020 Errors and omissions policy. Amendments are needed to clarify the types of securities that may be substituted for the errors and omissions policy required by RCW 18.44.201 for escrow agents and officers.

4. WAC 208-680G-060. A new rule would state that the failure to comply with an applicable provision of RESPA would constitute an unfair and deceptive practice under RCW 18.44.301. This will clarify the director's authority to enforce RESPA where appropriate.

WSR 04-04-057

AGENDA

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed January 30, 2004, 3:23 p.m.]

Following please find OMWBE's Rules Development Agenda for January through June 2004 to be published in the state register.

If you have any questions regarding the agenda, you may contact Cathy V. Canorro, OMWBE's Rules Coordinator, at (360) 704-1187 or ccanorro@omwbe.wa.gov.

Rules Development Agenda for January through June 2004

WAC	RCW	AUTHORITY	SUBJECT	CONTACT - Rules Coordinator	WSR/DATE
Pre-CR-101¹					
326-30-030	39.19.030	39.19.030	Establish annual state agency goals.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	None
326-02, 326-07 and 326-20	43.19.525	43.19.525	Establish ownership and control review process and standards for vendors in good standing.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	None
CR-101 Filed²					
326-20-034	39.19.220	39.19.220	Revision of local jurisdiction fee calculation formula.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	WSR 04-02 [04-02-044]
CR-102 Filed³					
326-02, 326-07 and 326-20	39.19.120	39.19.120	Add social and economic disadvantage business enterprise to state program.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	WSR 03-23-122
326-20-092	39.19.030	39.19.030	Revision of state program size standard; adoption of NAICS Code for state program.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	WSR 03-23-123
326-20-125	39.19.210	39.19.210	Increase processing fees.	Cathy V. Canorro 1-866-208-1064 (toll free) ccanorro@omwbe.wa.gov	WSR 03-23-124
Pending Adoption⁴					
None					

¹ Pre-CR-101: OMWBE is considering rule making but the statement of inquiry has not been filed with the Code Reviser's Office.

² CR-101: The statement of inquiry has been filed with the Code Reviser's Office.

³ Pending Hearing/CR-102 Filed: The CR-102 and proposed rule has been filed but the public hearing has not yet been held.

⁴ Pending Adoption: The public hearing has been held but the rule is not yet adopted.

Carolyn Crowson
Director

MISC.

WSR 04-04-058
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—January 30, 2004]

BOARD OF TRUSTEES
ANNOUNCEMENT
 of
Higher Education Governing Boards' Joint Assembly

January 29, 2004
10:00 a.m. - 3:45 p.m.
Bell Harbor Conference Center
2211 Alaskan Way, Pier 66
Seattle, WA

A quorum of the board of trustees of Eastern Washington University will join members of the boards of trustees and

regents from the other public higher education institutions to participate in a special meeting to discuss issues important to the future of higher education in Washington state. No public policy action will be taken at this meeting.

WSR 04-04-059
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
 [Memorandum—January 29, 2004]

The board of trustees of Bates Technical College will have a special meeting on February 5, 2004, from 2:00 p.m. to approximately 3:00 p.m. in the Instruction Office Conference Room, 1101 South Yakima Avenue, Tacoma. The board will meet for the purpose of discussing the exit conference for our audit. No action will be taken.

WSR 04-04-062
AGENDA
EMPLOYMENT SECURITY DEPARTMENT
 [Filed February 2, 2004, 9:59 a.m.]

The Employment Security Department rule making agenda is submitted for publication in the Washington State Register in accordance with RCW 34.05.314.

Employment Security Department
Semi-Annual Rule-Making Agenda
January 31, 2004 - July 31, 2004

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Title 192 WAC	Benefits rules	Juanita Myers (360) 902-9665	CR-101 - 7/03 CR-102 - 2/04 Hearing - 4/04	Amend existing rules and adopt new rules as needed to implement unemployment benefits provisions of 2ESB 6097. Topics include job separations, penalties, job search requirements, calculation of benefits, and part-time workers.
Title 192 WAC	Tax rules	Juanita Myers (360) 902-9665	CR-101 - 7/03 CR-102 - 2/04 Hearing - 4/04	Amend existing rules and adopt new rules as needed to implement unemployment tax provisions of 2ESB 6097. Topics include voluntary contributions, benefit charging, penalties, and successor employers.
Chapter 192-210 WAC	Special category occupations <i>(referral union members)</i>	Juanita Myers (360) 902-9665	CR-101 - 2/02 CR-102 - 3/04 Hearing - To be determined	Adopt rules to clarify job search and availability requirements for individual members of full referral unions. Clarify requirements of unions participating in the referral union program.
Chapter 192-170 WAC Chapter 192-180 WAC	Availability to accept work; job search requirements	Karen Malo (360) 902-0918	CR-101 - 8/02 CR-102 - 4/04 Hearing - To be determined	Adopt rules to clarify job search and availability requirements for individuals who leave work to protect themselves or a member of their immediate family from domestic violence or stalking.
Chapter 192-250 WAC	Shared work	Juanita Myers (360) 902-9665	CR-101 - 5/03 CR-102 - 6/04	Amend and adopt rules to modify eligibility requirements for employers and participants applying for the Shared Work program, clarify expectations of participating employers, address the number of consecutive plans an employer may have, and define terms.

MISC.

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 192-270 WAC	Training benefits for dislocated workers	Juanita Myers (360) 902-9665	CR-101 - 4/04	Amend WAC 192-270-035 to clarify application and enrollment deadlines. Amend WAC 192-270-050 to clarify the requirement that having a current benefit year is a prerequisite for having a training plan approved.
Title 192 WAC	Various	Juanita Myers (360) 902-9665	CR-105 - 5/04	Expedited adoption of various house-keeping measures, correcting typographical errors or editing for clarity.

Larry Oline
Rules Coordinator

WSR 04-04-063
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE
[Memorandum—February 2, 2004]

BOARD OF TRUSTEES
COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE

Skagit Valley College
2405 East College Way
Mount Vernon, WA 98273

Monday, February 2, 2004
6:30 p.m.
Portofino's Restaurant
101 Division Street N.W.
Olympia, WA

The board of trustees of Skagit Valley College, Bellingham Technical College and Whatcom Community College, will hold a special dinner meeting on Monday, February 2, 2004, at 6:30 p.m., with legislators from the 10th, 39th, 40th and 42nd districts. The meeting will be held at Portofino's Restaurant, 101 Division Street N.W. in Olympia. No action will be taken.

WSR 04-04-064
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Blueberry Commission)
[Memorandum—January 30, 2004]

At the January 20, 2004, meeting of the Washington Blueberry Commission, the following meeting dates were set for the year:

April 19, 2004	Chicona Room WSU Puyallup, Washington	10:00 a.m.
June 14, 2004	Chicona Room WSU Puyallup, Washington	10:00 a.m.

October 11, 2004	Chicona Room WSU Puyallup, Washington	10:00 a.m.
January 10, 2005	Chicona Room WSU Puyallup, Washington	10:00 a.m.

WSR 04-04-065
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
[Memorandum—January 30, 2004]

The board of trustees of Bates Technical College will meet in special session on February 18, 2004, from 11:00 a.m. to approximately 3:00 p.m. in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma. The trustees will go immediately into executive session for the purpose of considering award, denial or extension of tenure. The board will reconvene the regular public meeting prior to taking any action.

WSR 04-04-066
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
[Memorandum—January 30, 2004]

The board of trustees of Bates Technical College has moved its regularly scheduled meeting of February 18, 2004, to the Clyde Hupp Board Room at Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405. The regular meeting will begin at 3:00 p.m. The board of trustees will also move its regularly scheduled meeting of March 17, 2004, to the Mohler Campus, 2320 South 19th Street, Tacoma, WA 98405. That regular meeting will also begin at 3:00 p.m.

MISC.

WSR 04-04-077
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed February 2, 2004, 4:31 p.m.]

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 and as was distributed to all state and local agencies, other interested parties, and posted on the internet on February 2, 2004, the industrial statistician has determined the statewide prevailing rates of wage. These prevailing rates of wage are effective for public works projects bid on or after March 3, 2004.

Every contractor and subcontractor on every public works project must file a statement of intent to pay prevailing wages and an affidavit of wages paid. Both forms must be filed on every project. The filing of the affidavit of wages paid does not set aside the requirement to also file the statement of intent to pay prevailing wages. The department may fine contractors \$500 for failure to file these forms.

For more information on prevailing wage or a copy of the rates please visit our website at www.lni.wa.gov/prevailingwage or call (360) 902-5335.

Josh Swanson
 Prevailing Wage Manager
 Industrial Statistician

WSR 04-04-079
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—January 30, 2004]

Following is an *amended* 2004 schedule for meetings of the Washington State Human Rights Commission.

Please contact Tanya Y. Calahan at (360) 753-4876 or tcalahan@hum.wa.gov if you have questions or need additional information.

COMMISSION MEETING DATES AND LOCATIONS
FOR 2004 - AMENDED

DATES	LOCATION
January 23 (Friday)	SeaTac
February 27 (Friday)	SeaTac
March 26 (Friday)	SeaTac
April 29-30 (Thursday and Friday)	Bellingham
May 21 (Friday)	SeaTac
June 24-25 (Thursday and Friday)	Spokane
July 23 (Friday)	SeaTac
August 27 (Friday)	Olympia (conference call)
September 23-24 (Thursday and Friday)	Pasco
October 28-29 (Thursday and Friday)	Olympia
November 19 (Friday)	Olympia (conference call)
December 17 (Friday)	Olympia (conference call)

Adopted in open meeting by the Washington State Human Rights Commission January 23, 2004.

WSR 04-04-080
NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF

[Memorandum—January 28, 2004]

The location of the Washington School for the Deaf (WSD) board of trustees meeting, scheduled for February 12, 2004, has changed.

Both the board meeting and the work study group (scheduled for February 13, 2004) will now be held on the WSD campus.

WSR 04-04-081
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON

[Memorandum—February 2, 2004]

The following list represents the regular meeting notices submitted to the Office of Public Records and Open Public Meetings for 2004. [The items in bold are additions to the list dated January 15, 2004.]

Regular Meetings 2004

Committee	Chair
Animal Care & Use Committee	
Applied Mathematics	Ka Kit Tung
ASUW Board of Directors	
ASUW Senate	
Bioengineering	Dr. Yongmin Kim
Board of Regents	
Chemical Engineering	Eric M. Stuve
Classics	James J. Clauss
Communication	Gerald Baldasty
Comparative Medicine	Dr. Melvin B. Dennis, Jr.
Dental Public Health Sciences	Douglas S. Ramsay
Dental School, Faculty Council	Michael Martin
Drama	Arlene Hamilton
Evans School of Public Affairs	Sandra Archibald
Faculty Women	
Forest Resources Faculty	Rick Gustafson
Genome Sciences	Robert H. Waterston
Geography	James Harrington
Graduate School Council	
Harborview, Board of Trustees	
History	John Findlay
Immunology	Chris Wilson

MISC.

Committee	Chair
Information School	Mike Eisenberg
Law School	
Material Science and Engineering	Rajendra K. Bordia
Mathematics	Selim Tuncel
Mechanical Engineering Faculty	Bruce Adee
Medical Education & Biomedical Informatics	Fred Wolf
Medical History and Ethics	Dr. Wylie Burke
Medicine Board-UWMC Specific Committees	Dennis Okamoto
Near Eastern Languages & Civilization	Michael Williams
Neurological Surgery	
Nursing, Ad Hoc Committee	
Nursing, APT Committee	E. Bond
Nursing, Deans and Chairs	Nancy F. Woods
Nursing, Dept. Faculty for BNHS	M. Heitkemper
Nursing, Dept. Faculty for FCN	K. Swanson
Nursing, Dept. Faculty for PCH	B. Berkowitz
Nursing, Faculty Council	B. Belza
Nursing, Faculty Meeting	B. Belza
Nursing, Faculty Retreat	S. Elmore
Nursing, Governing Council	Nancy F. Woods
Obstetrics & Gynecology, Executive/Finance	
Obstetrics & Gynecology, Faculty Meetings	
Oceanography	Bruce Frost
Oral Medicine	Edmond Truelove, DDS, MSD
Oral Medicine Clinical Services	Edmond Truelove, DDS, MSD
Orthopaedics & Sports Medicine, Budget Council	Frederick A. Matsen III, M.D.
Orthopaedics & Sports Medicine, Exec. Sessions	Frederick A. Matsen III, M.D.
Orthopaedics & Sports Medicine, Faculty Meetings	Frederick A. Matsen III, M.D.
Pathobiology	Ken Stuart
Pathology	Nelson Fausto, M.D.
Periodontics	Murray R. Robinovitch
Pharmacy, Curriculum Committee	Valerie Daggett
Pharmacy, Exec. Committee	Sid Nelson
Pharmacy, Faculty	Danny Shen
Philosophy	Kenneth Clatterbaugh
Physics	David Boulware

Committee	Chair
Physiology and Biophysics	Stan Froehner
Portage Bay Insurance BOD Meeting	
Portage Bay Insurance Membership Meeting	
Portage Bay Insurance Public Meetings	
Psychiatry Advisory Committee	Richard Veith
Psychology	Ana Mari Cauce
Public Health Executive Committee	Patricia Wahl
Rehab Medicine	Lawrence R. Robinson, M.D.
Scandinavian Studies	Terje Leiren
Services & Activities Fee Committee	
Statistics	Peter Guttorp
Tacoma, Building and Facility Use	Linda Schmitz
Tacoma, Business	Dr. Patricia Fandt
Tacoma, Education	Sara Contera
Tacoma, Faculty Assembly IAS	Michael C. Kalton
Tacoma, Institute of Technology	Dr. Larry Crum
Tacoma, Review and Approval Process for Programs	Jack Nelson
Tacoma, Social Work Program, Dept.	Marcie Lazzari
Tacoma, Social Work Program, Faculty	Terri Simonsen
Washington Technology Center, Board of Directors	Lee Cheatham
Women's Studies	Judith Howard

[These schedules are available for public inspection at the Office of Public Records and Open Public Meetings, 4014 University Way N.E., Seattle, WA 98105-6203, phone (206) 543-9180, fax (206) 616-6294, e-mail pubrec@u.washington.edu, campus mail Box 355502.]

WSR 04-04-082
OFFICE OF THE GOVERNOR
 [Filed February 3, 2004, 11:06 a.m.]

NOTICE OF APPEAL
 RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On January 30, 2004, the Governor received a petition from James R. Hardman, guardian of Michael Parsons and Randolph Getchman who are residents of Fircrest, asking for the repeal of emergency rules contained in WSR 04-02-010,

and adopted by the Department of Social and Health Services on December 24, 2003.

DATE: January 30, 2004

Jennifer Joly
General Counsel to the Governor

WSR 04-04-102
OFFICE OF
INSURANCE COMMISSIONER

[Filed February 4, 2004, 8:39 a.m.]

In the Matter of	)	No. G2003-93
	)	No. G2003-94
FAMILY LIFE INSURANCE COM-	)	(Consolidated pro-
PANY AND INVESTORS LIFE	)	ceedings)
INSURANCE COMPANY OF	)	NOTICE OF HEARING
AMERICA.	)	ON APPLICATIONS
	)	FOR REDOMESTICA-
	)	TION
Insurers.)	

TO: Eugene E. Payne, President
Investors Life Insurance Company of North
America and Family Life Insurance Company
PO Box 149138
Austin, TX 78714-9138

Barry Senterfitt, Attorney at Law
Akin Gump Strauss Hauer & Feld, LLP
300 West 6th Street, Suite 2100
Austin, TX 78701-2916

Melvin Sorensen, Attorney at Law
Carney Bradley Smith & Spellman, P.S.
700 Fifth Avenue, Ste. 5800
Seattle, WA 98104-5017
Carol Sureau, Deputy Commissioner,
Legal Affairs
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

AND TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson,
Chief Deputy Insurance Commissioner
James T. Odiorne, Deputy Commissioner,
Company Supervision
Marshall McGinnis, Company Licensing Manager
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On September 12, 2003, Family Life Insurance Company (Family Life) and Investors Life Insurance Company of North America (Investors Life) each filed an Application for Redomestication.

Pursuant to RCW 48.07.210(2), Family Life and Investors Life seek the approval of the Washington State Insurance

Commissioner (Commissioner) to transfer their corporate domicile from Washington State to the state of Texas.

Family Life and Investors Life are Washington domestic insurance companies. Because they are affiliated companies and are both wholly owned subsidiaries of a single parent corporation, Financial Industries Corporation, the undersigned has consolidated these proceedings.

The Redomestication of Family Life and Investors Life are controlled by RCW 48.07.210(2). Pursuant to RCW 48.07.210(2), [t]he commissioner shall approve any proposed transfer of domicile unless the commissioner determines after a hearing, pursuant to such notice as the commissioner may require, that the transfer is not in the best interests of the public or the insurer's policyholders in this state. On September 24, 2003, pursuant to RCW 48.04.010(1), the undersigned received a request for hearing from the Commissioner.

The hearing will be held under the authority granted the Commissioner by Chapter 48.04 RCW and RCW 48.07.210. As above, RCW 48.07.210 indicates the findings which must be made before approval will be given to these Applications for Redomestication.

YOU ARE HEREBY NOTIFIED that the hearing in this matter will be held commencing on March 1, 2004, at the hour of 9:00 a.m. Pacific Standard Time. The purpose of this hearing, which will include all parties, is to consider the Applications for Redomestication of Family Life and Investors Life. Pursuant to RCW 48.07.210, approval of these applications are conditioned, in part, upon a finding by the undersigned, based upon evidence presented by testimony and documents at the hearing, that there has been reasonable notice given, and that the redomestications are in the best interests of the public and Family Life's and Investors Life's Washington policyholders. The Commissioner must present evidence as to whether reasonable notice has been given and whether he believes that the redomestications are in the best interests of the public and Family Life's and Investors Life's Washington policyholders. Family Life and Investors Life must present evidence regarding whether they believe that the redomestications are in the best interests of the public and Washington policyholders. Particular attention will be given to evidence from Family Life and Investors Life as to whether, and by what means, Washington policyholders' current rights and privileges will be protected if the redomestications are granted. Said evidence on the part of Family Life and Investors Life should be through live testimony as well as written affidavits.

The Commissioner will be represented by Carol Sureau, Esq., Deputy Commissioner of Legal Affairs, Office of the Insurance Commissioner. Her mailing address is P.O. Box 40255, Olympia, WA 98504-0255 and telephone number is (360) 725-7050. Family Life and Investors Life will be represented by Melvin Sorensen, Esq. His mailing address is 700 Fifth Avenue, Ste. 5800, Seattle, WA 98104-5027 and telephone number is (206) 622-8020.

Please note that any interested individual or entity may indicate his/her or its support, or objection, to these pro-

MISC.

posed redomestications by submitting a letter on or before

February 27, 2004 to the undersigned at the above address or by e-mail to Charlene Bowman, Administrative Assistant to the undersigned, at CharB@oic.wa.gov. Interested individuals and entities may include in their letters a request to be included in the hearing by telephone or in person in order to present their positions orally.

The basic facts relied upon are those set forth in the Applications for Redomestication of Family Life and Investors Life, with attachments primarily concerning its financial affairs, corporate structure and past history, which have been filed with the Commissioner. The Applications, with attachments, will be made part of the record of this proceeding. The Commissioner has not taken, and will not take, any position in this matter prior to entry of the Final Findings of Facts, Conclusions of Law and Order.

All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

Patricia D. Petersen, Presiding Officer, who serves as Chief Hearing Officer for the Office of the Insurance Commissioner, has been designated to hear and determine this matter. Her address is Office of Insurance Commissioner, PO Box 40255, Olympia, WA 98504-0255. Her telephone number is (360) 725-7105. All interested individuals and entities who have questions or concerns about this proceeding should direct them to her Administrative Assistant, Charlene Bowman, at the same address. Ms. Bowman's telephone number is (360) 725-7002.

On October 15, 2003, the undersigned held a second prehearing conference in this matter, and subsequently scheduled the hearing to commence on December 8, 2003. On November 26, 2003, Family Life and Investors Life presented, and was granted, their motion to continue the hearing in this matter indefinitely, for the reason that they were reconsidering their applications for redomestication. On January 15, 2004, Family Life and Investors Life filed, and were granted, their motion to reschedule the hearing in this matter, indicating that it had determined to continue their applications for redomestication at this time. The Commissioner did not oppose either motion.

Pursuant to WAC 10-08-040(2), and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. Following this Notice is a form you may use to advise the Chief Hearing Officer of your need for an interpreter.

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

ORDER

Based upon the above,

IT IS HEREBY ORDERED that the adjudicative hearing in this matter shall commence on March 1, 2004 at the hour of 9:00 a.m. in the Office of the Insurance Commissioner, 5000 Capitol Way, Olympia, Washington, or at such other time as may be designated by the undersigned.

A complete copy of this Notice of Hearing shall be published in the next edition of the Washington State Register, which is scheduled for distribution on February 18, 2004. Further, a complete copy of this Notice of Hearing shall be published on the Commissioner's internet, which is available to the public, immediately and shall remain there until entry of the Final Order herein.

ENTERED AT OLYMPIA, WASHINGTON, this 2nd day of February, 2004.

PATRICIA D. PETERSEN
Presiding Officer

WSR 04-04-103
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
[Memorandum—February 2, 2004]

In compliance with the Open Public Meetings Act, this letter serves as notice that the board of trustees of Shoreline Community College will hold a special meeting on Monday, March 8, beginning at 12:00 p.m. in the Central Conference Room of the Administration Building 1000.

We will also notify local area media of this special meeting.

The purpose of the special meeting is for the board of trustees to meet with chairs of the Appointment Review Committees for the third-year tenure track instructors prior to taking any action to award tenure at their monthly board meeting on March 17, 2004.

Please call (206) 546-4552 or e-mail Michele Foley at mfoley@ctc.edu if you have further questions or need additional clarification.



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
1- 21-070	AMD	04-02-071	16-230-845	PREP	04-03-004	16-231-235	PREP	04-03-004
16- 08-003	NEW	04-02-063	16-230-850	PREP	04-03-004	16-231-300	PREP	04-03-004
16- 08-004	NEW	04-02-063	16-230-855	PREP	04-03-004	16-231-305	PREP	04-03-004
16-228-1220	PREP	04-03-005	16-230-860	PREP	04-03-004	16-231-310	PREP	04-03-004
16-228-1231	PREP	04-03-004	16-230-861	PREP	04-03-004	16-231-315	PREP	04-03-004
16-228-1250	PREP	04-03-004	16-230-862	PREP	04-03-004	16-231-320	PREP	04-03-004
16-230-400	PREP	04-03-004	16-230-863	PREP	04-03-004	16-231-325	PREP	04-03-004
16-230-410	PREP	04-03-004	16-230-864	PREP	04-03-004	16-231-330	PREP	04-03-004
16-230-420	PREP	04-03-004	16-230-866	PREP	04-03-004	16-231-335	PREP	04-03-004
16-230-430	PREP	04-03-004	16-230-868	PREP	04-03-004	16-231-400	PREP	04-03-004
16-230-440	PREP	04-03-004	16-231-100	PREP	04-03-004	16-231-405	PREP	04-03-004
16-230-450	PREP	04-03-004	16-231-105	PREP	04-03-004	16-231-410	PREP	04-03-004
16-230-460	PREP	04-03-004	16-231-107	PREP	04-03-004	16-231-413	PREP	04-03-004
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16-230-625	PREP	04-03-004	16-231-140	PREP	04-03-004	16-231-515	PREP	04-03-004
16-230-630	PREP	04-03-004	16-231-145	PREP	04-03-004	16-231-520	PREP	04-03-004
16-230-635	PREP	04-03-004	16-231-149	PREP	04-03-004	16-231-525	PREP	04-03-004
16-230-640	PREP	04-03-004	16-231-153	PREP	04-03-004	16-231-530	PREP	04-03-004
16-230-645	PREP	04-03-004	16-231-156	PREP	04-03-004	16-231-600	PREP	04-03-004
16-230-650	PREP	04-03-004	16-231-159	PREP	04-03-004	16-231-605	PREP	04-03-004
16-230-655	PREP	04-03-004	16-231-162	PREP	04-03-004	16-231-610	PREP	04-03-004
16-230-660	PREP	04-03-004	16-231-165	PREP	04-03-004	16-231-613	PREP	04-03-004
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16-230-810	PREP	04-03-004	16-231-183	PREP	04-03-004	16-231-715	PREP	04-03-004
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16-230-835	PREP	04-03-004	16-231-225	PREP	04-03-004	16-231-815	PREP	04-03-004
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16-231-835	PREP	04-03-004	16-536-060	AMD-P	04-04-107	192- 12-180	REP-E	04-02-039
16-231-840	PREP	04-03-004	51- 04-030	AMD-X	04-03-034	192- 12-184	REP-E	04-02-039
16-231-900	PREP	04-03-004	51- 13-106	AMD-X	04-03-033	192- 12-190	REP-E	04-02-039
16-231-905	PREP	04-03-004	51- 13-201	AMD-X	04-03-033	192- 12-300	REP-E	04-02-039
16-231-910	PREP	04-03-004	51- 13-302	AMD-X	04-03-033	192- 12-310	REP-E	04-02-039
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16-231-930	PREP	04-03-004	51- 13-503	AMD-X	04-03-033	192- 16-015	AMD-E	04-02-039
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16-232-007	PREP	04-03-004	131- 16-092	AMD-P	04-04-033	192- 23-014	REP-E	04-02-039
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16-232-053	PREP	04-03-004	180- 18-090	NEW	04-04-093	192- 28-120	REP-E	04-02-039
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192-220-010	NEW-E	04-02-039	220- 33-01000R	NEW-E	04-04-071	246-290-480	AMD	04-04-056
192-220-020	NEW-E	04-02-039	220- 33-01000R	REP-E	04-04-071	246-290-601	AMD	04-04-056
192-220-030	NEW-E	04-02-039	220- 44-05000A	NEW-E	04-03-010C	246-290-630	AMD	04-04-056
192-230-100	NEW-E	04-02-039	220- 44-05000Z	REP-E	04-03-010C	246-290-660	AMD	04-04-056
192-240-035	AMD-E	04-02-039	220- 52-04600D	REP-E	04-03-049	246-290-664	AMD	04-04-056
192-240-040	AMD-E	04-02-039	220- 52-04600G	NEW-E	04-03-049	246-290-666	AMD	04-04-056
192-300-050	AMD-E	04-02-039	220- 52-07100D	NEW-E	04-03-031	246-290-72010	AMD	04-04-056
192-310-010	AMD-E	04-02-039	220- 52-07300J	REP-E	04-03-010B	246-290-72012	AMD	04-04-056
192-310-025	AMD-E	04-02-039	220- 52-07300K	NEW-E	04-03-010B	246-808-190	PREP	04-02-064
192-310-030	AMD-E	04-02-039	220- 52-07300K	REP-E	04-03-074	246-808-535	PREP	04-02-064
192-320-070	AMD-E	04-02-039	220- 52-07300L	NEW-E	04-03-074	246-828-030	REP	04-02-068
192-320-075	NEW-E	04-02-039	220- 56-35000Q	NEW-E	04-03-010A	246-828-045	AMD	04-02-068
192-340-100	NEW-E	04-02-039	220- 56-36000W	NEW-E	04-03-048	246-828-055	REP	04-02-068
196- 09	AMD	04-04-001	220- 56-36000W	REP-E	04-03-048	246-828-061	REP	04-02-068
196- 09-010	AMD	04-04-001	220- 56-38000G	NEW-E	04-03-010A	246-828-070	REP	04-02-068
196- 09-050	NEW	04-04-001	220-110-035	PREP	04-04-008	246-828-075	AMD	04-02-068
196- 09-055	NEW	04-04-001	230- 30-072	AMD-P	04-02-045	246-828-090	AMD	04-02-068
196- 09-060	NEW	04-04-001	230- 40-070	PREP	04-04-061	246-828-095	AMD	04-02-068
196- 09-100	NEW	04-04-001	230- 40-120	AMD-C	04-04-036	246-828-100	AMD	04-02-068
196- 09-110	NEW	04-04-001	232- 28-271	AMD	04-03-026	246-828-105	AMD	04-02-068
196- 09-120	NEW	04-04-001	232- 28-61900G	NEW-E	04-03-047	246-828-220	AMD	04-02-068
196- 12-005	NEW	04-04-001	232- 28-61900G	REP-E	04-03-047	246-828-270	AMD	04-02-068
196- 12-010	AMD	04-04-001	232- 28-61900G	REP-E	04-04-028	246-828-290	AMD	04-02-068
196- 12-020	AMD	04-04-001	232- 28-61900H	NEW-E	04-04-028	246-828-320	AMD	04-02-068
196- 12-030	AMD	04-04-001	232- 28-61900H	REP-E	04-04-028	246-828-330	AMD	04-02-068
196- 12-045	AMD	04-04-001	232- 28-61900I	NEW-E	04-04-060	246-828-350	AMD	04-02-068
196- 12-050	AMD	04-04-001	246- 50-001	AMD-W	04-02-066	246-828-500	AMD	04-02-068
196- 12-055	NEW	04-04-001	246- 50-005	NEW-W	04-02-066	246-828-550	AMD	04-02-068
196- 12-065	NEW	04-04-001	246- 50-010	AMD-W	04-02-066	246-828-990	AMD	04-02-068
196- 16-006	NEW	04-04-001	246- 50-020	AMD-W	04-02-066	246-840-990	AMD	04-04-054
196- 16-007	AMD	04-04-001	246- 50-030	AMD-W	04-02-066	246-887-160	AMD-X	04-03-105
196- 16-010	AMD	04-04-001	246- 50-035	NEW-W	04-02-066	246-915-085	AMD-P	04-03-104
196- 16-020	AMD	04-04-001	246- 50-040	REP-W	04-02-066	246-915-182	NEW-P	04-03-119
196- 16-031	AMD	04-04-001	246- 50-990	AMD-W	04-02-066	246-915-210	AMD-P	04-03-107
196- 16-035	NEW	04-04-001	246-232-020	AMD	04-04-055	246-915-220	AMD-P	04-03-107
196- 20-005	NEW-P	04-04-027	246-232-040	AMD	04-04-055	246-915-230	AMD-P	04-03-107
196- 20-010	AMD-P	04-04-027	246-232-050	AMD	04-04-055	246-915-240	AMD-P	04-03-107
196- 20-020	AMD-P	04-04-027	246-232-060	AMD	04-04-055	246-915-250	AMD-P	04-03-107
196- 20-030	AMD-P	04-04-027	246-233-001	AMD	04-04-055	246-915-260	AMD-P	04-03-107
196- 21-005	NEW	04-04-001	246-233-005	NEW	04-04-055	246-915-270	AMD-P	04-03-107
196- 21-010	AMD	04-04-001	246-233-015	NEW	04-04-055	246-915-280	AMD-P	04-03-107
196- 21-020	AMD	04-04-001	246-233-020	AMD	04-04-055	246-919-110	AMD	04-04-067
196- 21-030	AMD	04-04-001	246-233-025	NEW	04-04-055	246-919-320	AMD	04-04-067
196- 23-070	AMD	04-04-001	246-233-030	NEW	04-04-055	246-919-330	AMD-W	04-04-078
196- 24-041	REP	04-04-001	246-233-035	NEW	04-04-055	246-919-360	AMD	04-04-067
196- 24-080	REP	04-04-001	246-233-040	NEW	04-04-055	246-919-480	PREP	04-03-106
196- 24-085	REP	04-04-001	246-235-093	AMD	04-04-055	250- 20-041	AMD-P	04-03-108
196- 24-100	REP	04-04-001	246-235-095	AMD	04-04-055	260- 24-650	AMD-P	04-04-045
196- 24-105	REP	04-04-001	246-235-097	AMD	04-04-055	260- 36-120	AMD-P	04-04-046

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
260-40-160	AMD-P	04-04-047	296-23-392	NEW	04-04-029	296-24-19514	REP-P	04-03-085
260-48-620	AMD-P	04-04-048	296-24-110	REP-P	04-03-102	296-24-19517	REP-P	04-03-085
260-48-890	AMD-P	04-04-048	296-24-11001	REP-P	04-03-102	296-24-197	REP-P	04-03-085
260-48-900	AMD-P	04-04-048	296-24-11003	REP-P	04-03-102	296-24-200	REP-P	04-03-085
260-48-910	AMD-P	04-04-048	296-24-11005	REP-P	04-03-102	296-24-20001	REP-P	04-03-085
284-74-400	NEW	04-04-070	296-24-11007	REP-P	04-03-102	296-24-20003	REP-P	04-03-085
284-74-410	NEW	04-04-070	296-24-11009	REP-P	04-03-102	296-24-20005	REP-P	04-03-085
284-74-420	NEW	04-04-070	296-24-11011	REP-P	04-03-102	296-24-20007	REP-P	04-03-085
284-74-430	NEW	04-04-070	296-24-11013	REP-P	04-03-102	296-24-20009	REP-P	04-03-085
284-74-440	NEW	04-04-070	296-24-11015	REP-P	04-03-102	296-24-20011	REP-P	04-03-085
284-74-450	NEW	04-04-070	296-24-11017	REP-P	04-03-102	296-24-20013	REP-P	04-03-085
284-74-460	NEW	04-04-070	296-24-119	REP-P	04-03-102	296-24-20015	REP-P	04-03-085
287-01-030	AMD	04-03-114	296-24-150	REP-P	04-03-085	296-24-20017	REP-P	04-03-085
287-02-030	AMD	04-03-114	296-24-15001	REP-P	04-03-085	296-24-20019	REP-P	04-03-085
287-02-130	AMD	04-03-114	296-24-15003	REP-P	04-03-085	296-24-20021	REP-P	04-03-085
296-05-007	AMD-P	04-04-014	296-24-15005	REP-P	04-03-085	296-24-205	REP-P	04-03-085
296-05-008	NEW-P	04-04-014	296-24-15007	REP-P	04-03-085	296-24-20501	REP-P	04-03-085
296-17	PREP	04-04-098	296-24-15009	REP-P	04-03-085	296-24-20503	REP-P	04-03-085
296-17	PREP	04-04-100	296-24-165	REP-P	04-03-085	296-24-20505	REP-P	04-03-085
296-19A-210	AMD-S	04-03-035	296-24-16501	REP-P	04-03-085	296-24-20507	REP-P	04-03-085
296-19A-480	AMD-S	04-03-035	296-24-16503	REP-P	04-03-085	296-24-20509	REP-P	04-03-085
296-20-01002	AMD-P	04-03-082	296-24-16505	REP-P	04-03-085	296-24-20511	REP-P	04-03-085
296-20-02704	AMD-P	04-03-082	296-24-16507	REP-P	04-03-085	296-24-20513	REP-P	04-03-085
296-20-02705	AMD-P	04-03-082	296-24-16509	REP-P	04-03-085	296-24-20515	REP-P	04-03-085
296-20-03011	AMD-P	04-03-082	296-24-16511	REP-P	04-03-085	296-24-20517	REP-P	04-03-085
296-20-03012	AMD-P	04-03-082	296-24-16513	REP-P	04-03-085	296-24-20519	REP-P	04-03-085
296-20-200	AMD	04-04-029	296-24-16515	REP-P	04-03-085	296-24-20521	REP-P	04-03-085
296-20-2010	NEW	04-04-029	296-24-16517	REP-P	04-03-085	296-24-20523	REP-P	04-03-085
296-20-2015	NEW	04-04-029	296-24-16519	REP-P	04-03-085	296-24-20525	REP-P	04-03-085
296-20-2025	NEW	04-04-029	296-24-16521	REP-P	04-03-085	296-24-20527	REP-P	04-03-085
296-20-2030	NEW	04-04-029	296-24-16523	REP-P	04-03-085	296-24-20529	REP-P	04-03-085
296-20-210	REP	04-04-029	296-24-16525	REP-P	04-03-085	296-24-20531	REP-P	04-03-085
296-23-255	REP	04-04-029	296-24-16527	REP-P	04-03-085	296-24-20533	REP-P	04-03-085
296-23-260	REP	04-04-029	296-24-16529	REP-P	04-03-085	296-24-20699	REP-P	04-03-085
296-23-265	REP	04-04-029	296-24-16531	REP-P	04-03-085	296-24-20700	REP-P	04-03-085
296-23-26501	REP	04-04-029	296-24-16533	REP-P	04-03-085	296-24-20710	REP-P	04-03-085
296-23-26502	REP	04-04-029	296-24-16535	REP-P	04-03-085	296-24-20720	REP-P	04-03-085
296-23-26503	REP	04-04-029	296-24-16537	REP-P	04-03-085	296-24-20730	REP-P	04-03-085
296-23-26504	REP	04-04-029	296-24-16539	REP-P	04-03-085	296-24-69003	AMD-P	04-03-085
296-23-26505	REP	04-04-029	296-24-180	REP-P	04-03-085	296-24-88020	AMD-P	04-03-085
296-23-26506	REP	04-04-029	296-24-18001	REP-P	04-03-085	296-24-90003	AMD-P	04-03-085
296-23-267	REP	04-04-029	296-24-18003	REP-P	04-03-085	296-24-975	AMD-P	04-03-102
296-23-270	REP	04-04-029	296-24-18005	REP-P	04-03-085	296-30-081	PREP	04-04-099
296-23-302	NEW	04-04-029	296-24-18007	REP-P	04-03-085	296-45-175	AMD-P	04-03-102
296-23-307	NEW	04-04-029	296-24-18009	REP-P	04-03-085	296-54-573	AMD-P	04-03-085
296-23-312	NEW	04-04-029	296-24-190	REP-P	04-03-085	296-54-57310	AMD-P	04-03-102
296-23-317	NEW	04-04-029	296-24-19001	REP-P	04-03-085	296-59-130	AMD-P	04-03-085
296-23-322	NEW	04-04-029	296-24-19003	REP-P	04-03-085	296-62-141	AMD	04-03-081
296-23-327	NEW	04-04-029	296-24-19005	REP-P	04-03-085	296-62-300	AMD	04-02-053
296-23-332	NEW	04-04-029	296-24-19007	REP-P	04-03-085	296-78-56511	AMD-P	04-03-085
296-23-337	NEW	04-04-029	296-24-19009	REP-P	04-03-085	296-78-590	AMD-P	04-03-085
296-23-342	NEW	04-04-029	296-24-19011	REP-P	04-03-085	296-78-605	AMD-P	04-03-085
296-23-347	NEW	04-04-029	296-24-19013	REP-P	04-03-085	296-78-615	AMD-P	04-03-085
296-23-352	NEW	04-04-029	296-24-19015	REP-P	04-03-085	296-78-650	AMD-P	04-03-085
296-23-357	NEW	04-04-029	296-24-195	REP-P	04-03-085	296-78-660	AMD-P	04-03-085
296-23-362	NEW	04-04-029	296-24-19501	REP-P	04-03-085	296-78-665	AMD-P	04-03-085
296-23-367	NEW	04-04-029	296-24-19503	REP-P	04-03-085	296-78-690	AMD-P	04-03-085
296-23-372	NEW	04-04-029	296-24-19505	REP-P	04-03-085	296-78-70503	AMD-P	04-03-085
296-23-377	NEW	04-04-029	296-24-19507	REP-P	04-03-085	296-78-71007	AMD-P	04-03-085
296-23-381	NEW	04-04-029	296-24-19509	REP-P	04-03-085	296-78-71017	AMD-P	04-03-085
296-23-382	NEW	04-04-029	296-24-19511	REP-P	04-03-085	296-78-71505	AMD-P	04-03-085
296-23-387	NEW	04-04-029	296-24-19513	REP-P	04-03-085	296-79-030	AMD-P	04-03-085

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-809-30004	NEW	04-03-081	296-843-22010	NEW	04-02-053	388-27-0130	AMD-E	04-03-018
296-809-400	NEW	04-03-081	296-843-300	NEW	04-02-053	388-27-0135	AMD-E	04-03-018
296-809-40002	NEW	04-03-081	308-15	PREP	04-04-050	388-27-0155	AMD-E	04-03-018
296-809-40004	NEW	04-03-081	308-56A-020	AMD-P	04-04-006	388-27-0160	AMD-E	04-03-018
296-809-500	NEW	04-03-081	308-56A-030	AMD-P	04-03-120	388-27-0165	AMD-E	04-03-018
296-809-50002	NEW	04-03-081	308-56A-040	AMD-P	04-03-120	388-27-0175	AMD-E	04-03-018
296-809-50004	NEW	04-03-081	308-56A-140	AMD-P	04-04-006	388-27-0190	AMD-E	04-03-018
296-809-50006	NEW	04-03-081	308-56A-150	AMD-P	04-04-022	388-27-0195	AMD-E	04-03-018
296-809-50008	NEW	04-03-081	308-56A-450	AMD-P	04-04-022	388-27-0200	AMD-E	04-03-018
296-809-50010	NEW	04-03-081	308-56A-455	AMD-P	04-04-006	388-27-0210	AMD-E	04-03-018
296-809-50012	NEW	04-03-081	308-56A-460	AMD-P	04-04-006	388-27-0215	AMD-E	04-03-018
296-809-50014	NEW	04-03-081	308-56A-500	AMD-P	04-04-049	388-27-0220	AMD-E	04-03-018
296-809-50016	NEW	04-03-081	308-56A-505	AMD-P	04-04-049	388-27-0225	REP-E	04-03-018
296-809-50018	NEW	04-03-081	308-56A-640	AMD	04-03-016	388-27-0230	AMD-E	04-03-018
296-809-50020	NEW	04-03-081	308-96A	PREP	04-03-002	388-27-0235	REP-E	04-03-018
296-809-50022	NEW	04-03-081	308-96A	PREP	04-03-003	388-27-0240	REP-E	04-03-018
296-809-50024	NEW	04-03-081	308-96A-005	PREP	04-03-002	388-27-0245	REP-E	04-03-018
296-809-600	NEW	04-03-081	308-96A-021	AMD-P	04-03-121	388-27-0270	REP-E	04-03-018
296-809-60002	NEW	04-03-081	308-96A-026	AMD-P	04-04-022	388-71-0202	AMD	04-04-042
296-809-60004	NEW	04-03-081	308-96A-072	AMD-P	04-03-121	388-71-0531	NEW	04-04-042
296-809-700	NEW	04-03-081	308-96A-074	AMD-P	04-03-121	388-105-0005	AMD-P	04-04-044
296-809-70002	NEW	04-03-081	308-96A-311	PREP	04-03-003	388-105-0030	AMD-P	04-04-044
296-809-70004	NEW	04-03-081	308-96A-550	AMD-P	04-03-121	388-105-0040	AMD-P	04-04-044
296-809-800	NEW	04-03-081	308-96A-560	AMD-P	04-03-121	388-105-0045	NEW-P	04-04-044
296-843-100	NEW	04-02-053	308-124A-025	AMD-P	04-03-039	388-140-0005	NEW-E	04-03-010D
296-843-110	NEW	04-02-053	308-124A-110	AMD-P	04-03-039	388-140-0010	NEW-E	04-03-010D
296-843-11005	NEW	04-02-053	308-124A-440	AMD-P	04-03-039	388-140-0015	NEW-E	04-03-010D
296-843-11010	NEW	04-02-053	308-124C-030	AMD-P	04-03-037	388-140-0020	NEW-E	04-03-010D
296-843-120	NEW	04-02-053	308-124D-030	AMD-P	04-03-038	388-140-0025	NEW-E	04-03-010D
296-843-12005	NEW	04-02-053	308-125-200	AMD	04-04-052	388-140-0030	NEW-E	04-03-010D
296-843-130	NEW	04-02-053	314-02-105	AMD-P	04-02-075	388-140-0035	NEW-E	04-03-010D
296-843-13005	NEW	04-02-053	314-17	PREP	04-02-074	388-140-0040	NEW-E	04-03-010D
296-843-13010	NEW	04-02-053	326-02-010	AMD-P	04-02-043	388-140-0045	NEW-E	04-03-010D
296-843-140	NEW	04-02-053	326-02-030	AMD-P	04-02-043	388-140-0050	NEW-E	04-03-010D
296-843-14005	NEW	04-02-053	326-02-040	AMD-P	04-02-043	388-140-0055	NEW-E	04-03-010D
296-843-150	NEW	04-02-053	326-02-045	AMD-P	04-02-043	388-140-0060	NEW-E	04-03-010D
296-843-15005	NEW	04-02-053	326-07-030	AMD-P	04-02-043	388-140-0065	NEW-E	04-03-010D
296-843-15010	NEW	04-02-053	326-20-010	AMD-P	04-02-043	388-140-0070	NEW-E	04-03-010D
296-843-15015	NEW	04-02-053	326-20-045	NEW-P	04-02-043	388-140-0075	NEW-E	04-03-010D
296-843-160	NEW	04-02-053	326-20-046	NEW-P	04-02-043	388-140-0080	NEW-E	04-03-010D
296-843-16005	NEW	04-02-053	326-20-047	NEW-P	04-02-043	388-140-0085	NEW-E	04-03-010D
296-843-170	NEW	04-02-053	326-20-048	NEW-P	04-02-043	388-140-0090	NEW-E	04-03-010D
296-843-17005	NEW	04-02-053	326-20-050	AMD-P	04-02-043	388-140-0095	NEW-E	04-03-010D
296-843-180	NEW	04-02-053	326-20-070	AMD-P	04-02-043	388-140-0100	NEW-E	04-03-010D
296-843-18005	NEW	04-02-053	326-20-080	AMD-P	04-02-043	388-140-0105	NEW-E	04-03-010D
296-843-18010	NEW	04-02-053	326-20-092	AMD-P	04-02-041	388-140-0110	NEW-E	04-03-010D
296-843-18015	NEW	04-02-053	326-20-094	AMD-P	04-02-041	388-140-0115	NEW-E	04-03-010D
296-843-18020	NEW	04-02-053	326-20-095	AMD-P	04-02-041	388-140-0120	NEW-E	04-03-010D
296-843-190	NEW	04-02-053	326-20-096	AMD-P	04-02-041	388-140-0125	NEW-E	04-03-010D
296-843-19005	NEW	04-02-053	326-20-098	AMD-P	04-02-041	388-140-0130	NEW-E	04-03-010D
296-843-200	NEW	04-02-053	326-20-110	AMD-P	04-02-043	388-140-0135	NEW-E	04-03-010D
296-843-20005	NEW	04-02-053	326-20-120	AMD-P	04-02-043	388-140-0140	NEW-E	04-03-010D
296-843-20010	NEW	04-02-053	326-20-125	AMD-P	04-02-042	388-140-0145	NEW-E	04-03-010D
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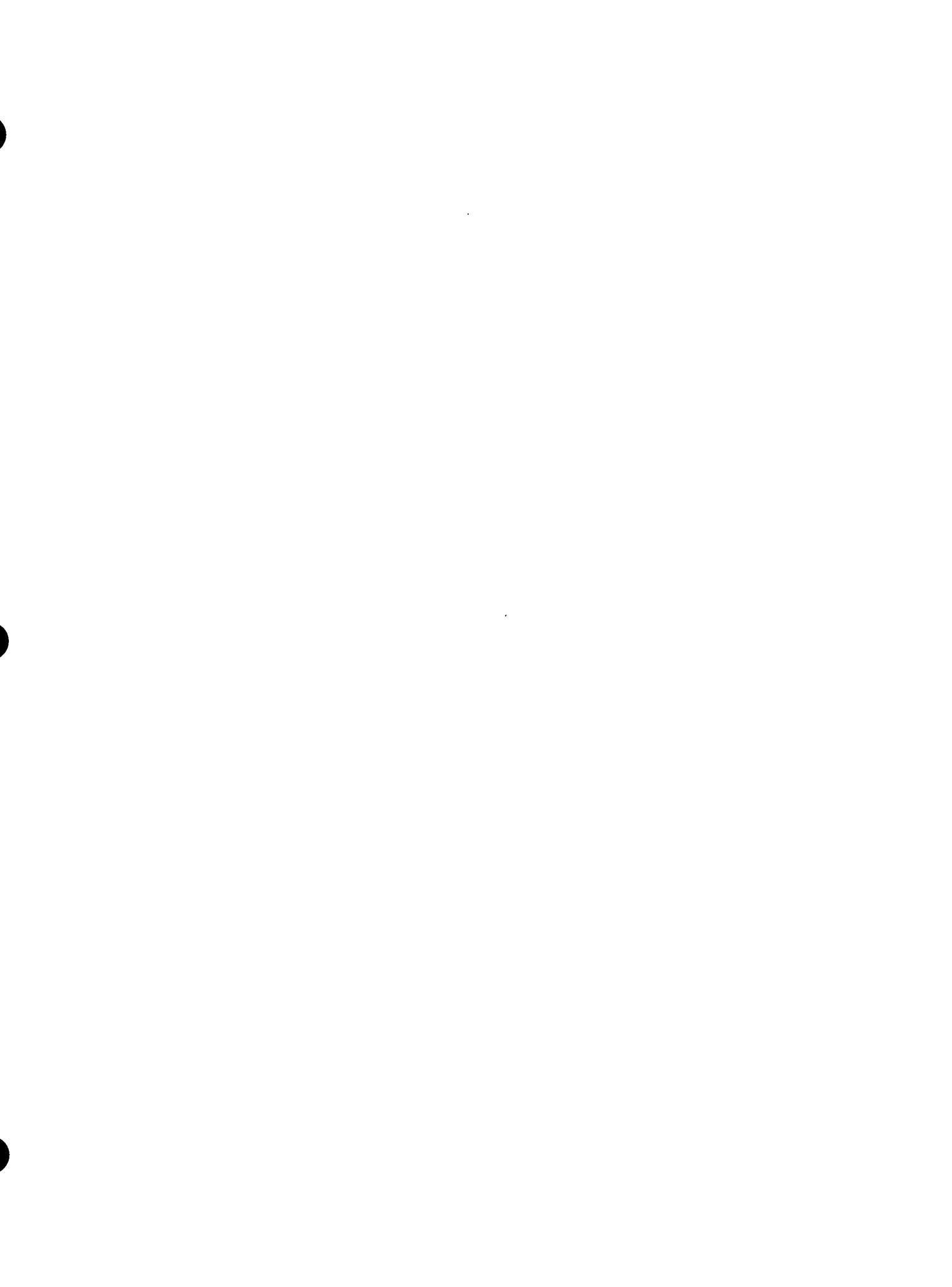
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