

MAY 2, 1984

OLYMPIA, WASHINGTON

ISSUE 84-09



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This issue contains documents officially
filed not later than April 18, 1984

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

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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

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504, pursuant to RCW 34.08.020. Subscription rate is \$134.75 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

Changes of address notices, subscription orders, and undelivered copies should be sent to:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
Olympia, WA 98504

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** *have been adopted on an emergency basis and are set forth in ten point oblique type.*

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 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 matter is new matter;
 - (ii) deleted matter is (~~lined out and bracketed 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.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA 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.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed 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 and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1984

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
84-01	Nov 23	Dec 7	Dec 21, 1983	Jan 4, 1984	Jan 24
84-02	Dec 7	Dec 21, 1983	Jan 4, 1984	Jan 18	Feb 7
84-03	Dec 21, 1983	Jan 4 1984	Jan 18	Feb 1	Feb 21
84-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 6
84-05	Jan 25	Feb 8	Feb 22	Mar 7	Mar 27
84-06	Feb 8	Feb 22	Mar 7	Mar 21	Apr 10
84-07	Feb 22	Mar 7	Mar 21	Apr 4	Apr 24
84-08	Mar 7	Mar 21	Apr 4	Apr 18	May 8
84-09	Mar 21	Apr 4	Apr 18	May 2	May 22
84-10	Apr 4	Apr 18	May 2	May 16	Jun 5
84-11	Apr 25	May 9	May 23	Jun 6	Jun 26
84-12	May 9	May 23	Jun 6	Jun 20	Jul 10
84-13	*May 24	*Jun 7	*Jun 21	*Jul 5	*Jul 25
84-14	Jun 6	Jun 20	*Jul 3	Jul 18	Aug 7
84-15	Jun 20	*Jul 3	Jul 18	Aug 1	Aug 21
84-16	*Jul 3	Jul 18	Aug 1	Aug 15	Sep 4
84-17	Jul 25	Aug 8	Aug 22	Sep 5	Sep 25
84-18	Aug 8	Aug 22	Sep 5	Sep 19	Oct 9
84-19	Aug 22	Sep 5	Sep 19	Oct 3	Oct 23
84-20	Sep 5	Sep 19	Oct 3	Oct 17	Nov 6
84-21	Sep 26	Oct 10	Oct 24	Nov 7	Nov 27
84-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 11
84-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
84-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 8, 1985

*Dates adjusted to accomodate July 4th holiday on normal distribution and closing date. See WAC 1-12-030(5)(c) and 1-13-030(5)(c).

¹All documents are due at the Code Reviser's Office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the Order Typing Service (OTS) of the Code Reviser's Office; see WAC 1-12-220 or 1-13-240. 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"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 84-09-001
WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed April 5, 1984]

Notice is hereby given that the Superintendent of Public Instruction withdraws notice of intention to adopt, amend or repeal the following provisions of chapter 392-171 WAC, Special education programs—Education for all handicapped children: WAC 392-171-295 Authority; 392-171-331 Continuing eligibility; 392-171-351 General assessment safeguards—Personnel, materials and procedures; 392-171-366 Summary analysis of assessment data; 392-171-406 Specific learning disability—Definition; 392-171-411 Specific learning disability—Eligibility criteria; 392-171-416 Alternative method for documenting severe discrepancy; 392-171-516 Reassessment; and 392-171-731 Monitoring.

Notice is hereby given that the Superintendent of Public Instruction has cancelled the hearing on these proposed rule changes scheduled for: April 10, 1984, 9:00 a.m., Old Capitol Building, Olympia, Washington.

Frank B. Brouillet
 By Ralph E. Julnes
 Counsel for
 Administrative Law Services
 Office of Superintendent
 of Public Instruction

WSR 84-09-002
ADOPTED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
 [Order 84-5—Filed April 5, 1984]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at Olympia, the annexed rules relating to:

Amd	WAC 326-02-030	Definitions.
New	ch. 326-06 WAC	Public records rules and regulations for the Office of Minority and Women's Business Enterprises.
New	ch. 326-08 WAC	Hearings procedures.
Amd	WAC 326-20-050	Proof of ownership.
Amd	WAC 326-20-060	Community ownership.
Amd	WAC 326-20-180	Effect of certification.
Amd	WAC 326-20-210	Reconsideration of decision.
Amd	WAC 326-30-100	Agency/educational institution reporting of MWBE participation.
New	WAC 326-40-100	Joint venture approval.

This action is taken pursuant to Notice No. WSR 84-05-033 filed with the code reviser on February 16, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
 APPROVED AND ADOPTED April 5, 1984.

By Carolyn V. Patton
 Director

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-02-030 DEFINITIONS. Words and terms used in these rules shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in these rules, or the context in which they are used clearly indicates that they be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(3) "Combination minority and women's business enterprise" means a business organized for profit, performing a commercially useful function, which is fifty percent owned and controlled by a minority male and fifty percent owned and controlled by a nonminority woman. Both owners must be United States citizens or lawful permanent residents and cannot be married to each other.

(4) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing and supervising the work involved.

(5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.

(6) "Contract by contract basis" means a single contract within a specific class of contracts.

(7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(8) "Director" means the director of the office of minority and women's business enterprises.

(9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and women-owned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis. In meeting their goals on either a contract by contract or a class of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of

businesses in which MBE's and WBE's are underrepresented.

(11) "Goods and/or services" means all goods and services, including professional services.

(12) "Joint venture" means ~~((an association of))~~ a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their ~~((property,))~~ capital, efforts, skills, ~~((and))~~ knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.

(14) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more minority individuals or minority business enterprises certified by this office. Owned and controlled means a business in which one or more minorities or MBE's certified by this office own at least fifty-one percent, or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The minority owners must be United States citizens or lawful permanent residents.

(15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise; and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.

(16) "Office" means the office of minority and women's business enterprises of the state of Washington.

(17) "Procurement" means the purchase, lease, or rental of any goods or services.

(18) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards,

commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more women or women's business enterprises certified by this office. Owned and controlled means a business in which one or more women or WBE's certified by this office own at least fifty-one percent or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The women owners must be United States citizens or lawful permanent residents.

Reviser's note: RCW 34.04.058 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.

Chapter 326-06 WAC PUBLIC RECORDS RULES AND REGULATIONS FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

WAC

326-06-010	Purpose.
326-06-020	Definitions.
326-06-030	Description of office organization.
326-06-040	Operations and procedures.
326-06-050	Public records available.
326-06-060	Public records officer.
326-06-070	Office hours.
326-06-080	Requests for public records.
326-06-090	Copying.
326-06-100	Exemptions.
326-06-110	Review of denials of public records request.
326-06-120	Protection of public records.
326-06-130	Records index.
326-06-140	Communications with the agency.
326-06-160	Request for public record—Form.

NEW SECTION

WAC 326-06-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by the office of minority and women's business enterprises with the provisions of chapter 42.17 RCW (Initiative 276), and in particular with sections 25 through 32 of that act, dealing with public records.

NEW SECTION

WAC 326-06-020 DEFINITIONS. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Agency" means the office of minority and women's business enterprises, and the staff and employees thereof, unless the context clearly indicates otherwise.

NEW SECTION

WAC 326-06-030 DESCRIPTION OF OFFICE ORGANIZATION. (1) The office is located at 221 Fifth Avenue West, Olympia, Washington 98504.

(2) The office consists of a director, confidential secretary, research analyst, and a number of MWBE administrators.

The office provides the following services: Certification of businesses as MBEs or WBEs, monitoring agency/educational institution compliance with chapter 39.19 RCW and Title 326 WAC, publication of a list of certified vendors, identification of barriers to participation by women-owned minority businesses in state agencies' educational institutions' contracts, and development of a plan insuring provision to qualified minority and women-owned businesses of the opportunity to participate in state agency and educational institution contracts.

The MWBE administrators review applications for certification and provide information about that process to the public. Should information about the certification process or the status of a particular application be desired, the request should be made to the public records officer at OMWBE. Complaints about a certified business should be made following the procedures outlined in WAC 326-20-200.

NEW SECTION

WAC 326-06-040 OPERATIONS AND PROCEDURES. (1) Practice and procedure in and before the agency are governed by the uniform procedure rules, chapter 1-08 WAC. Contested case hearings are governed by chapter 326-08 WAC.

(2) The operations of the agency, including meetings, selection of officers, filling of vacancies, and fiscal matters, are conducted according to the provisions of chapter 39.— RCW.

NEW SECTION

WAC 326-06-050 PUBLIC RECORDS AVAILABLE. All public records of the agency, as defined in WAC 326-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310.

NEW SECTION

WAC 326-06-060 PUBLIC RECORDS OFFICER. The agency's public records shall be in charge of

the public records officer designated by the director. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 326-06-070 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 5 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 326-06-080 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

NEW SECTION

WAC 326-06-090 COPYING. No fee shall be charged for the inspection of public records. The agency shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the agency's copy equipment. This charge is the amount necessary to reimburse the agency for its actual costs incident to such copying.

NEW SECTION

WAC 326-06-100 EXEMPTIONS. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 326-06-080 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

NEW SECTION

WAC 326-06-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUEST. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director, who shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the agency has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 326-06-120 PROTECTION OF PUBLIC RECORDS. (1) No person shall knowingly alter, deface, or destroy public records of the agency.

(2) Original copies of public records of the agency shall not be removed from the offices of the agency.

(3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

NEW SECTION

WAC 326-06-130 RECORDS INDEX. (1) A chronological index is maintained providing identifying information as to all governmental records issued, adopted, or promulgated after June 30, 1972, which are deemed by the agency to fall within the purview of RCW 42.17.260 and which are not exempted under the provisions of RCW 42.17.310.

(2) The current index promulgated by the agency shall be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 326-06-140 COMMUNICATIONS WITH THE AGENCY. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of Minority and Women's Business Enterprises, c/o Public Records Officer, 221 W. 5th, Olympia, Washington 98504.

NEW SECTION

WAC 326-06-160 REQUEST FOR PUBLIC RECORD—FORM.

STATE OF WASHINGTON
OFFICE OF MINORITY AND WOMEN'S BUSINESS
ENTERPRISES

REQUEST FOR PUBLIC RECORD

Date of Request: _____

Requested By: _____

Public Records or Information Requested: _____

Requester Read and Sign:

I understand that I must abide by the Rules and Regulations published by the OMWBE, for the protection of public records, a copy of which I have read and understand.

I understand that I will be charged twenty-five cents per copy for all standard letter size copies I desire and that other size publications are available at cost.

Requester's Signature: _____

Completed by Agency Public Records Officer:

Date of Receipt: _____
 Number of Copies: _____
 Amount Received: \$ _____
 Reason if Agency is Unable to Comply: _____

 Public Records Officer Signature: _____

Public records of the agency are provided for inspection and copying subject to the following regulations:

- (1) No person shall knowingly alter, deface, or destroy public records of the agency.
- (2) Original copies of public records of the agency shall not be removed from the offices of the agency.
- (3) Care and safekeeping of public records of the agency, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.
- (4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.
- (5) Boisterous or otherwise disruptive conduct by those requesting public records of the agency shall not be permitted.

I have read, understand, and will comply with the above-stated regulations.

.....
(Signature and date)

CHAPTER 326-08 WAC
HEARINGS PROCEDURES

WAC	
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326-08-110	Proposed Decisions—Preparation and Service
326-08-120	Objections to Proposed Decision
326-08-130	Decision

NEW SECTION

WAC 326-08-010 PURPOSE. The purpose of this chapter is to effectuate the intent of Chapter 39.19 RCW by providing procedures for contested case hearings to review decisions of OMWBE to deny or to revoke

certification or to refuse to renew certification of a business as an MBE or WBE.

NEW SECTION

WAC 326-08-020 GENERAL PROCEDURES RULES. The provisions of Chapter 10-08 WAC, "Uniform Procedural Rules for the Conduct of Contested Cases" shall apply to hearings regarding certification by OMWBE.

NEW SECTION

WAC 326-08-030 AMENDMENTS APPLY TO PENDING CASES. An amendment to this chapter applies to cases pending at the time of the adoption of the amendment, unless the amendment or rule-making order says that it does not apply to pending cases. An amendment to this chapter does not require that anything already done be redone to comply with the amendment unless the amendment expressly says so.

NEW SECTION

WAC 326-08-040 WHO MAY APPEAR AND PRACTICE. No person other than the following may appear in a representative capacity governed by this chapter:

- (1) Washington lawyer. An attorney at law entitled to practice before the Supreme Court of the State of Washington.
- (2) Other lawyer. An attorney at law entitled to practice before the highest court of record of any other state, if attorneys at law of the State of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by Washington law;
- (3) Legal intern. A legal intern licensed to engage in the practice of law in the State of Washington under Admission to Practice Rule 9;
- (4) Officer, etc. A bona fide officer, partner, or full-time employee of an association, partnership, or corporation appearing for the association, partnership or corporation.
- (5) Former employee of OMWBE. A former employee of OMWBE shall not, at any time after severing his or her employment with the office, appear, except with the written permission of the director as a representative or expert witness on behalf of a petitioner in a matter in which he or she previously took an active part as a representative of the office.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 326-08-050 NOTICE OF HEARING. When OMWBE receives a request for hearing, a notice of hearing will be issued to all parties and to the Office of Administrative Hearings as provided by RCW 34.04.090.

- (1) Time. All parties shall be served with notice not less than twenty days before the hearing.

(2) Contents. The notice shall state the time, place, and nature of the hearing. Further, it shall state the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular statute and rules involved; and a short and plain statement of the matters asserted.

NEW SECTION

WAC 326-08-060 FORM OF PLEADINGS: Papers may be submitted in any form. OMWBE requests, but does not require, that all papers be typewritten on white paper of letter size (8 1/2" x 11").

NEW SECTION

WAC 326-08-070 SERVICE OF PAPERS. Any paper filed with the administrative law judge shall be served on all parties in the manner described in WAC 10-08-110.

NEW SECTION

WAC 326-08-080 WHO MAY ISSUE SUBPOENAS. Subpoenas may be issued by director of OMWBE, any OMWBE staff member designated by the director, the assigned administrative law judge, or an attorney at law who is the attorney for any party in the contested case as provided in RCW 34.04.105.

NEW SECTION

WAC 326-08-090 SERVICE OF SUBPOENAS. Subpoenas may be served in any manner authorized by WAC 10-08-110.

NEW SECTION

WAC 326-08-100 PROCEDURES FOR SETTLEMENT OR DISPOSITION WITHOUT A HEARING. With the approval of the administrative law judge, disposition may also be made of any hearing by stipulation, consent order or default. Any person feeling aggrieved by the entry of an order of default may request the director to review the order by using the procedure outlined in WAC 326-08-130. The director will set aside an order of default only upon a showing of good and sufficient cause for such failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such order of default is set aside, all interested parties shall be so notified in writing and the matter restored to the hearing calendar.

NEW SECTION

WAC 326-08-110 PROPOSED DECISION—PREPARATION AND SERVICE. (1) Preparation. Within a reasonable time after the conclusion of the hearing before an administrative law judge, the administrative law judge shall prepare a proposed order for signature by the director of OMWBE. The proposed order shall conform to the requirements of WAC 10-08-210.

(2) Service. A copy of the proposed order shall be sent, by certified mail, to all parties.

NEW SECTION

WAC 326-08-120 OBJECTIONS TO PROPOSED DECISION. Any party may make written objections to the proposed order. Any such objection must be served on the director and all other parties within ten days of service of the proposed order. An objection shall state specifically how the proposed order should be modified.

NEW SECTION

WAC 326-08-130 DECISION. The director will issue a written decision no later than thirty days from the date the proposed decision is served on the parties.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-050 PROOF OF OWNERSHIP OF BUSINESS. All minority or women owners shall submit to the office proof of their ownership of the requisite percentage of the business at the time the application is submitted. Such proof shall consist of stock certificates, a notarized affidavit of stock ownership from the corporate treasurer, a partnership agreement, cancelled check used to purchase ownership, or other recognized proof of ownership. In cases of sole proprietorships or other cases where documentary proof of ownership is not available, the minority or women owners shall so advise the office, which may undertake further investigation. The office may also require documents showing how and when the minority or women owners' interest in the business was acquired. The office may, for any reason, require any minority or women owners to provide additional proof of, or information concerning, ownership. The office may request additional information regarding separate ownership of a business including, but not limited to, a separate property agreement.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

~~WAC 326-20-060 ((COUNTING COMMUNITY PROPERTY)) COMMUNITY OWNERSHIP. ((The fifty-one percent ownership requirement is not met by an owner having only his or her fifty percent interest under community property laws. Except as provided in this section, each minority or woman owner who is a resident of a community property state and who is married must submit a copy of a separate property agreement signed by both spouses showing that the owner's spouse has acknowledged that at least two percent of the owner's interest in the business is held as the owner's separate property. This will not be required in these situations:~~

~~(1) Where a male minority owner of an MBE is married to a minority female.~~

~~(2) Where the fifty-one percent ownership requirement can be satisfied without requiring each owner to file a separate property agreement. Example: If fifty percent of the stock of a corporation is in the name of an unmarried woman and the other fifty percent is in the name of a married woman in a community property~~

~~state, the fifty-one percent ownership criteria for WBE certification is satisfied. In this case, fifty percent of the stock is owned by the unmarried woman as her separate property, twenty-five percent of the stock is owned by the married woman as community property, and twenty-five percent of the stock is owned by the married woman's husband as community property. Thus, since seventy-five percent of a stock is owned by women, the married woman does not need a separate property agreement:))~~ An ownership interest arising in a nonapplicant spouse solely because of the operation of community property laws will not disqualify the applicant spouse from certification. Both spouses must certify that:

(a) only one spouse participates in the management of the business.

(b) the non-participating spouse relinquishes control over his/her community interest in the subject business.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-180 EFFECT OF CERTIFICATION. Certification as a MWBE shall have the following effects:

(1) Certification as a MWBE for the state program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting their MWBE goals under this chapter. Certification as a MWBE for a federal program shall entitle the MWBE to be counted by state agencies and educational institutions toward meeting the MWBE goals under those programs. Certification shall be effective as of the date the decision is made in writing.

(2) Certification may be revoked at any time the office determines that the MWBE does not meet the current criteria for eligibility for certification. The MWBE shall notify the office of any changes in its ownership, control, or operations which may affect its continued eligibility as a MWBE. The duty of a business to cooperate with OMWBE investigation and the consent of a business to on-site investigation by OMWBE created in WAC Sections 326-20-140 and 326-20-150 shall continue after a business is certified by OMWBE.

(3) Certification is effective for one year. The office may require of all applicants and/or of selected applicants periodic notarized statements regarding changes in the information provided during the initial certification process. The office will renew the certification annually as long as the applicant continues to meet the eligibility criteria.

(4) Certification as a MWBE does not constitute compliance with any other laws or regulations, including contractor registration or prequalification, and does not relieve any firm of its obligations under other laws or regulations. Certification as a MWBE does not constitute any determination by the office that the firm is responsible or capable of performing any work.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-210 RECONSIDERATION OF DECISION. Decisions to deny certification, deny renewal of certification, or to revoke certification will be reconsidered on the following basis:

(1) When an applicant has been denied certification, or when a MWBE's certification has not been renewed or has been revoked, the applicant may petition the office for reconsideration of the decision on the grounds that the office did not have all relevant information, that the office misapplied its rules, or that the office otherwise made an error.

(2) A petition for reconsideration must be in writing and must be received by the office within thirty calendar days of the mailing of the decision, or the decision becomes administratively final. The petition must set forth the grounds on which the applicant believes the decision is in error, including any additional information which the applicant business has to offer.

(3) Upon receipt of the petition, the office shall review the petition and any additional information, and may conduct further investigation. The office will then notify the applicant by certified mail of its decision either to affirm the denial, the denial of renewal, or revocation of certification or to grant certification.

~~(4) ((If a petition for reconsideration is filed, a decision to deny certification following consideration of the petition is administratively final:))~~ If a petition for reconsideration is filed and reconsideration is denied, any aggrieved party may request a hearing. The request must be made in writing and must be made within thirty days of service of the decision denying the petition for reconsideration.

AMENDATORY SECTION (Amending Order 83-7 [84-4], filed January 5, 1984 [2/29/84])

WAC 326-30-100 AGENCY/EDUCATIONAL INSTITUTION REPORTING OF MWBE PARTICIPATION. (1) Form. Each state agency and educational institution shall report the participation of MBEs and WBEs in the public works, personal service, and procurement contracts executed by the agency or educational institution. The reports shall be made on a quarterly basis and an annual basis. The reports should designate contracts individually or by class according to the agency's designation in its annual plan. The reports shall also describe the agency's or educational institution's monitoring activity pursuant to sections 8 and 9, Chapter 120, laws of 1983.

(2) When participation should be reported. Participation by MBEs and WBEs should be reported both when the contract is awarded and when the money is disbursed. For contracts for procurement of goods and services, and personal services, the disbursement should be reported in the quarter in which it is made. For public works contracts, disbursement of funds under all contracts completed in the quarter should be reported, and the reports shall be accompanied by the affidavits of payment executed by the prime contractors for those

contracts. Where the performance under a contract extends beyond the fiscal year in which it is awarded, all payments made on the contract will be counted toward the agency's or educational institution's annual overall goal attainment for the year in which it is awarded. Where a contract is awarded to an approved joint venture, an affidavit of the actual disbursement of the funds to the joint venturers, signed by all of the joint venturers, shall accompany the report of disbursement.

(3) Counting MWBE participation toward meeting goals.

(a) Award to MBE or WBE. When a contract is awarded, in its entirety, to an MBE or WBE, one hundred percent of the payments on the contract can be counted toward annual, overall goal attainment in the category in which the prime belongs.

(b) Award to MBE or WBE prime contractor with non-MWBE subcontractor. When a contract is awarded to an MBE or WBE prime contractor with a non-MWBE subcontractor, one hundred percent of the total contract value can be counted toward annual, overall goal attainment.

(c) Award to non-MWBE prime contractor with MWBE subcontractor. When only a part of the contract is performed by an MBE or WBE, subcontractor, the dollar value of only that percentage of the total contract performed by the MBE or WBE can be counted toward annual overall goal attainment.

(d) Award to MBE prime contractor with WBE subcontractor. When a contract is awarded to an MBE prime contractor with a WBE subcontractor, the dollar value of the percentage of the total contract performed by the WBE can be counted toward the agency's/educational institution's WBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the MBE goal.

(e) Award to WBE prime contractor with MBE subcontractor. When a contract is awarded to a WBE prime contractor with a MBE subcontractor, the dollar value of the percentage of the total contract performed by the MBE can be counted toward the agency's/educational institution's MBE goal attainment. The dollar value of the remainder of the contract can be counted toward attainment of the WBE goal.

(f) Joint venture. Where a contract is awarded to a joint venture that includes an MWBE that is responsible for performance of a clearly defined portion of the work, the dollar value, on a percentage basis, of the MWBE's portion of the work may be counted toward annual, overall goal attainment.

(g) Combination MWBE. Contracts performed totally by a combination MWBE, or partially by a combination MWBE shall be counted by dividing the total dollar value of the contract or portion of contract performed by the combination MWBE by two. One-half of the dollar value will be counted toward the agency's/educational institution's attainment of the MBE goal and one-half will be counted toward the agency's/educational institution's attainment of the WBE goal when the contract contains both MBE and WBE requirements. When the contract contains only an MBE requirement or a WBE requirement, only one-half of the dollar value of the

combination MWBE's participation shall be counted toward the agency's/educational institution's attainment of the goal.

(h) Counting participation by a minority WBE. The agency/institution must count participation by a minority female in only the category she designated in her bid. Her participation cannot be counted toward attainment of both overall annual goals.

(i) Substitution of MWBEs. When an MBE or WBE which has been awarded a contract is decertified after award or indicates after award that it is unable or unwilling to perform the contract, the agency/institution may not count the MWBE participation toward its overall annual goal attainment.

Where an MBE or WBE is decertified after it has begun to perform the work and the agency/institution determines substitution is impractical, only the percentage of the work performed by an MBE or WBE before the decertification can be counted toward the annual, overall goal attainment of the agency/institution.

Where a certified MBE or WBE is substituted for a decertified business or a business that indicates it is unwilling or unable to perform the work, the dollar value of the work performed by the certified business can be counted toward the agency/educational institution's goal attainment in that category.

(4) Counting contract awards. MWBE participation shall be counted toward meeting goals in accordance with the following criteria:

(a) Where only one state agency/educational institution is involved in setting goals and in the award of the contract, the total dollar value of the contract awarded to or that portion of the work performed by minority and women's business enterprises is counted toward the agency's/educational institution's applicable MBE/WBE goals.

(b) Where a contract is awarded by a state agency/educational institution acting as an agent for another state agency/educational institution, the goals set by the agent and the total dollar value of the contract awarded to or that portion of the contract work performed by minority and women's business enterprises is counted toward the agent's applicable MBE/WBE goals. This includes contracts awarded by agents in areas usually included under the agency's/educational institution's delegated authorities. Where agents set and count goals, the total dollar value of the contract is excluded from the requesting agency's/educational institution's contracting base.

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

Reviser's note: RCW 34.04.058 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.

NEW SECTION

WAC 326-40-100 JOINT VENTURE APPROVAL. Money spent on contracts awarded to joint ventures can be counted toward goal attainment by agencies and educational institutions when the procedure outlined in this rule is followed.

(a) Contents of joint venture agreement. The joint venture agreement must be in writing and signed under penalty of perjury by all of the joint venturers. Each joint venture agreement shall specify the capital contribution made by each joint venturer; the control each will exercise; and the distribution of profit and loss. Each of these elements must be allocated in proportion to their contribution. The joint venture agreement must also identify the commercially useful function the joint venture will perform and the part of the work each joint venturer will do. The agreement must also specify which participant(s) are MBEs and which are WBEs and give documentations of MWBE certification.

(b) Requests for approval. Any joint venture may request approval by any state agency or educational institution. The request must be in writing, must include a written joint venture agreement and must contain a statement that gives the approving agency/educational institution authority to audit the joint venture. The agreement shall conform to the requirements of subsection (a) of this section. An agency/educational institution shall approve a joint venture which submits an agreement that contains each of these specified elements.

(c) Time of request. A request for approval of a joint venture must be submitted and approved before the time fixed for bid opening for contracts that are both competitively and non-competitively awarded contracts. If the joint venture is not approved, the agency shall award to the lowest responsive bidder or rebid.

(d) Effect of approval. An approved joint venture is approved only for one specific contract. Disbursement of funds to an approved joint venture shall be counted toward goal attainment as described in WAC 326-30-100(3)(f).

(e) Investigation. The agency or educational institution may request additional information from an enterprise seeking approval as a joint venture. Failure to provide the requested information shall result in the denial of the requested approval.

(f) Complaints. Complaints regarding the composition or validity of an approved joint venture shall be written and shall be made to the approving agency or educational institution and to OMWBE. The agency or educational institution shall fully investigate each complaint and issue a written report of its findings. The report will be provided to the complainant and to OMWBE. Concurrently, the Office may investigate complaints pursuant to its rules and Chapter 39.19 RCW.

WSR 84-09-003
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
 [Order 1816—Filed April 6, 1984]

I, Michael V. Schwisow, deputy director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to inspection fees, chapter 16-212 WAC.

I, Michael V. Schwisow, find that an emergency exists and that this order is necessary for the preservation of

the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the Department of Agriculture and the Federal Grain Inspection Service entered into a cooperative agreement on April 2, 1984, prescribing new services to be performed by the department. This emergency order is necessary to provide a means to assess fees for those services, so agreed-upon contract obligations can be performed. A public hearing is scheduled for May 22, for proposed permanent adoption of the fee schedule.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 22.09 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Michael V. Schwisow
 Deputy Director

NEW SECTION

WAC 16-212-084 MISCELLANEOUS SERVICES. The following fees are for services performed under the federal Agricultural Marketing Act:

(1) Processed commodity and defense personnel support center (DPSC) inspection fees.

(a) Per manhour, four hour minimum, rate per hour \$20.80

(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the federal grain inspection service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.

(2) Sanitation inspections.

(a) Initial inspections no charge.

(b) Reinspections, four hour minimum, rate per hour \$20.80.

(3) Stowage examinations. Fees and charges for stowage examinations for commodities inspected under the Agricultural Marketing Act are identical to fees and charges assessed for stowage examinations performed under the United States Grain Standards Act.

(a) Ships, barges or vessels.

(i) Per stowage space and/or tank \$ 21.00

(ii) Minimum charge \$108.00

(iii) Stowage space and/or tank condition inspections will be made on ships or vessels at anchor in midstream when requested.

(A) A minimum of two hours of regular time at \$18.00 per hour (one inspector) for general cargo vessels and a minimum of four hours of regular time at \$18.00 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.

(B) These inspections can only be made at the convenience of the grain inspection office, during daylight

hours, under safe working conditions, when weather conditions permit.

(C) These inspections can only be made within the area of the designated tidewater grain inspection office.

(b) Sea van-type containers (when checkloading not required), railcars, trucks, and other containers.....per container..... \$ 6.00

(4) Aflatoxin testing fees.
(a) Black light and/or minicolumn determinations.....per hour, per inspector \$20.80

(b) Minicolumn determination.....per test \$15.60

(c) Thin layer chromatography fees will be assessed for each laboratory analysis identical with the amount charged by the federal grain inspection service for that test.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 84-09-004
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 236—Filed April 6, 1984]

Be it resolved by the Washington State Game Commission, acting at Kelso, Washington, that it does adopt the annexed rules relating to emergency closure of the Quillayute River system to the taking of steelhead trout by treaty Indians, WAC 232-32-165.

We, the Game Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is data gathered by the Department of Game from the Quileute tribe and fish buyers reporting sales of steelhead harvested by treaty Indian fishermen from the Quillayute River system (pursuant to the reporting system approved by the United States District Court in U.S. vs. Washington) indicates that the treaty Indian share of harvestable steelhead for this area has been exceeded. Therefore, it is necessary to close the treaty Indian fishery on the Quillayute River system to assure spawning escapement and to assure that non-Indian sport fishermen can take their share.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State

Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-32-165 EMERGENCY CLOSURE OF THE QUILLAYUTE RIVER SYSTEM TO THE TAKING OF STEELHEAD TROUT BY TREATY INDIANS. Effective 2:30 p.m., April 7 through April 30, 1984, it is unlawful for treaty Indians to take, fish for, or possess steelhead trout from or in the Quillayute River system. Provided: nothing shall prevent the Quileute C & S fishery as described in FAB 84-6. This C & S fishery shall take place on April 12 and 13 or until a maximum of 30 steelhead are caught. This fishery will occur on reservation by two fishermen and one net. Proper notification will be provided to WDG.

WSR 84-09-005
NOTICE OF PUBLIC MEETINGS
EMPLOYMENT SECURITY DEPARTMENT
[Memorandum—April 5, 1984]

There will be a meeting of the Washington State Employment Security Advisory Council on Wednesday, May 9, 1984, from 9:00 a.m. to 2:00 p.m., in the Seattle Downtown Job Service Center, 2106 2nd Avenue, Seattle, WA 98121.

For further information, contact Maxine Krull at 754-1605 or scan 235-1605.

WSR 84-09-006
NOTICE OF PUBLIC MEETINGS
FORT STEILACOOM
COMMUNITY COLLEGE
[Memorandum—April 10, 1984]

The board of trustees of Fort Steilacoom Community College will schedule a special board meeting on April 12, 1984, at 1:00 p.m., and recess immediately into executive session, (closed session) for the purpose of interviewing the five finalists for the position of college president.

Location: FSCC Campus - Portable 12, Board Room
9401 Farwest Drive S.W.
Tacoma, Washington 98498

The board will reconvene the special meeting at 4:50 p.m., for a social hour (open session) to become better acquainted with the finalists.

Location: FSCC Campus - Performance/Fireside Lounge
9401 Farwest Drive S.W.
Tacoma, Washington 98498

WSR 84-09-007
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed April 9, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules regarding miscellaneous services, WAC 16-212-084;

that the agency will at 1:00 p.m., Tuesday, May 22, 1984, in the Conference Room, Commodity Inspection Office, 2728 Westmoor Ct., Suite B, Olympia, WA 98502, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 25, 1984.

The authority under which these rules are proposed is chapter 22.09 RCW.

The specific statute these rules are intended to implement is RCW 22.09.720 and 22.09.730.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1984.

Dated: April 5, 1984
 By: Norval G. Johanson
 Assistant Director

STATEMENT OF PURPOSE

Title: WAC 16-212-084 Miscellaneous services.

Description of Purpose: The purpose of WAC 16-212-084 is to add a new section to chapter 16-212 WAC to specify standards and criteria for assessment of fees for new services provided by the Department of Agriculture under the cooperative agreement signed on April 2, 1984, between the department and the Federal Grain Inspection Service. The new section will allow the department to assess fees for services not previously provided or covered under the schedule of fees and charges.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rule: The proposed charges provide inspection fees for services that had not been previously provided by the department under the Agricultural Marketing Act.

Reasons Supporting Proposed Activities: The current schedule of fees does not provide criteria for assessing fees for these services. The current fees also do not provide the ability to pass through FGIS lab fees for services that we do not provide. The proposed schedule of fees is consistent with, and have been approved by, FGIS.

Agency Personnel Responsible: J. Allen Stine, Grain Inspection Program Supervisor, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, (206) 753-5066.

Person or Organization Proposing Rule Whether Public, Private or Governmental: Washington State Department of Agriculture.

Agency Comments: None.

These rules are not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic

impact upon small business in the state of Washington by adoption of these amendments or new rules.

NEW SECTION

WAC 16-212-084 MISCELLANEOUS SERVICES. The following fees are for services performed under the Federal Agricultural Marketing Act:

(1) Processed commodity and defense personnel support center (DPSC) inspection fees.

(a) Per manhour, four hour minimum, rate per hour \$20.80

(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the federal grain inspection service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.

(2) Sanitation inspections.

(a) Initial inspections no charge.

(b) Reinspections, four hour minimum, rate per hour \$20.80.

(3) Stowage examinations. Fees and charges for stowage examinations for commodities inspected under the Agricultural Marketing Act are identical to fees and charges assessed for stowage examinations performed under the United States Grain Standards Act.

(a) Ships, barges or vessels.

(i) Per stowage space and/or tank \$ 21.00

(ii) Minimum charge \$108.00

(iii) Stowage space and/or tank condition inspections will be made on ships or vessels at anchor in midstream when requested.

(A) A minimum of two hours of regular time at \$18.00 per hour (one inspector) for general cargo vessels and a minimum of four hours of regular time at \$18.00 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.

(B) These inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.

(C) These inspections can only be made within the area of the designated tidewater grain inspection office.

(b) Sea van-type containers (when checkloading not required), railcars, trucks, and other containers.....per container \$ 6.00

(4) Aflatoxin testing fees.

(a) Black light and/or minicolumn determinations.....per hour, per inspector \$20.80

(b) Minicolumn determination.....per test \$15.60

(c) Thin layer chromatography fees will be assessed for each laboratory analysis identical with the amount charged by the federal grain inspection service for that test.

WSR 84-09-008

ADOPTED RULES

LOTTERY COMMISSION

[Order 54—Filed April 9, 1984]

Be it resolved by the State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 315-04-120 Transfer of ownership of license prohibited.
- Amd WAC 315-06-120 Payment of prizes—General provisions.
- Amd WAC 315-11-101 Criteria for Instant Game Number 8.
- New WAC 315-11-110 Definitions for Instant Game Number 9.
- New WAC 315-11-111 Criteria for Instant Game Number 9.
- New WAC 315-11-112 Ticket validation requirements for Instant Game Number 9.

This action is taken pursuant to Notice Nos. WSR 84-05-050, 84-05-051 and 84-05-052 filed with the code reviser on February 21, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Lawrence G. Waldt
Chairman

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-04-120 TRANSFER OF OWNERSHIP OF LICENSE PROHIBITED. (1) Any license issued by the director is personal to the licensed agent and may not be transferred to another person except as provided in WAC 315-04-130.

(2) If the person to which a license is issued substantially changes its ownership, the license shall immediately terminate and be void and tickets shall not be sold. Every such change in ownership shall be reported to the lottery prior to the change. The license (~~((and identification card))~~) and identification card shall be surrendered to the lottery immediately. A substantial change in ownership of a business shall mean the transfer of ten percent or more equity in that business. In the event the new ownership wishes to become a licensed agent, the new ownership shall submit an application and fees for initial licensure and the lottery shall process these in accordance with these rules.

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

(3) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket. The claimant, by submitting the claim, agrees to the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and

(b) The authorization to use the claimant's name for publicity purposes upon award of the prize.

(4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

(5) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(6) No person entitled to a prize may assign his or her right to claim it except(~~((+))~~):

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or

(b) For the (~~((purpose[s]))~~) purposes of paying federal, state or local tax.

(7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(9) All prizes shall be paid within a reasonable time after the claims are verified by the director and a winner is determined. The date of the first installment payment of each prize requiring installment payments shall be the commencement date of the payments and a payment shall be made on the anniversary date of said payment thereafter in accordance with the type of prize awarded.

(10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each original anniversary date thereafter.

(11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.

(12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes

shall be final and binding upon all participants in the lottery.

(13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

AMENDATORY SECTION (Amending Order 43, filed 12/8/83)

WAC 315-11-101 CRITERIA FOR INSTANT GAME NUMBER 8. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets - An instant prize winning ticket is determined in Instant Game Number 8 in the following manner: Add the five play numbers on the ticket. If the total exceeds 100 (\$1.00), the ticket is a winner of the prize determined by the "prize symbol" in the prize box. The "prize symbols" have the following instant prize values:

Prize Symbol	Prize Value
ENTRY	Entry in the preliminary drawing for the grand prize drawing
TICKET	One free ticket
\$2.00	\$2.00 (two dollars)
\$5.00	\$5.00 (five dollars)
50.00	\$50.00 (fifty dollars)
\$100.00	\$100.00 (one hundred dollars)
\$1,000	\$1,000 (one thousand dollars)
25,000	\$25,000 (twenty-five thousand dollars)

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 8, and to the requirements set out on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket and in the player's brochure.

(6) Grand prize drawing for Instant Game Number 8 - Participants in the preliminary drawing for the grand prize drawing shall be determined as follows:

(a) The legible name and address of one and only one eligible player must be present on the back of each ticket which is a winning "entry" ticket or on a separate piece of paper.

(b) The ticket constituting the entry into the preliminary drawing for the grand prize drawing must have been mailed (~~in an envelope no larger than 4-1/2" x 10-3/8"~~) to the correct address as advertised by the lottery and received within 14 days of the announced end of Instant Game Number 8 in the manner prescribed on the back of the instant ticket. The lottery is

not responsible for any entries that are not received by the lottery prior to the deadline.

(c) Each ticket must be a valid Instant Game Number 8 "Loose Change" ticket.

One grand prize drawing will be held for Instant Game Number 8 after that game's conclusion at a time and place and pursuant to methods to be announced by the director. The prizes awarded in the grand prize drawing will be: First prize, \$1,000 a week for life, with the weekly prize payment starting at age 18 or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$500,000 paid as \$50,000 per year for 10 years, third prize, \$200,000 paid as \$20,000 a year for 10 years, fourth prize, \$75,000 cash; fifth and sixth prizes, \$50,000 cash each; seventh and eight prizes: \$25,000 cash each; and, ninth and tenth prizes, \$10,000 cash each. The director reserves the right, as provided by WAC 315-10-030 (7)(a), to place any ticket bearer who is entitled to entry in the grand prize drawing whose entry was not entered into the preliminary drawing for such grand prize drawing and who is subsequently determined to have been entitled to such entry, into a preliminary drawing of a subsequent instant game grand prize drawing having equal (or greater) grand prizes available.

(7) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 8, and/or (b) vary the number of tickets sold in Instant Game Number 8 and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of winning a grand prize drawing.

NEW SECTION

WAC 315-11-110 DEFINITIONS FOR INSTANT GAME NUMBER 9 ("CASH WORD"). (1) Play numbers for Instant Game Number 9. The following are the "play numbers": "W," "I," and "N." Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the nine rub-off spots on the front right portion of the ticket.

(2) Validation number for Instant Game Number 9. The nine-digit number on the front bottom center of the ticket.

(3) Pack-ticket number for Instant Game Number 9. The ten-digit number of the form 9000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the "pack-ticket number" for Instant Game Number 9 constitute the "pack number" which starts at 9000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Caption for Instant Game Number 9. The small printed material appearing below each play number which verifies and corresponds with that play number. The caption is a repetition of the play number and also indicates the row in which the play number is located. Only one caption appears under each play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 9, the caption which corresponds

with and verifies each play number is as follows for row 1:

<u>PLAY NUMBER</u>		
W	=	W-ROW1
I	=	I-ROW1
N	=	N-ROW1

Similar captions will apply for rows 2 and 3 (e.g., W-ROW2 and W-ROW3).

(5) Agent validation codes for Instant Game Number 9. Agent validation codes are codes consisting of small numbers found under the removable covering on the front of the ticket which the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 9, the agent validation code is a three-number code, with each number appearing in a varying three of nine locations beneath the removable covering and among the play numbers on the ticket and is used by the licensed agent to verify possible free ticket, \$2 and \$5 winners. The agent validation code which verifies each of these winners, is as follows:

100	=	1 free ticket
200	=	\$2
500	=	\$5

(6) Pack for Instant Game Number 9. A pack of 400 fanfolded instant game tickets attached to each other by perforations and packaged in a plastic bag or plastic shrinkwrapping. The licensed agent separates the tickets at the perforations at the time of retail sale.

NEW SECTION

WAC 315-11-111 CRITERIA FOR INSTANT GAME NUMBER 9. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets. An instant prize winning ticket is determined in Instant Game Number 9 in the following manner:

(a) A prize winning ticket shall have an occurrence of 3 play numbers which spell "WIN" in exact order in any row (left to right) or any column (top to bottom). A "row" is comprised of three horizontally contiguous play numbers and a "column" is comprised of three vertically contiguous play numbers. The amount of the prize shall be determined as follows:

WIN in the right hand column	1 free ticket
WIN in the center column	\$2.00
WIN in the left hand column	\$5.00
WIN in the top row	\$25.00
WIN in the center row	\$1,000.00
WIN in the bottom row	\$50,000.00

(b) In any event, only the highest instant prize amount will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements, to the particular ticket validation requirements for Instant Game Number 9, and to the requirements stated on the back of the ticket.

(6) Grand prize drawing for Instant Game Number 9:

(a) Entries in the preliminary grand prize drawing process shall consist of five nonwinning "Cash Word" tickets. The legible name and address of an eligible player must be present on the back of at least one of the five tickets, on a separate sheet of paper, or on the envelope. An entry containing more than one name and/or address shall be disqualified.

(b) Each entry shall be mailed in a separate envelope to the address specified in the player's brochure and on the back of the ticket.

(c) Each entry into the preliminary grand prize drawing process must have been mailed to the current address as advertised by the lottery and received by the lottery within fourteen days after the announced end of the game. The lottery is not responsible for any entry until actually received.

(d) Each of the five nonwinning tickets must be a valid Instant Game Number 9 "Cash Word" ticket.

(e) There will be one grand prize drawing for Instant Game Number 9. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes to be awarded at the grand prize drawing will be: First prize, \$1,000 a week for life, with the prize payment starting at age 18 or older, with a minimum of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000; fifth and sixth prizes, \$50,000; seventh and eighth prizes, \$25,000; and ninth and tenth prizes, \$10,000. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.

(7) Notwithstanding any other provision of these rules, the director may: (a) Vary the length of Instant Game Number 9, and/or (b) vary the number of tickets sold in Instant Game Number 9, and the number of grand prize drawing winners in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-112 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 9.

(1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply with regard to instant game tickets in Instant Game Number 9. To be a valid instant game ticket, all of the following requirements must be met:

(a) Exactly one play number must appear under each of the nine rub-off spots in the right portion of the front of the ticket.

(b) Each of the nine play numbers must have a caption underneath, and each must agree with its caption.

(c) Each of the nine play numbers must be present in its entirety and be fully legible.

(d) Each of the nine captions must be present in its entirety and be fully legible.

(e) Each of the nine play numbers and their captions must be printed in gray-black ink.

(f) The pack-ticket number, validation number, and agent validation code must be present in their entirety and be legible. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.

(g) The ticket must not be altered, unreadable, reconstituted, or tampered with in any manner.

(h) The ticket must not be counterfeit in whole or in part.

(i) The validation number and agent validation code shall be printed in gray-black ink and the pack-ticket number shall be printed in red ink.

(j) The ticket must have been issued by the director and sold in an authorized manner.

(k) The ticket must not be stolen nor appear on any list of omitted tickets on file with the director.

(l) The play numbers and their captions, the validation number, the agent validation code, and the pack-ticket number must be right-side-up and not reversed in any manner.

(m) The ticket must be complete, not miscut, and have exactly one play number and exactly one caption under each of the nine rub-off spots on the right portion of the front of the ticket, exactly one pack-ticket number, exactly one agent validation code, and exactly one validation number.

(n) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets, and a ticket with that validation number shall not have been previously paid.

(o) The ticket must not be blank, partially blank, misregistered, defective, or printed or produced in error.

(p) Each of the play numbers must be exactly one of those described in WAC 315-11-110(1) and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-110(4).

(q) Each of the nine play numbers on the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the nine captions must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director; the pack-ticket number must be .11" high in red and correspond precisely to the artwork on file with the director; and the validation number must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(r) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(s) The ticket must pass all additional confidential validation requirements of the director.

(2) Any ticket not passing all the validation requirements in WAC 315-11-112(1) is invalid and ineligible for any prize.

(3) The director may replace an invalid ticket with an unplayed ticket(s) of equivalent sales price from any other current lottery instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket(s) of equivalent sales

price from any other current lottery game. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

WSR 84-09-009
EMERGENCY RULES
LOTTERY COMMISSION
[Order 55—Filed April 9, 1984]

Be it resolved by the State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 315-04-070	License fees.
New	WAC 315-11-120	Definitions for Instant Game Number 10 ("Bonanza").
New	WAC 315-11-121	Criteria for Instant Game Number 10.
New	WAC 315-11-122	Ticket and stub validation requirements for Instant Game Number 10.

We, the State Lottery Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the amendment to WAC 314-04-070 reduces the fee for late renewal and changes the requirements for when a background check will be required. This amendment is necessary to make the fee for a licensed agent that renews late the same as that charged an agent that fails to renew within 60 days of license expiration and later applies for a new license, and to eliminate the burden and expense of processing unnecessary applications and background checks. WAC 315-11-120, 315-11-121 and 315-11-122 are the rules for Instant Game 10. They inform the public, licensed agents, and lottery players of the definitions, criteria, and validation requirements for the game. These rules are required before permanent rules will become effective. Delay in implementation of these rules would be contrary to the public interest.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Lawrence G. Waldt
Chairman

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-04-070 LICENSE FEES. (1) The fee for a license application shall be \$15.00.

(2) The fee for renewal of a license shall be \$15.00.
 (3) The fee for late renewal of a license shall be ~~(\$25.00)~~ \$10.00 for each licensed location in addition to the renewal fee of \$15.00.

(4) The fee for a background check shall be \$10.00 ~~(for:~~

~~(a) Initial licensure))~~ regardless of the number of individuals listed on the license application for whom background checks are required~~(:)~~. A background check will be required and this fee will be charged when an application for a license or renewal thereof lists an individual who does not have on file with the lottery a current "Criminal History Statement" or current "Renewal Affidavit - Criminal History."

~~((b) Each subsequent addition of one or more partners or officers, an owner's or partner's spouse, or a new holder of ten percent or more equity in the business.))~~

(5) All fees established in this section or other sections of this title are not refundable with the exception of the fees in subsections (1) and (2) ~~((above))~~ of this section which may be refunded if a license is not issued or renewed.

(6) The fees in subsections (1) and (2) of this section may be prorated for staggered license renewal periods as provided in WAC 315-04-100.

NEW SECTION

WAC 315-11-120 DEFINITIONS FOR INSTANT GAME NUMBER 10 ("BONANZA"). (1) Play numbers: The following are the "play numbers": "TICKET", "\$2.00", "\$5.00", "\$25.00", "\$500", "\$5,000" and an illustration of a HORSESHOE. Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the six rub-off spots on the front main portion (left side) of the ticket.

(2) Validation number: The unique nine-digit number on the front bottom center on the main portion (left side) of the ticket. There is a ticket stub (right portion of the ticket) for Instant Game Number 10 and the unique validation number will also appear at the bottom of the front of the ticket stub.

(3) Pack-ticket number: The ten-digit number of the form 1000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the pack-ticket number for Instant Game Number 10 constitute the "pack number" which starts at 1000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed material appearing below each play number which verifies and corresponds with that play number. The caption is a spelling out, in full or abbreviated form, of the play number, except in the case of the play number which is an illustration of a HORSESHOE. One and only one of these captions appears under each play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the captions which correspond with and verify each play number are:

<u>PLAY NUMBER</u>	<u>CAPTION</u>
TICKET	TICKET
\$2.00	TWO
\$5.00	FIVE
\$25.00	TWTY FIV
\$500	FIVE HUND
\$5,000	FIVE THOU
	DOUBLE



(5) Agent validation codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 10, the agent validation code is a three-letter code, with each letter appearing in a varying three of nine locations beneath the removable covering and among the play numbers on the main portion of the ticket. The agent validation codes used by the licensed agent to verify lower tier prizes are:

TIC = Free Ticket
TKS = 2 Free Tickets
TWO = \$2.00
FOR = \$4.00
FIV = \$5.00
TEN = \$10.00

(6) Pack: A set of 400 fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

(7) Stub play number: The letter found under the removable covering on the front of the stub (right side) portion of the ticket. The stub play number is printed in Archer font in positive with a small caption beneath it. The stub play numbers are "B", "O", "N", "A", and "Z".

(8) Stub captions: The small printed material appearing below each stub play number which verifies and corresponds with that stub play number. This stub caption is a double repetition of the stub play number. One and only one of these stub captions appears under the stub play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the stub captions which correspond with and verify the stub play numbers are as follows:

<u>STUB PLAY NUMBER</u>	<u>STUB CAPTION</u>
B	BB
O	OO
N	NN
A	AA
Z	ZZ

NEW SECTION

WAC 315-11-121 CRITERIA FOR INSTANT GAME NUMBER 10. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 as a play number in any three of the six spots on the main portion of the ticket shall win the following prize:

- Three TICKET play numbers - Win one free ticket
- Three \$2.00 play numbers - Win \$2.00
- Three \$5.00 play numbers - Win \$5.00
- Three \$25.00 play numbers - Win \$25.00

Three \$500 play numbers – Win \$500
 Three \$5,000 play numbers – Win \$5,000

(b) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 play number in any two of the six spots on the main portion of the ticket and an illustration of a HORSESHOE in a third spot shall win one of the following prizes:

Two TICKET play numbers plus horseshoe – Win two free tickets
 Two \$2.00 play numbers plus horseshoe – Win \$4.00
 Two \$5.00 play numbers plus horseshoe – Win \$10.00
 Two \$25.00 play numbers plus horseshoe – Win \$50.00
 Two \$500 play numbers plus horseshoe – Win \$1,000
 Two \$5,000 play numbers plus horseshoe – Win \$10,000

(c) In any event, only the highest instant prize amount meeting the standards of (a) and (b) of this subsection will be paid on a given ticket.

(d) The bearer of seven stubs each containing one of the following stub play numbers "B", "O", "N", "A", "N", "Z", and "A" so that there are seven stubs which collectively spell the word "Bonanza" shall be entitled to a prize of \$50,000. Each stub must be from a valid Instant Game Number 10 "Bonanza" ticket stub. One or more stubs or the claim form must be signed by the claimant. A claim shall not include more than one name.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery, to the particular ticket validation requirements for Instant Game Number 10 set forth in WAC 315-11-122, and to the requirements stated on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket.

(6) Grand prize drawing for Instant Game Number 10: The grand prize drawing process shall be conducted as follows:

(a) Participants in the grand prize drawing process shall be those validated prize winners of either exactly \$25 or \$50 whose prize claim is received by the lottery within fourteen days after the announced end of Instant Game Number 10 in the manner prescribed on the back of the instant ticket. The lottery is not responsible for any entry until it is received.

(b) Each of the \$25 or \$50 winning tickets must be a valid Instant Game Number 10 "Bonanza" ticket.

(c) The legible name of an eligible player must be present on the back of each eligible ticket or on the claim form.

(d) There will be one grand prize drawing for Instant Game Number 10. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes involved in the grand prize drawing will be: First prize, \$1,000 a week for life, with the prize payment starting at age eighteen or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000 each; fifth and sixth prizes, \$50,000 each; seventh and eighth prizes, \$25,000 each; and ninth

and tenth prizes, \$10,000 each. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.

(7) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 10, and/or (b) vary the number of tickets sold in Instant Game Number 10 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-122 TICKET AND STUB VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 10. (1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply to instant game tickets in Instant Game Number 10. To be a valid Instant Game Number 10 ticket or a valid stub, all of the following requirements must be met.

(a) Exactly one play number must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Exactly one stub play number must appear under the one rub-off spot on the stub portion of the ticket.

(c) Each of the six play numbers must have a caption underneath, and each must agree with its caption.

(d) The stub play number must have a stub caption underneath and it must agree with its caption.

(e) Each of the six play numbers and play number captions must be present in their entirety and be fully legible.

(f) The stub play number and stub captions must be present in their entirety and be fully legible.

(g) Each of the six play numbers and their captions must be printed in gray-black ink.

(h) The one stub play number and its stub caption must be printed in gray-black ink.

(i) The pack-ticket number, validation number, and agent validation code must be present in their entirety and be legible on the ticket. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.

(j) The validation number on the stub must be present in its entirety and be legible. The validation number shall correspond, using the lottery's codes, to the stub play number.

(k) Neither the ticket nor the stub may be altered, unreadable, reconstituted, or tampered with in any manner.

(l) Neither the ticket nor the stub may be counterfeit in whole or in part.

(m) The validation numbers and agent validation code shall be printed in gray-black ink, and the pack-ticket number shall be printed in red ink.

(n) The ticket must have been issued by the director in an authorized manner.

(o) Neither the ticket nor the stub may be stolen nor appear on any list of omitted tickets on file with the director.

(p) The play numbers and their captions, the stub play number and its stub caption, the validation numbers, the agent validation code and the pack-ticket number must be right-side-up and not reversed in any manner.

(q) The ticket must be complete, and not miscut, and have exactly one play number and exactly one caption under each of the six rub-off spots on the main (left) portion of the ticket, exactly one pack-ticket number, exactly one agent validation code, and exactly one validation number on the main (left) portion of the ticket.

(r) The stub must be complete, and not miscut, and have exactly one stub play number and exactly one stub caption on the stub (right) portion of the ticket, and exactly one validation number.

(s) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets, and a ticket with that validation number shall not have been previously paid.

(t) Neither the ticket nor the stub may be blank or partially blank, misregistered, defective, or printed or produced in error.

(u) Each of the play numbers must be exactly one of those described in WAC 315-11-120(1) and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-120(4); each of the stub play numbers must be exactly one of those described in WAC 315-11-120(7) and each of the stub captions must be exactly one of those described in WAC 315-11-120(8).

(v) Each of the six play numbers on the main portion of the ticket and the one stub play number on the stub (right) portion of the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the six play number captions and the one stub caption must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director; the pack-ticket number must be .11" high in red and correspond precisely to the artwork on file with the director; and the validation numbers must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(w) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(x) The ticket or the stub must pass all additional confidential validation requirements of the director.

(2) Any ticket or the stub not passing all the validation requirements in subsection (1) of this section is invalid and ineligible for any prize.

(3) The director may replace any invalid ticket or stub with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

WSR 84-09-010
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[EO 84-06]

**FREEZE ON TELEPHONE SYSTEMS
ACQUISITION**

The telecommunications industry is undergoing fundamental change, resulting in dramatic changes to many traditional rate structures, that is, tariffs. Many of the new tariffs have the potential of increasing costs for telecommunications goods and services. This could have an adverse financial impact on many state agencies, understandably tempting the agencies to migrate quickly to more cost-effective services. While more cost-effective service is a desirable goal, uncoordinated migration decisions by the various agencies of state government will not achieve the most cost-effective solution to our statewide telecommunications problems.

NOW THEREFORE, I, John Spellman, Governor of the state of Washington, do hereby order the following:

- A. That a freeze be imposed on all state agencies relating to the acquisition of new telephone systems. The acquisition of such systems must have the prior approval of the Department of General Administration unless the acquisition is associated with a capital improvements project or new construction.
- B. The Telecommunications Division of the Department of General Administration will be responsible for approving all moves and changes and installations of all telephones for cabinet agencies, and will issue implementing procedures governing such activities.
- C. That the Department of General Administration and the Data Processing Authority develop statewide voice and data communications plans that address these and related issues, and that the Department of General Administration and the Data Processing Authority recommend to me those cost effective solutions to this problem that insure system compatibility between state agencies. This plan must be completed by December 1, 1984.
- D. That each state agency cooperate with the Department of General Administration and the Data Processing Authority in their effort to develop the statewide telecommunications plan.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the seal of

the state of Washington to be affixed at Olympia this 6th day of April, A.D., nineteen hundred and eighty-four.

John Spellman

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Deputy Secretary of State

WSR 84-09-011

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1817—Filed April 10, 1984]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to general pesticide regulations, amending chapter 16-228 WAC.

This action is taken pursuant to Notice No. WSR 84-05-014 filed with the code reviser on February 8, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 17.21 and 15.58 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 10, 1984.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-010 DEFINITIONS. (1) "Agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by ~~((man))~~ humans or animals.

(2) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides ~~((listed in WAC 16-228-165(1)))~~.

(3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a

lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

(4) "Bait station" may be any location where baits are placed to allow ~~((rodents))~~ target pests to gain access to the bait.

(5) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

(6) "Certified applicator" means any individual who is certified by the director to use or supervise the use of any pesticide which is classified by the ~~((EPA))~~ environmental protection agency (EPA) as a restricted use pesticide or by the state as restricted to use by certified applicators including, but not limited to licensed commercial applicators, licensed commercial operators, licensed public operators, licensed private-commercial applicators, ~~((certified))~~ licensed demonstration and research applicators, and certified private applicators.

(7) "Controlled disposal site" means any place where solid or liquid waste is disposed: **PROVIDED**, That the area has been designated as a disposal site for waste materials by the appropriate jurisdictional ~~((health officer))~~ agency; **PROVIDED FURTHER**, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

~~((8)) "Demonstration and research applicator" means (1) individuals who demonstrate to the public the proper use and techniques of application of EPA or state restricted use pesticides or supervise such demonstration, and (2) persons conducting field research with pesticides, and in doing so, use or supervise the use of EPA or state restricted use pesticides.~~

~~((9)) "Direct supervision" by (a) certified private applicators and private-commercial applicators shall mean that the designated restricted use pesticide shall be applied by a competent person acting under the instructions and control of a certified applicator certified in the category for which the pesticide is being applied who is available if and when needed, even though such certified applicator is not physically present at the time and place of the pesticide is being applied. The certified applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied; and (b) direct supervision by all other certified applicators means direct on-the-job supervision.~~

~~((10))~~ (8) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

~~((11))~~ (9) "EPA" means the United States Environmental Protection Agency.

~~((12))~~ (10) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

~~((13))~~ (11) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

~~((14))~~ (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended.

~~((15))~~ (13) "Floor level" is considered to be the floor upon which people normally walk—not shelves,

ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

~~((+6))~~ (14) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

~~((+7))~~ (15) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

~~((+8))~~ (16) "Highly toxic" for the purpose of this order, are those pesticides determined to be in the Toxicity Category I and are labeled on the front panel with the signal word "Danger". In addition if the product was assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison".

~~((+9))~~ (17) "Private applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity on land owned or rented by ~~((him))~~ the private applicator or ~~((his))~~ the private applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

~~((+20))~~ (18) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by ~~((him))~~ the applicator or ~~((his))~~ the applicator's employer.

~~((+21))~~ (19) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use only by certified applicators.

~~((+22))~~ (20) "Unreasonable adverse effects on the environment" means any unreasonable risk to ~~((man))~~ humans or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-115 PESTICIDE LABELING REQUIREMENTS. (1) Pesticide labeling must meet the standards or criteria of the Federal Insecticide, Fungicide and Rodenticide Act.

(2) Conditions set forth as part of an exemption from registration under provisions of Section 18 of FIFRA shall be considered labeling for purposes of enforcement.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-125 ~~((EXEMPTIONS FOR EXPERIMENTAL USE. (1) These regulations shall not apply to the manufacturer or shipper of a pesticide for experimental use only, and which is to be used under supervision of a state agency, or of the federal government, or by others authorized to do experimental work if the label on the container is plainly and conspicuously marked FOR EXPERIMENTAL USE ONLY - NOT TO BE SOLD, has the manufacturer's name and address provided, has the manufacturer's identification and/or code number of contents, and contains such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide.~~

~~((2) Pesticides for experimental use may be sold if a written permit has been obtained from the director and the pesticides are sold for experimental purposes subject to restrictions and conditions described in the permit. If the pesticide is to be used on a food or feed crop, a tolerance must be obtained from the environmental protection agency before a permit can be issued.))~~

EXPERIMENTAL USE PERMITS. (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. All distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit. Applications for experimental use permits shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental permit and means of locating this person in case of emergency;

(c) Target pest(s);

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites;

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(l) Any other information required by the director.

(2) An experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance

greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the environmental protection agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

(3) Collective experimental use permits may be issued by the director for experimental programs conducted by recognized research institutions on land owned or controlled by the institution.

(4) The director may monitor the implementation of any experimental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

(5) Summaries of experimental results and environmental effects shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

(6) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment.

(7) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of chapters 15.58 and 17.21 RCW or rules adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-130 PESTICIDE-FERTILIZER REGISTRATION AND LABELING. (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: PROVIDED, That the fertilizer portion shall be considered an inert ingredient for the purpose of this order: AND PROVIDED FURTHER, That such registrations may be to the nearest ((0.1%)) one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

((2) A registered pesticide label must be attached to each pesticide-fertilizer mix container.

~~(3) A pesticide-fertilizer label may also contain the fertilizer labeling information as required in the Washington Commercial Fertilizer Act.~~

~~(4)) (2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:~~

~~(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;~~

~~(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;~~

~~(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;~~

~~(d) Timing of application (for instance, pre-plant) and the preharvest interval;~~

~~(e) Net weight of the shipment;~~

~~(f) Name and address of the registrant or manufacturer;~~

~~(g) Any other information required by the director.~~

~~(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: PROVIDED, That an appropriate specimen invoice has been registered by the director as pesticide labeling.~~

~~(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.~~

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-155 ((RESTRICTED-USE)) PESTICIDES—NOT FOR ((USE-BY)) DISTRIBUTION TO HOME AND GARDEN USERS. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to ((man)) humans and animals and shall not be ((sold)) distributed to home and garden users. The following pesticides will be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides:

~~(1. Aluminum Phosphide (Phostoxin)~~

~~2. Arsenic Trioxide (1.6% and above except for the control or eradication of crabgrass and the container thereof is restrictively labeled for such:~~

~~3. Azodrin~~

~~4. Bidrin~~

~~5. Castrix~~

~~6. Dasanit~~

~~7. Delnav (25.1% and above)~~

~~8. DiNitro-O-Cresol (DNOC)~~

~~9.) (a) DiNitro-O-Sec Butyl Phenol (DNOSBP)~~

~~((10. DiSystem (2.1% and above)~~

11. Dyfonate (11% and above)
 12.) (b) Endothall (20% and above)
 ((13. Endrin (2.5% and above)
 14. EPN
 15.) (c) Ethion (26% and above)
 ((16. Furadan (Carbofuran)
 17.) (d) Guthion (16% and above)
 ((18.) (e) Hydrogen Cyanide (Hydrocyanic acid)
 (HCN)
 ((19. Methomyl (Lannate or Nudrin) (2% and above)
 20.) (f) Methyl Bromide
 ((21. Methyl Demeton (Meta Systox) (25% and
 above)
 22. Methyl Parathion
 23. Monitor (40% and above)
 24. OMPA (Schradan)
 25. Paraquat (cation equivalent = .5% and above)
 26. Parathion
 27. Phosdrin
 28. Phosphamidon
 29. Phosphorus paste (further restricted in WAC 16-
 228-145)
 30. PMA = Phenyl Mercuric Acetate (1.5% and
 above)
 31. Sodium Arsenite
 32. Sodium Selenate
 33.) (g) Strychnine and its salts (Strychnine Alkaloid
 1.1% and above)
 ((34. Systox (Demeton)
 35. Temik
 36. 1080 and 1081 (further restricted in WAC 16-
 228-145)
 37. TEPP
 38. Thallium compounds (banned for all rodenticide
 uses)
 39. Thimet
 40. Trithion (liquid and wettable powder 26% and
 above, granular and dust 11% and above)
 41. Zinc Phosphide (2.1% and above)
 42. Zinophos))

(2) Pesticide dealers shall keep records on the sale of any of the above listed pesticides. These records shall contain the date of sale, the name and amount of the pesticide sold and the name and address of the purchaser. These records shall be kept on file for a period of one year and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-160 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE AND DISPOSAL. (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger ((man)) humans and ((his)) their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment

together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or ((his)) authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated must not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo or portable tanks used for transporting pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or ((his)) authorized agent is present to accept delivery of the pesticides and signs a delivery slip and/or the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. ((Pesticide products shall not be packaged, sacked, or boxed with any of the above.)) Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The use of the same "checkstand" or food packaging area is prohibited for the distribution of highly toxic pesticides.

((a)) (9) ((Pesticide dealers shall post in a conspicuous place a list of persons to contact in case of a pesticide accident. This list shall include the name and address of the nearest poison control center, the Washington state department of social and health services, the Community Pesticide Study Project Laboratory in Wenatchee, the county extension agent, the department of agriculture offices in Yakima and Olympia, and the local health officer.)) All pesticide accidents must be reported to the Washington state department of social and health services.

(10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to ((man)) humans and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is the registrant's or the manufacturer's unbroken, immediate container and there is affixed to ~~((such))~~ the container its registered pesticide label.

(12) The distribution and use of DDT and DDD shall be prohibited in this state except for ~~((the))~~ uses ~~((determined to be "essential uses" as determined by the pesticide control board as provided for in the Washington Pesticide Control Act, chapter 15.58 RCW, RCW 15.58.390))~~ allowed by the environmental protection agency or the center for disease control of the United States department of health & human services.

Reviser's note: RCW 34.04.058 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.

NEW SECTION

WAC 16-228-161 DISTRIBUTION RECORDS. Pesticide dealers shall furnish records on the distribution of any pesticide except those labeled only for home and garden use to the director upon request. These requests shall be limited to records necessary for investigations of suspected violations, damage complaints, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment. Information furnished may be limited to:

- (1) name and address of purchaser;
- (2) date of purchase;
- (3) amount sold;
- (4) brand name of the product and/or the EPA registration number;
- (5) crop and/or site to which pesticide will be applied, if known.

AMENDATORY SECTION (Amending Order 1679, filed 2/20/80)

WAC 16-228-162 HIGH VOLATILE ESTER AND DUST FORMULATIONS PROHIBITED. The distribution, use and application of all high volatile ester and dust formulations of ~~((restricted use))~~ phenoxy herbicides shall be prohibited throughout the state: PROVIDED, That this section shall not apply to dust or granular formulations packaged in shaker cans intended for home and garden use: PROVIDED FURTHER, That high volatile ester formulations of 2, 4-D may not be registered for home and garden use.

AMENDATORY SECTION (Amending Order 1679, filed 2/20/80)

WAC 16-228-165 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY ~~((=REQUIREMENTS FOR USER PERMITS))~~. (1) The following pesticides are hereby declared to be state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified

applicators or persons under the direct supervision of a certified applicator (refer to definition of "direct supervision"). Any EPA restricted use pesticide not listed shall be distributed and used only under these restrictions:

- (a) Monocrotophos (Azodrin)
- (b) Dicrotophos (Bidrin)
- (c) DDD ~~((&))~~ DDT ~~((for essential uses determined by law))~~
- (d) Disulfoton (DiSyston) - Liquid
- (e) Endrin ~~((=2.5% and above))~~
- (f) Parathion & Methyl Parathion ~~((=1.1% and above))~~
- (g) Mevinphos (Phosdrin)
- ~~((th))~~ Schradan ~~((OMPA))~~
- ~~((t))~~ (h) Sodium Arsenite
- (j) (i) Demeton (Systox) ~~((Demeton))~~
- ~~((k))~~ (j) Aldicarb (Temik)
- ~~((t))~~ (k) TEPP
- ~~((m))~~ (l) Phorate (Thimet) ~~((Phorate))~~ - Liquid
- ~~((n))~~ Tordon 22K ~~= For use on rangeland and permanent grass pastures east of the crest of the Cascade Mountains.)~~

~~((o))~~ (m) 2,4-D - all liquid formulations distributed in packages of ~~((t))~~ one gallon and larger to be used in counties located east of the crest of the Cascade Mountains and all dry formulations except those labeled and intended for home and garden use only. Pesticide dealers shall be required to make available to the purchaser a copy of the regulations covering the use of 2,4-D in the area in which the material will be applied.

- ~~((p))~~ (n) Zinophos
- ~~((q))~~ (o) All pesticide formulations labeled for application onto or into water to control pests in or on water, except those labeled only for use in:
 - (i) Swimming pools;
 - (ii) Wholly impounded ornamental pools and fountains;
 - (iii) Aquariums;
 - (iv) Closed plumbing and sewage systems;
 - (v) Enclosed food processing systems;
 - (vi) Air conditioners and humidifiers;
 - (vii) Cooling towers; and
 - (viii) ~~((and))~~ aquatic environments in states other than Washington: PROVIDED, That for purposes of this subsection, sales of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticide dealers to non-certified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers must furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records must include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

~~((2))~~ User permits will be furnished by the Washington state department of agriculture pesticide branch and may be issued by a licensed pesticide dealer.

(3) A certified private applicator or private-commercial applicator may list on his permit the name or names

of authorized agent(s) for the purpose of purchasing or receiving above listed pesticides:

(4) Permits shall be on a form furnished by the director and shall include the following:

- (a) Permit number
 - (b) Date of issuance
 - (c) Name and address of the certified applicator
 - (d) Crops and acreage to which the pesticides will be applied
 - (e) Name of authorized agent(s)
 - (f) Any other information prescribed by the director.
- (5) A copy of the permit shall be issued to the certified applicator and a duplicate shall be retained by the pesticide dealer. Permits shall expire on December 31 of each year.

(6)) (2) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving ((the)) restricted use ((pesticide)) pesticides listed in WAC 16-228-165(1) by making previous arrangements with the pesticide dealer, or the authorized agent may ((provides)) provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

((7)) (3) Licensed dealers shall keep records on each sale of these restricted use pesticides which shall include the following:

- (a) Name and address of the certified applicator
- (b) Applicator or operator certificate or license number
- (c) Name of authorized agent (if applicable)
- (d) Date of purchase
- (e) Brand and specific pesticide name and/or EPA registration number
- ((f)) Percent active ingredient or pounds active ingredient per gallon
- (g) For DDT & DDD = rate of formulation to be applied per acre
- ((h)) (f) Amount sold
- ((i)) (g) Crop or site to which pesticide will be applied

((8)) (4) Pesticide dealers shall keep permits and dealer records for a period of one year from the date of issuance and the director shall have access to these records upon request.

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

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-168 CHANGE OF EXEMPTIONS. The licensing exemption for landscape gardeners provided in ((chapter 17.21 RCW;)) RCW 17.21.205; jurisdictional health officers as provided for in ((chapter 17.21 RCW;)) RCW 17.21.220; and research personnel provided for in ((chapter 17.21 RCW;)) RCW 17.21.203 shall not apply when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only((-)); PROVIDED, That research personnel shall be required to

obtain a demonstration and research applicator certification.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-170 PESTICIDE ((DEALER'S)) DEALER AND DEALER MANAGER LICENSES.

(1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager must be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-172 PERMITS. (1) ((A private)) Private applicator certification, demonstration and research applicator certification, user permits and ((a)) private-commercial applicator ((license)) licenses shall be considered as certified applicator permits as provided for in ((17.21, Section)) RCW 17.21.030 and RCW 15.58.040 (2)(h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

- (a) Permit number
- (b) Date of issuance
- (c) Expiration date, which shall be not longer than one year from the date of issuance
- (d) Name and address of certified applicator
- (e) Crop or site and area to which the pesticide will be applied
- (f) Amount of pesticide obtained
- (g) Any other information prescribed by the director.

(3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-180 LICENSE DENIED, REVOKED OR SUSPENDED. (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

- (a) Made false or fraudulent claims through any public media such as newspaper, newsletter, TV or radio, misrepresenting the effect of pesticide or application methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of Section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide~~((: PROVIDED, That a person will not be in violation when following current EPA pesticide enforcement policies:))~~;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58 RCW, 17.21 RCW, and regulations adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, or reports;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in ~~((RCW 17.21))~~ chapter 17.21 RCW;

(k) Used, ~~((recommended,))~~ or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

(l) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

(m) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

(n) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

(o) Made false, misleading statements or reports during or after an inspection concerning any infestation or infection of pests found on land;

(p) Made false or fraudulent reports and/or recommendations;

(q) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW; or

(s) To have in his/her possession a department pesticide applicator, operator, dealer manager or pest control consultant examination or to remove or cause to remove any said examination from the department without expressed consent from the department.

(2) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-185 RESTRICTIONS APPLYING TO ANY PERSON HOLDING, HANDLING, USING, OR DISPOSING OF PESTICIDES AND THEIR CONTAINERS. (1) Any person handling, applying, or disposing of pesticides or pesticide containers ~~((to blooms of fruits, cover crops, and other plants shall regulate the timing and technique of application))~~ shall do so in such a manner to minimize hazard to commercially important pollinating ~~((insects))~~ insect species. Due care must be taken to regulate the timing and technique of pesticide applications to or around blossoming plants.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner ~~((that will))~~ as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, ~~((pollinating insects,))~~ or wildlife: PROVIDED, That a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: PROVIDED FURTHER, That disposing of pesticides at disposal sites approved by the ~~((local health department))~~ appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

~~((a))~~ (3) No person shall pollute streams, lakes, and other public water supplies in their pesticide loading and mixing operation. This includes using devices or procedures to prevent "back-siphoning".

~~((b))~~ (4) None of the following pesticides shall be applied by aircraft or airblast sprayers immediately adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises:

(a) Monocrotophos (Azodrin)

(b) Demeton (Systox) ~~((Demeton))~~

(c) Disulfoton (DiSyston)-Liquid

(d) Aldicarb (Temik)

(e) Endrin

(f) Tepp

(g) Parathion

(h) Phorate (Thimet) ~~((Phorate))~~-Liquid

(i) Mevinphos (Phosdrin)

(j) Zinophos

~~((Schradan (OMPA))~~

~~((4))~~ (5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, including humans, desirable plants or animals.

~~((5))~~ (6) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices must be maintained for all pesticides and their containers which are covered under chapter 15.58 RCW.

(b) The provisions of subsections ~~((5))~~(d) and (e) shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to categories 3 and 4 pesticide formulations labeled for home and garden use only; and shall not apply to drums of petroleum oils, ~~((timesulfur))~~ lime sulfur, and ferrous sulfate.

(c) For the purposes of subsections ~~((5))~~(d) and (e), pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Category 1 — highly toxic pesticides (~~which labeling requires~~) labeled with the signal word "danger" (~~and skull and crossbones insignia and the word "poison" on the label.~~

~~(i) These formulations~~) and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (~~((5))~~ (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry. Appropriate warning signs shall be posted on these enclosures or containers. The warning signs shall carry the skull and crossbones symbol and the wording "Danger: — Poison (or Pesticide or Chemical) Storage Area — Keep Out" in letters large enough to be legible at a distance of ~~((30))~~ thirty feet. The signs shall be posted to be visible from any direction.

~~((1-))~~ (i) Closed vehicle~~((:))~~;

~~((2-))~~ (ii) Closed trailer~~((:))~~;

~~((3-))~~ (iii) Building or room or fenced area with a fence at least six feet high.

~~((4-))~~ (iv) Foot locker or other container which can be locked.

~~((5-))~~ (v) Unattended trucks or trailers must have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

~~((6-))~~ (vi) Bulk storage containers ~~((50))~~ fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Category 2 — pesticides (~~which labeling carries~~) labeled with the signal word "Warning~~((:))~~" and Categories 3 and 4 — pesticides (~~which labeling carries a~~) labeled with the signal word "caution"~~((:~~

~~(i) These pesticide formulations~~) and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in subsection (d)~~((1))~~: PROVIDED, That metal containers, ~~((28))~~ twenty-eight gallons and larger, with tight screw-type bungs, secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage for pesticides covered in subsection (e).

~~((7-))~~ (7) No person shall disperse a pesticide from any aircraft while in flight except over the target field and at the customary application height for that crop: PROVIDED, That emergency dumping shall not be considered a violation of this section.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-190 APPLICATOR REQUIREMENTS. (1) Commercial applicators and public operators when applying any pesticide, and private commercial applicators and demonstration and research applicators when applying pesticides restricted to use by certified applicators only, shall keep records which shall include the following:

(a) The name of the person for whom the pesticide was applied.

(b) The address or location of the land where the pesticide was applied.

(c) The year, month, day and time the pesticide was applied.

~~((d) The person or firm who supplied the pesticide which was applied:))~~

~~((e))~~ (d) The trade name and/or common name of the pesticide which was applied and/or EPA registration number for that product (~~when available~~).

~~((f))~~ (e) The direction and estimated velocity of the wind and the temperature at the time the pesticide was applied: PROVIDED, That this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.

~~((g))~~ (f) The amount, or amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per 100 gallons) of the pesticide used.

(a) For PCO classification, the amount and concentration of the pesticide(s) applied which may be recorded to the nearest ounce of active ingredient or to the nearest gallon of liquid spray; fumigation records shall include the pounds of gas released per ~~((1000))~~ one thousand cubic feet of space, the temperature, and the duration of the exposure period.

~~((h))~~ (g) The pests to be controlled (For PCO classification only).

~~((i))~~ (h) Specific crop or site to which pesticide was applied.

~~((j))~~ (i) Apparatus license plate number.

~~((k))~~ (j) Applicator's name and address and the name of the individual making the application.

(2) Application records shall be completed and available to the department the same day the pesticides were applied.

(3) Application records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

(4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his/her land, for the current season, which shall contain the information listed in WAC 16-228-190(1).

(5) All apparatus shall be kept in good repair and ~~((shall use))~~ only that apparatus capable of performing all functions necessary to ~~((insure))~~ ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, including humans, desirable plants and animals, from subsequent applications.

(6) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: PROVIDED, That this inspection is made at the site of application of where the apparatus is located.

(7) The applicator shall make available necessary safety equipment in proper working order and advise ~~((his))~~ the employee on its use to meet the safety requirements of the pesticide label.

(8) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.

(9) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

Reviser's note: RCW 34.04.058 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 Order 1470, filed 5/14/76)

WAC 16-228-210 FINANCIAL RESPONSIBILITY INSURANCE CERTIFICATE (FRIC). (1) A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

(a) Name of insured (identical to name on application form)

(b) Address of insured

(c) Policy number

(d) Plane number(s) (if applicable)

(e) Effective period

(f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) ~~(((\$25,000.00)))~~ fifty thousand dollars; and property damage ~~(((\$25,000.00)))~~ fifty thousand dollars; or

(ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than ~~(((\$50,000.00)))~~ one hundred thousand dollars.

(iii) Amount of deductible (if applicable): Maximum deductible, ~~(((\$500 for aerial; \$250))~~ five thousand for all ~~((other))~~ applicators.

(g) List of any pesticides or group of pesticides not covered by the policy.

(h) Acknowledgement of provisions for ~~((10))~~ ten days' prior written notice of cancellation or reduction of the insurance coverage.

Reviser's note: RCW 34.04.058 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 Order 1470, filed 5/14/76)

WAC 16-228-220 EXAMINATION REQUIREMENTS. Any individual who fails any pesticide licensing examination twice shall be required to wait at least ~~((30))~~ fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

AMENDATORY SECTION (Amending Order 1538, filed 7/29/77)

WAC 16-228-225 REGULATION OF APPLICATION OF ~~((RODENTICIDE BAI TS))~~ VERTEBRATE CONTROL PESTICIDES. ~~((1) PCO applicators and operators shall use rodenticide baits))~~ Vertebrate control pesticides shall be used only under the following conditions:

~~((a) Applicators and operators in charge of baiting operations shall have had training in the use of rodenticides prior to applying them and shall have passed the department's general PCO examinations.~~

~~((b) Use only rodenticides that are registered for that use by the Environmental Protection Agency (EPA), or the department, and adhere to the registered label warnings, precautions, use directions, and any regulations restricting their use:~~

~~((c) Rodenticides))~~ (1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

~~((d))~~ (2) Baits must be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed. All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

~~((e))~~ (3) When the use of bait boxes is necessary to ~~((insure))~~ ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and designed to accomplish that purpose, and shall be labeled clearly with letters on contrasting background showing the following information:

~~((i) For the rodenticides warfarin, pindone (Pival), diphacinone (DiPhacin), coumafuryl (Fumarin), chlorophacinone (Rozol) and other anticoagulants, the words "WARNING" — "RODENT BAIT" in letters not less than one-half inch in height and directly under, in letters not less than one-eighth inch in height the word "ANTICOAGULANT" — and name of the rodenticide.~~

~~((ii) For the baits containing zinc phosphide, arsenic, Red Squill, strychnine, alpha naphthylthiourea (Antu), Vacor (DLP-787, or barium carbonate, the words "WARNING" — "RODENT BAIT" — "POISON" in letters not less than one-half inch in height and the skull and crossbones, in red, not smaller than the letters, and in letters not less than one-eighth inch in height, the name of the rodenticide:))~~

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

~~((iii))~~ (c) For the baits containing Sodium Fluoroacetate (1080), Fluoroacetamide (1081), and phosphorus paste the words "DANGER" — "RODENT BAIT" — "FATAL POISON" in red letters not less than one-half inch in height and the skull and crossbones insignia in red, not smaller than the letters and on contrasting background; and in letters not less than one-eighth inch in height, the name of the rodenticide.

~~((iv))~~ (d) The name of the firm and/or applicator, address, and the telephone number.

~~((v))~~ Thallium shall not be used.

~~((f))~~ (4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes ~~(for rodenticides)~~ being used as per WAC 16-228-225~~((+)(e))~~ (3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

~~((g))~~ (5) For residential areas, bait portions will be limited at each bait station to quantities containing no more than one-fourth ~~((+4))~~ of a LD50 dose of the pesticide for a ~~((70))~~ seventy kilogram (approximately ~~((+54))~~ one hundred fifty-four pound) human. ~~(LD50 ratings shall be established by the director.~~

~~((h))~~ (6) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles. In addition, compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

~~((i))~~ (7) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label ~~(or in the case of bulk prepared baits, a label identifying the contents as rodent bait, the active ingredient and appropriate cautions.~~

~~((j))~~ (8) Servicemen's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

~~((k))~~ (9) Upon completion of a rodent baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

~~((l))~~ (10) Wherever poisoned rodent carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they must be recovered and disposed of by burning, burying not less

than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

~~((m))~~ When anticoagulant baits are placed outdoors they shall be placed into burrows, tunnels, deep holes, or in covered field rodent bait stations. Grain baits coated with anticoagulants and embedded in paraffin may be used in open bait stations. Compliance with WAC 16-228-225~~(1)(c)~~ shall be maintained.

~~((n))~~ Strychnine shall be applied only on grain baits except when used for the control of native rodents, such as porcupines, etc., which shall be in accordance with instructions issued by the United States Bureau of Sports Fisheries and Wildlife Service.)

(11) Thallium-containing compounds shall not be used for vertebrate control.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-230 SPECIAL RESTRICTIONS ON THE USE OF COMPOUNDS 1080, 1081 AND PHOSPHORUS PASTE. ~~((+))~~ Compounds 1080 and 1081, and phosphorus paste shall be restricted for use as follows:

~~((a))~~ (1) No person shall possess or use these pesticides except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control applicators and operators licensed by the state; and wholesalers or jobbers who distribute, sell, or export these pesticides to the aforementioned persons.

~~((b))~~ (2) No person shall use these pesticides in occupied structures such as private homes, apartment houses, other human dwellings ~~((of))~~ or food service establishments. Those persons authorized in subsection ~~((a))~~ (1) above shall use these pesticides only ~~((when))~~ in buildings such as grain elevators, seed houses, or warehouses~~(;)~~. The portions of these buildings being baited ~~((are))~~ must be under control of the licensee. A controlled building is one that is locked or attended and that is under at least once-a-day surveillance by the licensee, unless authorized as per WAC 16-228-230~~((+)(g))~~ (7).

~~((c))~~ (3) Compounds 1080 and 1081 ~~((may))~~ shall be used only by authorized persons who have read and will comply with the "Instructions For Using Sodium Fluoroacetate (Compound 1080)", by the National Research Council and all other labeling of the registrant, and are familiar with hazards of the above compounds.

~~((d))~~ (4) Compounds 1080 and 1081 may be used in warehouses and industrial buildings only when warning signs are used which are not less than ~~((8" x 10"))~~ eight by ten inches with the words "DANGER" — "FATAL POISON" — "RODENT BAITS" in red letters not less than one inch in height on a contrasting background and the skull and crossbones, in red, not smaller than the letters. These signs must be conspicuously posted at all entrances to the building and portions of the building under control of the licensee. Below is the suggested format:

DANGER
 FATAL POISON - RODENT BAIT
 IN THIS AREA



DO NOT TOUCH BAITS
 OR DEAD ANIMALS



Name, address and phone number
 of applicator

All authorized personnel in the building must be notified of the baiting; a diagram showing the number of bait stations and the location of each on the premises must be readily available on the property; and a copy of such diagram must be in the possession of the licensee who is performing the baiting operation.

~~((t))~~ (5) No person shall use compounds 1080 and 1081, or phosphorus paste unless all unused baits are recovered and disposed of appropriately at the end of the baiting operation~~((:))~~, and ~~((Carcasses))~~ carcasses shall be recovered daily and disposed of as per WAC 16-228-225 ~~((+)(+))~~ (10), unless a permit issued pursuant to WAC 16-228-230(7) provides alternative requirements.

~~((f))~~ Food baits containing compounds 1080 and 1081, or phosphorus paste in nonwater form may be used only in controlled dumps and only if the bait is composed of a dry crumbly particle-type, or in a thin paste so that the bait cannot be readily carried to other areas by rodents. This bait shall be placed in such a manner so that it will not be readily accessible to birds, desirable animals, or the public~~((:))~~ (6) When placed in burrows, ~~((the))~~ baits should be put far enough into the burrow so that domestic animals cannot reach ~~((it))~~ them readily. Baits applied to dumps should be placed beneath objects, in containers, or into holes so that it is inaccessible. Appropriate warning cards, as per WAC 16-228-230~~((+)(d))~~ (4) shall be conspicuously displayed in adequate numbers whenever compounds 1080 and 1081 or phosphorus baits are used on public property or on private property accessible to the public.

~~((g))~~ (7) Any authorized person desiring to use these ~~((rodenticides))~~ pesticides in any areas other than licensee-controlled buildings~~((:))~~, controlled dumps~~((:))~~, sanitary sewers or in emergency situations where application sites are controlled and attended, such as water-fronts, shall apply for and obtain a permit from the director prior to applying the ~~((rodenticide))~~ pesticide. These permits may be issued by the department if, after an on-site inspection, the department determines that:

~~((+))~~ (a) Good housekeeping and sanitary procedures are being followed to help control the rodent population;

~~((+))~~ (b) Rodent populations and conditions are such that an emergency situation exists and less toxic rodenticides and other control measures will not be adequate for the needed rodent control;

~~((+))~~ (c) The applicant designates a competent trained person to be named on the permit, who will accept responsibility for properly collecting and disposing of dead rodents; and

~~((iv))~~ (d) A date is given for completion of the baiting operation (not more than ~~((30))~~ thirty days duration) when the licensee will service the bait boxes ~~((if any))~~ and determine if a renewal of the permit is necessary.

Reviser's note: RCW 34.04.058 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.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

(1) WAC 16-228-174 (Order No. 1538, filed 7/29/77)

(2) WAC 16-228-176 (Order No. 1538, filed 7/29/77)

(3) WAC 16-228-178 (Order No. 1538, filed 7/29/77)

WSR 84-09-012

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1818—Filed April 10, 1984]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of WAC 16-230-010 through 16-230-078.

This action is taken pursuant to Notice No. WSR 84-05-066 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 17.21 and 15.58 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 10, 1984.

By Michael V. Schwisow
 Deputy Director

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-010 RESTRICTED USE PESTICIDES ON BLOSSOMING ALFALFA, CLOVER AND MINT—AREA UNDER ORDER. (1) The following agricultural pesticides are ~~((by this order))~~ declared to be restricted use pesticides in all counties of the state of Washington: ~~((Abate, Aldrin, Banol, Baytex, BHC (Benzene Hexachloride), Bidrin, Bomyl, Chlordane, Diazinon, Dibrom, Dieldrin, Dilan, Dimethoate (Cygon), Di-Syston, DDT, Delnav, Demeton (Systox), Dylox, Endrin, EPN, Ethion, Ethyl-Methyl Guthion, Heptachlor, Imidan, Lindane, Malathion, Menazon, Metacide, Metasystox R, Methoxychlor, Methyl~~

~~Parathion, Methyl Trithion, NPD, Parathion, Perthane, Phorate, Phosdrin, Phosphamidon, Phostex, TDE (Rhothane or DDD), TEPP, Thiocron, Thiodan, Toxaphene, Trithion, Vapona, and Zectran.~~)

<u>COMMON CHEMICAL NAME</u>	<u>ALSO KNOWN AS*</u>
<u>acephate</u>	<u>Orthene</u>
<u>azinphos-methyl</u>	<u>Guthion</u>
<u>carbaryl</u>	<u>Sevin</u>
<u>carbofuran</u>	<u>Furadan</u>
<u>carbophenothion</u>	<u>Trithion</u>
<u>chlorpyrifos</u>	<u>Lorsban</u>
<u>demeton</u>	<u>Systox</u>
<u>diazinon</u>	
<u>dimethoate</u>	<u>Cygon, Rebelate</u>
<u>disulfoton</u>	<u>Di-Syston</u>
<u>endosulfan</u>	<u>Thiodan</u>
<u>fenthion</u>	<u>Baytex</u>
<u>formetanate hydrochloride</u>	<u>Carzol</u>
<u>malathion</u>	<u>Cythion</u>
<u>methidathion</u>	<u>Supracide</u>
<u>methomyl</u>	<u>Lannate, Nudrin</u>
<u>methoxychlor</u>	<u>Marlate</u>
<u>methyl parathion</u>	
<u>mevinphos</u>	<u>Phosdrin</u>
<u>naled</u>	<u>Dibrom</u>
<u>oxamyl</u>	<u>Vydate</u>
<u>oxydemeton-methyl</u>	<u>Metasystox-R</u>
<u>parathion</u>	
<u>phorate</u>	<u>Thimet</u>
<u>phosmet</u>	<u>Imidan</u>
<u>trichlorfon</u>	<u>Dylox</u>

* This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Area under order. All counties of the state of Washington.

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-015 DEFINITION. (1) The term "blossoming alfalfa, mint or clover" as used in ~~((this order))~~ WAC 16-230-010 through WAC 16-230-083 shall be when there are five or more blooms per square yard on the average in a given field: PROVIDED, That following the first cutting the bloom count shall be taken only on the current crop. For the purpose of this ((regulation)) rule, a "bloom" on clover or alfalfa is defined as any ((clover head or)) alfalfa raceme or clover head containing one or more open flowers. A "bloom" on mint is defined as any head or spike with one or more open (florets) flowers.

(2) The time of sunrise and sunset shall be that of the official tables, U.S. Weather Bureau, Yakima, Washington.

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-030 ~~((USE CHEMICALS—TIME WHEN))~~ ALFALFA AND CLOVER—CHEMICAL RESTRICTIONS. (1) The use or application of any formulation (except where the formulation is specified) of the following listed pesticides ((or any formulation thereof)) shall be prohibited on blossoming alfalfa and clover crops within seven days to blossoming. See WAC

16-230-076 and WAC 16-230-078 for additional restrictions in certain areas of Walla Walla county. ((is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning: PROVIDED, That Endrin, Abate, and DDT plus Toxaphene may only be applied to blossoming clover crops pursuant to this regulation and their application to blossoming alfalfa shall be made pursuant to WAC 16-230-050

- (a) Abate
- (b) DDT
- (c) Delnav
- (d) Demeton (Systox)
- (e) Dibrom (Emulsifiable Concentrate)
- (f) Dieldrin (Granular)
- (g) Dilan
- (h) Di-Syston
- (i) Dylox (Trichlorphon)
- (j) Endrin
- (k) Ethion
- (l) Heptachlor (Granular)
- (m) Menazon
- (n) Metasystox R (Methyl Demeton)
- (o) Methoxychlor
- (p) NPD
- (q) Perthane
- (r) Phorate (Thimet Granular)
- (s) Phosdrin (Mevinphos) (Liquid)
- (t) Phostex
- (u) TDE (Rhothane or DDD)
- (v) TEPP
- (w) Thiocron
- (x) Thiodan (Endosulfan)
- (y) Toxaphene
- (z) Trithion (Carbopenothion))

- (a) Azinphos-methyl (Guthion)
- (b) Carbaryl (Sevin)
- (c) Carbofuran (Furadan)
- (d) Dimethoate (Cygon or Rebelate)
- (e) Methidathion (Supracide)

(2) The use or application of liquid formulations of chlorpyrifos (Lorsban), mevinphos (Phosdrin), wettable powder formulations of naled (Dibrom), and liquid or wettable powder formulations of malathion and phorate (Thimet) applied as sprays on blossoming alfalfa or clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight of the same day.

(3) The use or application of any formulation (except where the formulation is specified) of the following pesticides shall be prohibited on blossoming alfalfa and clover crops:

- (a) Carbaryl (Sevin) see number (1) above
- (b) Diazinon
- (c) Fenthion (Baytex)
- (d) Malathion dust & ULV
- (e) Methyl parathion
- (f) Mevinphos (Phosdrin) dust
- (g) Naled (Dibrom) dust
- (h) Parathion
- (i) Phosmet (Imidan)

(4) The use or application of the following listed pesticides or any formulation thereof (except where the formulation is specified) on blossoming alfalfa and clover crops is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning: PROVIDED, That methomyl (Lannate or Nudrin) shall only be applied to blossoming clover crops pursuant to this rule, and its application to blossoming alfalfa is further restricted to applications only within the period beginning at two hours prior to sunset and ending at midnight the same day: PROVIDED FURTHER, That the application of the following restricted use pesticides on blossoming alfalfa in Walla Walla county is further restricted to applications only within the period beginning at sunset and ending at two hours after midnight the following morning:

- (a) Carbophenothion (Thription)
- (b) Formetanate hydrochloride (Carzol)
- (c) Demethon (Systox)
- (d) Naled (Dibrom) emulsifiable concentrate
- (e) Disulfoton (Di-Syston)
- (f) Endosulfan (Thiodan)
- (g) Oxydemeton-methyl (Metasystox-R)
- (h) Methomyl (Lannate or Nudrin)
- (i) Methoxychlor (Marlate)
- (j) Phorate (Thimet) granular
- (k) Trichlorfon (Dylox)
- (l) Oxamyl (Vydate)

AMENDATORY SECTION (Amending Order 1041, filed 2/15/67)

WAC 16-230-075 ((~~MALATHION, PHOSDRIN AND TEPP—TIME WHEN~~)) BLOSSOMING MINT—CHEMICAL RESTRICTIONS. The use or application of ((~~the pesticides known as~~)) Malthion dust, ((~~Phosdrin (mevinphos), and TEPP~~)) on blossoming mint ((~~crops~~)) is ((~~restricted~~)) prohibited. The use or application of malathion liquid, oxydemeton-methyl (Metasystox-R), and methomyl (Lannate or Nudrin) liquid on blossoming mint is restricted to applications only within the period beginning at two hours prior to sunset and ending at two and one-half hours after sunrise the following morning. The use or application of any formulation of acephate (Orthene) on blossoming mint is restricted to applications only within the period beginning at two and one-half hours prior to sunset and ending at midnight of the same day ((~~PROVIDED, That this time restriction shall apply to TEPP only if the federal registration allowing the use of Kelthane on mint is reinstated~~)).

NEW SECTION

WAC 16-230-076 AREA 1. (1) Area 1 description. South central Walla Walla county – all lands lying within a line starting at the junction of the Washington-Oregon border and the Rainville Road; thence north along the Rainville Road to the Frog Hollow Road; thence west along the Frog Hollow Road to the

McDonald Road; thence north along the McDonald and Bridge Road to State Highway 12; thence west along Highway 12 to the Woodward Canyon Road; thence north and west along the Woodward Canyon Road to the northeast corner of Section 24, T7N, R33E; thence west along the section lines to the northwest corner of Section 23, T7N, R32E; thence south along the section lines to the Walla Walla river; thence southerly along the Walla Walla river to its intersection with the west section line of Section 7, T6N, R33E; thence south along the section lines to the Washington-Oregon border; thence east along the border to the point of beginning.

(2) Area 1 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), and methidathion (Supracide) on alfalfa and clover crops, shall be prohibited after May 23 of each year, and the use or application of dimethoate (Cygon or Rebelate) on alfalfa and clover crops shall be prohibited after May 30 of each year.

NEW SECTION

WAC 16-230-078 AREA 2. (1) Area 2 description. South central Walla Walla county – All lands lying within a line starting at the junction of the Rainville Road and the Washington-Oregon border; thence north to the Frog Hollow Road; thence east along the Frog Hollow Road to the Valley Chapel Road; thence south along the Valley Chapel Road to the Washington-Oregon border; thence west along the border to the point of beginning.

(2) Area 2 restrictions. In addition to the restrictions in WAC 16-230-030, the use or application of azinphos-methyl (Guthion), carbofuran (Furadan), and methidathion (Supracide) on alfalfa and clover crops, shall be prohibited after May 30 of each year, and the use or application of dimethoate (Cygon or Rebelate) on alfalfa and clover crops shall be prohibited after June 6 of each year.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

- WAC 16-230-001 PROMULGATION.
- WAC 16-230-020 NONUSE ON BLOSSOMING ALFALFA AND CLOVER CROPS.
- WAC 16-230-040 SPRAY CHEMICALS—TIME WHEN.
- WAC 16-230-050 ENDRIN SPRAY OR DUST—TIME WHEN.
- WAC 16-230-060 DIELDRIN SEVIN-SPRAY OR DUST—TIME WHEN.
- WAC 16-230-080 TIME OF SUNRISE AND SUNSET.
- WAC 16-230-085 AIRCRAFT CARRYING RESTRICTED USE PESTICIDES—PERMISSION REQUIRED.
- WAC 16-230-090 RESTRICTIONS IN CERTAIN AREAS.

WSR 84-09-013
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
 [Order 1819—Filed April 10, 1984]

I, M. Keith Ellis, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 16-230-082 through 16-230-088.

This action is taken pursuant to Notice No. WSR 84-05-065 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 17.21 and 15.58 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 10, 1984.

By Michael V. Schwisow
 Deputy Director

NEW SECTION

WAC 16-230-082 POLLEN SHEDDING CORN—RESTRICTED USE PESTICIDES—AREA UNDER ORDER. (1) The term "pollen shedding corn" as used in WAC 16-230-082 through WAC 16-230-088 shall be that stage of growth when ten percent or more of the corn plants in any one quarter portion of a field are showing spike anthers.

(2) The insecticides carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion, methomyl (Lannate or Nudrin), methyl parathion, parathion, and permethrin (Ambush or Pounce) are by this order declared to be restricted use insecticides. Such insecticides are restricted in their use in Areas 1, 2 and 3 in eastern Washington.*

(3) Area under order. Area 1 – Yakima county; Area 2 – Franklin, Adams and Grant counties; Area 3 – Area within Area 2 in Grant county.

* Listed trade names are to be used as a guide and may not include all the trade or brand names under which the chemicals are distributed.

NEW SECTION

WAC 16-230-084 AREAS 1 AND 2. (1) Area 1 description – Yakima county. This area includes all of the irrigable lands encompassed by a line beginning at the southwest corner of Section 18, T8N, R21E; thence north nine miles more or less to the southeast corner of Section 36, T10N, R20E; thence fifteen miles west more or less to the southwest corner of Section 34, T10N, R18E; thence north fifteen miles more or less to the northwest corner of Section 22, T12N, R18E; thence east four miles more or less to the Northern Pacific Railroad tracks; thence following the tracks southeast to the Oldenway Road; thence north along the Oldenway

Road and section lines to the Yakima river; thence southeast along the Yakima river to Highway 22 north of Toppenish; thence north along Highway 22 to Highway 12 at Buena; thence southeasterly along Highway 12 to the southern section line of Section 31, T11N, R21E; thence south one-quarter mile more or less to the Yakima River; thence southeast along the Yakima river to the Sunnyside-Mabton Road; thence south one mile to the Boundary Road; thence southwest along the Boundary Road and the Yakima Indian reservation boundary to the northern section line of Section 22, T8N, R22E; thence west nine miles more or less to the point of beginning.

(2) Area 2 description – Franklin, Adams and Grant counties. This area includes all of the irrigable lands encompassed by a line beginning at Highway 12 and the Columbia river; thence north and west following the river the length of Franklin county and into Grant county to the junction of Grant-Douglas county line; thence north on Grant-Douglas county line to the fifth standard parallel north; thence east twenty-five miles more or less to Highway 17; thence southeast seventeen miles more or less on Highway 17 to Highway 90; thence east twelve miles more or less to Grant-Adams county line; thence south on county line twelve miles more or less to the southeast corner of Section 36, T17N, R30E (southeast corner of Grant county); thence south twelve miles more or less (in Adams county) along east boundary of Section 1, 12, 13, 24, 25, 36, T16N, R30E; thence south along east boundary of Sections 1, 12, 13, 24, 25, 36, T15N, R30E continuing south into Franklin county along east boundary of Section 1 and 12, T14N, R30E to southeast corner of said Section 12; thence west one mile to Highway 17 (Franklin county); thence south on Highway 17 seventeen miles more or less to junction with Highway 395; thence south on Highway 395 fifteen miles more or less to Highway 12; thence west and south four miles more or less to Columbia river to the point of beginning.

(3) Area 1 and 2 restrictions.

(a) On and after August 1 to October 1 of any given year, application of carbaryl (Sevin) (except Sevin XLR), parathion, methyl parathion and malathion dust in any combination on pollen shedding corn is prohibited.

(b) On and after August 1 to August 15 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 7:00 a.m. and 2:00 p.m.

(c) On and after August 15 to September 1 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush or Pounce) on pollen shedding corn is prohibited between the hours of 8:30 a.m. and 3:30 p.m.

(d) On and after September 1 to October 1 of any given year, application of diazinon, fenvalerate (Pydrin), endosulfan (Thiodan), Sevin XLR, methomyl (Lannate or Nudrin), malathion liquid, and permethrin (Ambush

or Pounce) on pollen shedding corn is prohibited between the hours of 10:00 a.m. and 4:00 p.m.

(e) The application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

NEW SECTION

WAC 16-230-086 AREA 3. (1) Area 3 description - area within Area 2 in Grant county. This area includes all of the irrigable lands encompassed by a line beginning at the junction of west 645 wasteway and White Trail Road and proceeding east four miles more or less on White Trail Road to Winchester wasteway; thence southeast four miles more or less along Winchester wasteway to I-90; thence east on I-90 nine miles more or less to Potholes Reservoir; thence following the west shoreline southeast to the Frenchmen Hills wasteway; thence west along Frenchmen Hills wasteway fourteen miles more or less to its junction with West 645 wasteway; thence northwest and north fourteen miles more or less along West 645 wasteway to junction with White Trail Road, the point of beginning.

(2) Area 3 restriction. This area is unrestricted as to the use of carbaryl (Sevin), diazinon, endosulfan (Thiodan), fenvalerate (Pydrin), malathion, methomyl (Lannate or Nudrin), methyl parathion, parathion, and permethrin (Ambush or Pounce) on pollen shedding corn: PROVIDED, That the application of microencapsulated methyl parathion shall be prohibited on all pollen shedding corn when properly marked honey bee apiaries occur within a six-mile radius of the pollen shedding corn to be treated.

NEW SECTION

WAC 16-230-088 PERMIT. Upon receipt of a written request and justification for a variance, the director of the Washington state department of agriculture may issue a permit granting a variance from restrictions pertaining to pollen shedding corn.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

- (1) WAC 16-230-100 PROMULGATION.
- (2) WAC 16-230-101 PROMULGATION.

WSR 84-09-014
EMERGENCY RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Order 408—Filed April 10, 1984]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule postponing the "closed season" for industrial fire tool requirements to May 1, 1984, for all of Washington.

I, Brian J. Boyle, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is postponing the "closed season" for industrial requirements until May 1, 1984, for all of Washington due to the adequate amounts of rainfall and the reduction of risk to life and property from fire.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 76.04.252 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 10, 1984.

By Brian J. Boyle
 Commissioner of Public Lands

NEW SECTION

WAC 332-26-010 CLOSED SEASON. The period May 1, 1984 to October 15, 1984 shall be known as the closed season for industrial fire tool requirements

WSR 84-09-015
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 10, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning community options program entry system (COPES), amending WAC 388-15-610 through 388-15-630;

that the agency will at 10:00 a.m., Wednesday, May 23, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984.

The authority under which these rules are proposed is RCW 74.08.044.

The specific statute these rules are intended to implement is RCW 74.08.044.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services

Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by May 9, 1984. The meeting site is in a location which is barrier free.

Dated: April 9, 1984

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-15-610 through 388-15-630.

The Purpose of the Rule Change: To clarify eligibility for the community options program entry system (COPES) and to increase the payment for services.

The Reason These Rules are Necessary: To uniformly implement the community options program entry system statewide.

Statutory Authority: RCW 74.08.043 and 74.08.390.

Summary of the Rule Change: WAC 388-15-610 is amended to add an eligibility resource limitation; WAC 388-15-620 is amended to exclude persons from the COPES program whose incomes exceed the cost for services; and WAC 388-15-630 is amended to increase the benefit for COPES services from 80% of the average statewide nursing home rate to 90%.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule or Rule Change: Phil Mozniak, Community Services Program Manager 2, Bureau of Aging and Adult Services, Mailstop: OB-43G, Phone 753-1244 or scan 234-1244.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1954, filed 3/30/83)

WAC 388-15-610 COPES—ELIGIBLE PERSONS. (1) Categorically related Medicaid recipients (i.e., aged, blind, and disabled persons) eighteen years of age and over are eligible for COPES services when they:

- (a) Have gross monthly income which is less than three hundred percent of Supplemental Security Income (SSI) benefit level; and
- (b) Have resources at or below the Medicaid standard; and
- (c) Are assessed by the department as eligible for skilled nursing care, intermediate nursing care or intermediate nursing care for the mentally retarded; and
- ~~((c))~~ (d) Choose to live in their own homes or in congregate care facilities or in licensed adult family homes; and
- ~~((d))~~ (e) Have a plan of care for COPES services prepared by the department and the total cost for this plan of care, including the one-person medically needy income level, is less than ~~((eighty))~~ ninety percent of the average state-wide nursing home rate.

(2) Participation in COPES is the choice of the otherwise eligible recipient.

AMENDATORY SECTION (Amending Order 1954, filed 3/30/83)

WAC 388-15-620 COPES—SERVICES. (1) The following services may be authorized to COPES eligible recipients, based on department assessment of need and plan of care:

(a) Congregate care as defined in WAC 388-15-560 through 388-15-568. In addition, congregate care facilities may provide medication administration to COPES eligible clients, when this service is required

by the department and performed by a registered nurse under the general direction of a licensed physician or dentist. (Refer to RCW 18-88.285 and WAC 308-120-100 through 308-120-522.)

(b) Adult family care as defined in WAC 388-15-551 through 388-15-555.

(c) Adult day health.

(d) Home health services as defined in WAC 388-86-045.

(e) Personal care services which include meal preparation, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, and reminding to take medicines. Other forms of household assistance such as house cleaning, telephoning, laundry, and writing are allowed when the recipient is unable to perform these tasks independently. Personal care also includes protective supervision when required due to the recipient's diminished mental capacity or judgment. Sterile procedures and administration of medications are not authorized personal care tasks, unless the provider is a licensed health practitioner or a member of the recipient's immediate family.

(f) Case management.

(2) Personal care services may not be authorized to recipients residing in congregate care facilities or adult family homes, since personal care is provided by these facilities.

(3) Adult day health and home health services are provided only when the recipient requires congregate care, adult family home services, or personal care. The average cost for adult day health and home health services must be included in the total plan of care costs.

(4) Applicants whose incomes exceed the cost for services are not eligible for COPES.

AMENDATORY SECTION (Amending Order 1954, filed 3/30/83)

WAC 388-15-630 COPES—PAYMENT—PROCEDURES. (1) All nonexempt income of a person receiving COPES services shall be allocated according to procedures in WAC 388-83-200.

(2) The department shall pay to the providers of congregate care, home health services, adult day health care, and adult family home care a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department.

(3) The department shall pay at least federal minimum hourly wage rates to individual and independent providers of personal care, but shall not pay more than three dollars and ~~((seventy-five))~~ eighty-five cents per hour. When the provider assists the recipient full time, a standby hourly wage shall be paid when the provider must be with the recipient but is not directly assisting the client. This standby wage shall not exceed twenty-five cents per hour.

(4) The department shall pay to private and public agencies ~~((which provide))~~ providing personal care the same hourly unit rate reimbursement established by the department for chore services personal care.

(5) Payments for COPES services plus the recipient's income allocated for maintenance in the home shall not exceed ~~((eighty))~~ ninety percent of the average state-wide monthly rate for nursing home care.

(6) Income allocated for maintenance needs in the home cannot exceed the medically needy income levels.

WSR 84-09-016
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 10, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning community options program entry system (COPES), amending WAC 388-83-200;

that the agency will at 10:00 a.m., Wednesday, May 23, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984.

The authority under which these rules are proposed is RCW 74.08.044.

The specific statute these rules are intended to implement is RCW 74.08.044.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

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Dated: April 9, 1984

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-83-200 Community options program entry system (COPEs).

The Purpose of the Rule Change: To increase the cost allowed for the cost of care.

The Reason These Rules are Necessary: A change in the department's policy.

Statutory Authority: RCW 74.08.044.

Summary of the Rule Change: Increases the amount allowed for the cost of care from eighty to ninety percent of the average nursing home rate.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, Phone: 3-7316, MS: LK-11.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 2020, filed 8/31/83)

WAC 388-83-200 COMMUNITY OPTIONS PROGRAM ENTRY SYSTEM (COPEs) PROJECT. (See WAC 388-15-600.) (1) Eligible persons for the COPEs project are individuals age eighteen and over who:

(a) Meet the Title XIX categorically needy eligibility requirements for SSI related institutionalized individuals. See chapter ~~(388-83 and 388-92)~~ 388-95 WAC. Income and resources of parents or spouses will not be considered available when determining eligibility or participation for a COPEs applicant or recipient;

(b) Are assessed by the department to require the level of care provided in a skilled nursing facility, intermediate care facility or an intermediate care facility for the mentally retarded;

(c) Have a plan of care approved by the department and the total cost for this plan of care including the MNIL for one person, is less than ~~(eighty)~~ ninety percent of the department's state-wide average nursing home rate; and

(d) Are able and choose to live at home with community support services, or in a congregate care facility, or in a licensed adult family home.

(2) Income disregarded in determining eligibility is not available for participation in COPEs services.

(3) Available income ~~((total income less amounts disregarded in determining eligibility;))~~ of ~~((a))~~ the COPEs participant living at home shall be allocated as follows:

(a) An amount equal to the medically needy income level for one person shall be protected for the maintenance needs of the recipient; ~~((or))~~ and

(b) For ~~((an individual with a))~~ the maintenance needs of the participant's spouse or family at home, an additional amount shall be protected equal to the medically needy income level ~~((adjusted for the appropriate family size))~~ for the number of dependents in the home less the income of the dependents;

(c) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical care recognized under state law but not covered under Medicaid;

(d) Income remaining after deductions in subsections (3)(a), (3)(b) and (3)(c) of this section will be the participation amount for COPEs services. (See WAC 388-15-620.)

(4) Income of a COPEs participant living in an adult family home or congregate care facility shall be allocated as for other eligible categorically needy persons in similar living situations.

WSR 84-09-017

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2090—Filed April 10, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Drugs—Persons eligible, amending WAC 388-91-010.

This action is taken pursuant to Notice No. WSR 84-05-038 filed with the code reviser on February 17, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 4, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-91-010 DRUGS—PERSONS ELIGIBLE. (1) A drug formulary will list all drug preparations which are provided without prior approval of medical consultant. It will include a description of program limitations, rules and program policy and penalties. The decision to place drugs in the division of medical assistance program drug formulary is based on these criteria:

(a) The drug must be established as a part of necessary and essential care for the condition for which it is to be used.

(b) The drug must be in general use by the physicians practicing in Washington.

(c) The drug must be of moderate cost. Generic forms will be used when listed under DSHS or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the less expensive one will be selected for the formulary.

(d) Drugs must not be classified (~~("ineffective" or "possibly effective")~~) "less than effective" by the food and drug administration.

(e) The drug must not be experimental.

(2) The following process is used to determine the acceptability of a drug preparation for possible listing in the formulary:

(a) Objective, scientific information and utilization data is reviewed for appropriateness according to the criteria in subsection (1) of this section, by the program medical staff, or,

(b) The secretary may appoint an advisory committee in accordance with RCW 43.20A.360 to review and advise the division of medical assistance on the acceptability of the drug preparation.

(c) The medical director or his designee may make appropriate changes in the formulary consistent with subsection (1) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

(d) Acceptable drugs will be included in the next subsequent edition of the formulary.

(3) In accordance with the department's rules and regulations drugs are provided for:

~~(a))~~ the necessary and essential medical care of recipients of medical assistance, medical care services and the limited casualty program.

~~((b) Recipients of state-funded medical care are furnished maintenance medications as listed by therapeutic classifications in the current division of medical assistance drug formulary. These persons are identified by the notation "GAU" on their medical identification coupons:))~~

WSR 84-09-018
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2091—Filed April 10, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to field audits, amending WAC 275-38-600.

This action is taken pursuant to Notice No. WSR 84-05-056 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 4, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-600 FIELD AUDITS. ~~((Each annual))~~ (1) All cost reports for calendar year 1983 shall be field audited by the department.

(2) Cost ((report will)) reports for years subsequent to 1983 may be field audited by auditors employed by or under contract with the department.

WSR 84-09-019
NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—April 9, 1984]

Notice is hereby given that the regular Conservation Commission meeting scheduled for "the third Thursday" (WAC 135-04-020) of May 1984 will be rescheduled to:

Meeting Date: May 24-25, 1984
Meeting Place: Cavanaugh's Motor Inns—At Columbia Center,
1101 Columbia Center Blvd., Kennewick, WA
Meeting Time: May 24 - 3:00 p.m.
May 25 - 8:30 a.m.

Please contact Shirley Casebier, Conservation Commission, Olympia, Washington 98504, phone: 459-6226 for further information.

Dates and places for other forthcoming meetings are yet to be determined.

WSR 84-09-020
ADOPTED RULES
UNIVERSITY OF WASHINGTON
[Order—Filed April 11, 1984]

Be it resolved by the board of regents of the University of Washington, acting at Seattle, Washington, that it does adopt the annexed rules relating to Thomas Burke Memorial Washington State Museum.

This action is taken pursuant to Notice No. WSR 84-01-037 filed with the code reviser on December 14, 1983. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 27.40.034 which directs that the board of regents of the University of Washington has authority to implement the provisions of RCW 27.40.034.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 17, 1984.

By Elsa Kircher Cole
Assistant Attorney General

NEW SECTION

WAC 478-210-010 LEGAL AUTHORITY TO ENACT. Pursuant to the authority granted by RCW 27.40.034 the Board of Regents of the University of Washington has established the following procedures for permanent acquisition of documents and materials on loan to the museum of the University of Washington (presently known as the Thomas Burke Memorial Washington State Museum).

NEW SECTION

WAC 478-210-020 PROCEDURES FOR PERMANENT ACQUISITION OF LOANED SPECIMENS. Acting on behalf of the Board of Regents, the Museum will take the following steps:

(1) Notice, requesting action, will be sent by certified mail, return receipt requested, to the lender at his last known address.

(a) If the lender does not claim the loaned documents and/or materials within ninety days of notice mailing date; or

(b) If notice letter is returned as undeliverable, then

(2) Public notice shall be published once each week during two successive weeks in a daily newspaper circulating in the city of Seattle and the county of King describing the unclaimed documents and materials, giving the name of the reputed owner, and requesting all persons who may have knowledge of the whereabouts of such owner to contact the Museum of the University of Washington. More than one item may be described in each of such notices.

If after sixty days of the date of the second publication the lender has not been located, then

(3) The loaned documents and materials shall be deemed an unrestricted and irrevocable gift to the Museum.

WSR 84-09-021
PROPOSED RULES
HOSPITAL COMMISSION
[Filed April 11, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal

rules concerning repealing the Washington State Hospital Commission *Accounting and Reporting Manual* as filed by the Washington State Hospital Commission in accordance with the provisions of the Administrative Procedure Act by Emergency Order 74-06; and Permanent Order 74-07, filed October 1, 1974, and all amendments to the manual, specifically Permanent Order 75-03, filed August 22, 1975; Order 79-02 and Resolution 79-03, filed June 19, 1979; Order 81-02, Resolution R-81-02, filed February 20, 1981; and Washington State Register 83-04-032, Order and Resolution No. R-83-01, filed January 28, 1983. Adopting the Washington State Hospital Commission *Accounting and Reporting Manual* second edition. The manual has been revised and updated to incorporate all of the amendments and revisions since adoption in 1974 and to reflect the changing health care environment. The major changes will be summarized on a chapter by chapter basis.

Chapter 0000 Introduction: This chapter was revised to reflect the commission's authority to establish an accounting and reporting manual, as amended by the 1984 legislature.

Chapter 1000 Accounting Principles and Concepts: In subsection 1182 a sixth category of services provided by hospital-based physicians, "Utilization Review," was added. Section 1190 Accounting for Periodic Interim Payments was deleted.

Chapter 2000 System of Accounts: Accounts 9010 and 9020 have been changed from Gains or Losses on Sale of Hospital Property to Gains or Losses on Sale of Hospital Nondepreciable Assets as recommended by the Technical Advisory Committee and adopted by the commission on January 19, 1984.

Chapter 3000 Account Distribution Index: The list of items in the Account Distribution Index has been reduced and combined into generic classes.

Chapter 4000 Budgeting Principles and Concepts: Subsection 4033 has been revised to indicate that a cash budget, although not required by the commission, is essential for hospital management.

Chapter 5000 The Operating Budget: This chapter has been revised to delete all references to outdated budget forms.

Chapter 6000 The Capital Expenditure Budget: This chapter has been revised to be consistent with the commission's perspective on sources of capital and capital expenditures.

Chapter 7000 The Cash Budget: Subsection 7001 has been revised to clarify that a cash budget is not required by the commission but is essential for preparing the required Statement of Changes in Financial Position - Unrestricted Funds. All references to obsolete budget forms have been deleted.

Chapter 8000 Budgeting Forms and Instructions: This chapter has been totally rewritten to delete obsolete budgeting forms and instructions and to add the current budgeting forms and instructions. An additional budget form for reporting of services from related organizations has been added based on a recommendation for the Technical Advisory Committee and adopted by the commission on January 19, 1984.

Chapter 9000 Administrative and Interpretive Bulletins: All of the administrative bulletins have been deleted since they are now obsolete. Interpretive bulletins on CETA employees and laboratory workload measurement units related to control procedures have been deleted and the remaining Interpretive Bulletins have been renumbered.

Chapter 10000 Year-End Report: This chapter has been rewritten to include the current year-end reporting forms and instructions.

Appendices: Appendix A which cross referenced the Hospital Commission's Chart of Accounts to the American Hospital Association's Chart of Accounts has been deleted. A Glossary is included as Appendix A. Appendix F has been expanded to include a Uniform Occupational Therapy Evaluation Checklist and Uniform Terminology for Reporting Occupational Therapy Services on recommendation of the Washington Occupational Therapy Association;

that the agency will at 10:00 a.m., Thursday, May 24, 1984, in the Vance Airport Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.39.180(1) and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 21, 1984.

Dated: April 10, 1984
By: Maurice A. Click
Executive Director

STATEMENT OF PURPOSE

Title and Number of Rule: Chapter 261-20 WAC, a uniform system of accounting and financial reporting.

Statutory Authority for the Rule and Specific Statute that the Rule is Intended to Implement: RCW 70.39.100.

Summary of the Rule: This rule repeals the Washington State Hospital Commission *Accounting and Reporting Manual* as filed by the Washington State Hospital Commission in accordance with the provisions of the Administrative Procedure Act by Emergency Order 74-06; and Permanent Order 74-07, filed October 1, 1974 and all amendments to the manual, specifically Permanent Order 75-03, filed August 22, 1975; Order 79-02 and Resolution 79-03, filed June 19, 1979; Order 81-02, Resolution R-81-02, filed February 20, 1981; and Washington State Register 83-04-032, Order and Resolution No. R-83-01, filed January 28, 1983. Adopts the Washington State Hospital Commission *Accounting and Reporting Manual* second edition. The manual has been revised and updated to incorporate all of the amendments and revisions since adoption in 1974 and to reflect the changing health care environment.

Reasons Supporting the Proposed Rule: The current manual is out-of-print and there are numerous requests for a copy of the manual. It has been ten years since the manual was compiled and printed. Since there have been a number of revisions through the years and because the health care environment has changed during this ten-year period, it was deemed advisable to revise the entire manual to incorporate prior amendments and make other appropriate changes.

The Agency Personnel Responsible for the Drafting, Implementation and Enforcement of this Rule: Maurice A. Click, Executive Director, and Mary Bensen, Deputy Director, Washington State Hospital Commission, Mailstop FJ-21, Olympia, WA 98504, (206) 753-1990.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rule: Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement: Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The Hospital Commission's rules currently provide for an alternative system for reporting by smaller hospitals: WAC 261-20-074 et seq. The proposed revisions retain these specialized and reduced reporting requirements for

smaller hospitals. The staff of the Hospital Commission believes that this alternative reporting system enables the smaller hospitals to report the information required by the statute in the least onerous fashion.

Reviser's note: The text of the proposed Washington State Hospital Commission's *Accounting and Reporting Manual*, second edition, has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the proposed Washington State Hospital Commission's *Accounting and Reporting Manual*, second edition, can be obtained by writing to the Washington State Hospital Commission, Mailstop FJ-21, Olympia, WA 98504.

WSR 84-09-022

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed April 11, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Service limited to license and order—Removal of liquor in open containers—Room service—Price list, WAC 314-16-040;

that the agency will at 9:30 a.m., Wednesday, May 23, 1984, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is RCW 66.08.010, 66.08.030(1) (2), 66.20.010(3) and (5), 66.24.340 and 66.24.400.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Dated: April 11, 1984
By: Robert D. Hannah
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-040 Service limited to license and order—Removal of liquor in open containers—Room service—Price list.

Description of Purpose: WAC 314-16-040(1), to bring it into line with WAC 314-16-110(3); to allow service and consumption of beer, wine and spirits under a banquet permit regardless of class of liquor license a premises holds (except for taverns which are precluded as banquet permit sites by WAC 314-18-040(5)(b); and to prohibit customers from bringing their own liquor onto a licensed premises except under a banquet permit. WAC 314-16-040(2), present subsection (2) to be re-numbered as (3) and a new subsection (2) added which would implement certain provisions of SSB 4758. This would allow beer and/or wine licensees to use spirituous liquor in the manufacture of food products on their premises for sale to the public as long as such products contained one percent or less of alcohol by weight and

further that all conditions of chapter 66.12 RCW were met. WAC 314-16-040(3), formerly (2) renumbered is amended to bring it into line with WAC 314-16-110(3), chapter 314-18 WAC (banquet permits) and RCW 66.24.340 and 66.24.400 (both of which pertain to removal of unconsumed wine purchased with a meal in a restaurant, hotel or club). Present subsections (3), (4), (5) and (6) are renumbered as subsections (4), (5), (6) and (7).

Statutory Rule-Making Authority: RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

Statutes Implemented by the Rule: RCW 66.08.010, 66.08.030(1) (2), 66.20.010(3) and (5), 66.24.340 and 66.24.400.

Summary of Rule: WAC 314-16-040(1), the only liquor a retail licensee may keep in or on the licensed premises is that liquor allowed by the class of license held. Additionally, no person may consume or possess their own liquor in or on the licensed premises except liquor introduced under authority of a banquet permit. WAC 314-16-040(2), addition of this new subsection would allow beer and/or wine licensees to use spirituous liquor in the manufacture of confectionary and food products. The alcohol content could not exceed one percent of the products weight; a permit would need to be secured under RCW 66.20.010(5) and customers would have to be informed that such products contained liquor and that said content did not exceed one percent by weight. WAC 314-16-040(3), provides that liquor may not be removed in an open container. Requires persons who have introduced liquor into a licensed premises under a banquet permit to reseal open liquor prior to removal and provides that partially unconsumed bottled wine purchased with a meal in a restaurant, hotel or club may be removed upon resealing of said bottle.

Reasons Supporting Proposed Action: WAC 314-16-040(1), many beer and/or wine only restaurants have banquet rooms or areas in the premises that could be used for private functions. Amendment of this section would allow the introduction of spirits (in addition to beer and wine) under a banquet permit for private functions which heretofore was prohibited. Outside the banquet permit situation, this rule has always been interpreted by the enforcement division to mean that a customer could not bring his/her own bottle into a licensed premises. However, the way the rule is presently written, the customer could bring the bottle in but not drink its contents. The amendment would prohibit a customer from bringing their own liquor into a licensed premises except under a banquet permit. WAC 314-16-040(2), chapter 66.12 RCW (under SSB 4758) was amended by the 1984 legislature and provides in part that confection and food products containing one percent or less of alcohol by weight are not considered to be liquor. The new language in (2) provides the means for beer and/or wine licensees to have spirits on the premises to manufacture such confections and food products. WAC 314-16-040(3), provides that banquet permit liquor should be resealed prior to its removal from a licensed premises to bring it into line with chapter 314-18 WAC (regulation on banquet permits). Additionally

clarifies RCW 66.24.340 and 66.24.400 as it relates to removal of wine from a licensed premises.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief of Enforcement, (206) 753-6270; Gary W. Gilbert, Assistant Chief of Enforcement, (206) 753-6274; and Ray Hensel, Supervisor, License Division, (206) 753-6259; all located at the Capital Plaza Building, Olympia, Washington 98504.

Person or Organization Proposing Rule: This rule amendment was proposed by the Liquor Control Board.

Agency Comments: None.

Necessity of Rule: This rule amendment was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both small and larger businesses would not exceed \$10.00 per business for those affected.

AMENDATORY SECTION (Amending Order 69, Resolution 78, filed 1/23/80)

WAC 314-16-040 SERVICE LIMITED TO LICENSEE AND ORDER—REMOVAL OF LIQUOR IN OPEN CONTAINERS—ROOM SERVICE—PRICE LIST. (1) No retail licensee shall possess or allow any person to consume or possess any liquor other than that permitted by his license in or on the licensed premises, or on any public premises adjacent thereto which are under his control except under authority of a banquet permit.

(2) Beer and/or wine only licensees may keep spirituous liquor on the premises for use in the manufacture of confection or food products provided a permit is obtained pursuant to RCW 66.20.010(5), all confection or food products manufactured contain one percent or less of alcohol by weight, and customers are made aware that such confection or food products contain liquor and the alcohol content is one percent or less of the weight of the product.

(3) No retail licensee or employee thereof shall permit the removal of any liquor in an open container from the licensed premises except that liquor brought on a licensed premises under authority of a banquet permit shall be recorked, recapped or resealed in its original container and shall be removed at the termination of such banquet permit function. Further, wine may be removed as authorized by RCW 66.24.340 and 66.24.400.

((3)) (4) No holder of a Class H license shall be permitted to hold any other class of retail license covering the premises so licensed. Upon the granting of a Class H license, all other classes of retail licenses which may be held by such new Class H licensee at that time at the premises to be so licensed must be surrendered to the board for cancellation.

((4)) (5) Hotel room service is included in on-premises licenses.

((5)) (6) No Class H licensee shall sell or serve any spirituous liquor other than ordered, or substitute a nonalcoholic beverage when an alcoholic beverage has been ordered. Such licensee shall display prices for all liquor either by posting a price list or by using menus listing such prices, or by both.

((6)) (7) No holder of a Class C license shall advertise for sale, nor sell, any mixed drink under the name of "Old Fashioned," "Whiskey Sour," "Singapore Sling," "Martini," "Manhattan," nor any other name which, by long and general usage, has become associated in the public mind as being the name of a mixed drink made from spirituous liquor, nor under any name which is so similar to the above prohibited names as to be readily confused therewith in the public mind. Nor shall any holder of a Class C license, in the mixing or compounding of any mixed drink, use any mixer or other substance whatsoever which contains any of the aromatic compounds and/or essential oils which give to any spirituous liquor its distinctive characteristics of aroma, bouquet and flavor. Nothing in this section shall deny to any holder of a Class C license the right to advertise for sale, mix, compound or sell upon order, mixed drinks made from one or more wines under a name which does not conflict with this section.

WSR 84-09-023

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 138, Resolution No. 147—Filed April 11, 1984]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to:

- Amd WAC 314-20-010 Brewers—Importers—Wholesalers—
Monthly reports—Tax refund
procedures.
- Amd WAC 314-24-110 Domestic wineries, wine wholesalers,
wine importers—Monthly reports—
Bonds required—Payment of tax.

This action is taken pursuant to Notice No. WSR 84-06-062 filed with the code reviser on March 7, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 11, 1984.

By Robert D. Hannah
Chairman

AMENDATORY SECTION (Amending Order 85,
Resolution 94, filed 10/28/81)

WAC 314-20-010 BREWERS—IMPORTERS—WHOLESALEERS—MONTHLY REPORTS—TAX REFUND PROCEDURES. (1) The holders of licenses to manufacture malt liquors within the state of Washington and holders of certificates of approval and importers who import malt liquors manufactured outside the United States must at all times when said licenses or certificates of approval are in force have in effect and on file with the board a bond executed by any surety authorized to do business in the state of Washington, in form and amount acceptable to the board, which bond shall be payable to the Washington state liquor control board and conditioned that such licensee or holder of certificate of approval will pay to the board the tax levied by virtue of RCW 66.24.290 (sec. 24 of the Washington State Liquor Act).

(2) Every person, firm or corporation holding a license to manufacture malt liquors within the state of Washington shall, in addition to the statement required to be made by RCW 66.24.280 (sec. 23F (1) of the Washington State Liquor Act), on or before the twentieth day of each month make a report to the board upon forms furnished by the board, of all sales of beer in and out of the state during the preceding calendar month, and shall at the same time pay to the board the tax due

thereon including beer furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

(3) Every person, firm or corporation holding a license to import beer into the state of Washington shall make a report to the board, upon forms furnished by the board, on or before the twentieth day of each month of all beer imported into the state during the preceding calendar month, and shall at the same time pay to the board the tax due thereon: PROVIDED, HOWEVER, That said tax shall be paid on behalf of the importer of such beer by the holders of certificates of approval at the time that said holders of certificates of approval furnish to the board the report required under RCW 66.24.270 and WAC 314-20-170: PROVIDED FURTHER, That the report method of payment of tax shall be exclusive of any other method. In the event beer has been imported into the state of Washington upon which the tax has not been paid, or payment arranged as herein provided, the beer importer shall pay the tax due thereon including beer received and/or furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

(4) Failure to make such report or pay said tax at the time prescribed will be sufficient ground for the board to forthwith suspend or cancel the license privilege of the delinquent brewer or importer or the certificate of approval of the brewer located outside the state of Washington. A two percent penalty per month, or portion of a month, will be assessed on any tax payments postmarked after the twentieth day following the month of sale. In addition, in case of any such delinquency, the board shall immediately give notice to the surety on such brewer's, importer's or certificate of approval holder's bond and shall take such action as is thereafter deemed necessary by the board to collect any of said tax which it finds is due.

(5) In consideration of the foregoing requirements, revenue stamps evidencing payment of said tax shall not be used on any package containing beer manufactured by brewers within the state or imported into the state by a beer importer, nor shall it be required that "in transit" stamps be affixed to packages containing any beer manufactured in the state of Washington when the same is exported directly to a point outside the geographical confines of the state by such manufacturers. Neither shall it be required that "in transit" stamps be affixed to packages of beer being shipped in interstate commerce from one point outside this state, through this state, to another point outside the geographical confines of this state. In the case of beer manufactured by a brewer within the state or imported into the state of Washington by a beer importer and either sold to beer wholesalers for export from the state or exported directly by the importer, such manufacturer or importer must either pay the tax on beer so sold or affix "in transit" stamps, if not previously affixed, to all packages containing such beer, as provided in WAC 314-20-040(1).

(6) Beer wholesalers or beer importers who export beer to a point outside the geographical confines of the state of Washington upon which the tax imposed by RCW 66.24.290 has been paid may claim a refund or

tax credit of said tax on forms prescribed and furnished by the board. For the purpose of this regulation, beer sold and delivered to interstate commercial common passenger carriers holding licenses pursuant to chapter 245, Laws of 1975 1st ex. sess., or for use within the confines of any military reservation over which the state does not exercise jurisdiction shall be considered exported from the state. Such tax shall not be paid on beer being shipped in interstate commerce from a point outside this state directly through the state to another point outside the geographical confines of this state.

(7) The board may make other arrangements for reporting and payment of tax where an in-state licensee purchases beer from within and/or without the state of Washington primarily for export from the state. Such arrangements would be on an individual basis and would be for the purpose of simplifying the reporting and accounting requirements.

AMENDATORY SECTION (Amending Order 85, Resolution 94, filed 10/28/81)

WAC 314-24-110 DOMESTIC WINERIES, WINE WHOLESALERS, WINE IMPORTERS—MONTHLY REPORTS—BONDS REQUIRED—PAYMENT OF TAX. (1) Every domestic winery which is licensed to sell wine of its own production at retail on the winery premises pursuant to chapter 66.24 RCW, and every holder of a wine wholesaler's license must at all times when said license is in force, have in effect and on file with the board a bond executed by any surety authorized to do business in the state of Washington, in form and amount acceptable to the board. The said bond shall be payable to the Washington state liquor control board and conditioned that such domestic winery and wine wholesaler will pay to the board the tax of twenty and one-fourth cents per liter levied by reason of RCW 66.24.210 (section 24-A of the Washington State Liquor Act).

(2) Every person, firm or corporation holding a license to manufacture or produce wine within the state of Washington shall, on or before the twentieth day of each month, submit to the board, upon forms furnished by the board, reports showing all transactions in wine manufactured or produced on the winery premises, including such wine sold at retail on such premises and wine sold to licensees within the state.

(3) At the time of making such monthly reports to the board, the domestic winery shall pay to the board the wine tax of twenty and one-fourth cents per liter on wine sold at retail on the winery premises, as provided in RCW 66.28.010; on wine sold under a wine wholesaler's license to retail licensees; and on wine furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040: PROVIDED, That such tax shall not apply or be paid on sales to Washington wine wholesalers, on inter-winery shipments, nor to shipments exported directly by a domestic

winery to a point outside the state of Washington, nor on its sales to the Washington state liquor control board.

(4) Every person, firm or corporation holding a wine importer's license or a wine wholesaler's license in the state of Washington shall make a report to the board, upon forms furnished by the board, on or before the twentieth day of each month, of all wine that such importer or wholesaler has purchased and received during the preceding calendar month on which the wine tax has not been paid. The tax of twenty and one-fourth cents per liter shall be paid by a wine wholesaler upon first acquisition of wine on which such tax has not been previously paid, including wine received and/or furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040, and shall be remitted to the board at the time of filing the monthly report required in this subsection. Such tax shall apply to sales by a wine wholesaler to the Washington state liquor control board. The report method of payment of tax shall be exclusive of any other method. Where a wine importer does not also hold a wine wholesaler's license, the wine importer shall pay the wine tax on any wines received and/or furnished as samples.

(5) Failure to make such report, or pay said tax where required, at the time prescribed will be sufficient cause for the board to forthwith suspend or cancel the license privilege of the delinquent domestic winery, wine importer, or wine wholesaler. A two percent penalty per month, or portion of a month, will be assessed on any tax payments postmarked after the twentieth day following the month of purchase. In addition, in case of any such tax delinquency, the board shall immediately give notice to the surety on such domestic winery or wine wholesaler's bond and shall take such action as is thereafter deemed necessary by the board to collect any of said tax which it finds is due.

(6) Wine wholesalers or wine importers who export wine to a point outside the geographical confines of the state of Washington upon which the tax imposed by RCW 66.24.210 has been paid may claim a refund or tax credit of said tax on forms prescribed and furnished by the board. For the purpose of this regulation, wine sold and delivered to interstate commercial common passenger carriers holding licenses pursuant to chapter 245, Laws of 1975 1st ex. sess., or for use within the confines of any military reservation over which the state does not exercise jurisdiction shall be considered exported from the state. The wine tax shall not be paid on wine being shipped in interstate commerce from one point outside this state directly through the state to another point outside the geographical confines of this state.

(7) The board may make other arrangements for reporting and payment of tax where an in-state licensee purchases wine from within and/or without the state of Washington primarily for export from the state. Such arrangements would be on an individual basis and would be for the purpose of simplifying the reporting and accounting requirements.

WSR 84-09-024
ADOPTED RULES
LIQUOR CONTROL BOARD

[Order 139, Resolution No. 148—Filed April 11, 1984]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to minimum qualifications for issuance of a Class P license, new section WAC 314-16-205.

This action is taken pursuant to Notice No. WSR 84-06-063 filed with the code reviser on March 7, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 and 66.98.070.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 11, 1984.

By Robert D. Hannah
Chairman

NEW SECTION

WAC 314-16-205 MINIMUM QUALIFICATIONS FOR ISSUANCE FOR A CLASS P LICENSE. The decision as to whether or not a class P license authorized by RCW 66.24.550 will be issued in a particular case is, pursuant to RCW 66.24.010(2), a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a class P license, the fact that an applicant meets the qualifications set forth in subsections (1) and (2) hereof does not establish a vested right that such license shall issue.

(1) The term "gifts at retail" as used in RCW 66.24.550 shall be interpreted as referring to "goods" and shall not include "services."

(2) The sale and delivery of wine under a class P license shall be adjunct to and not constitute the only retail gift delivery service business of the licensee.

(3) The restrictions on license issuance as specified in RCW 66.24.550, and in subsections (1) and (2) hereof, shall be construed to be continuing conditions for retaining the class P license.

WSR 84-09-025
ADOPTED RULES
LIQUOR CONTROL BOARD

[Order 140, Resolution No. 149—Filed April 11, 1984]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 1025

East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to Issuance fee—Restrictions, WAC 314-18-040.

This action is taken pursuant to Notice No. WSR 84-06-064 filed with the code reviser on March 7, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 11, 1984.

By Robert D. Hannah
Chairman

AMENDATORY SECTION (Amending Order 110 and 112, Resolution No. 119 and 121, filed 8/4/82)

WAC 314-18-040 ISSUANCE FEE—RESTRICTIONS. (1) Banquet permits may be issued by the board's stores and agencies to qualified applicants on forms provided by the board; the fee for each banquet permit will be ten dollars.

(2) Except for outdoor areas, banquet permits will only be issued for use at premises that are or can be arranged so that the general public can be excluded therefrom.

(3) Where the application is for a banquet to be held either partially or wholly out-of-doors, the following restrictions will apply:

(a) State parks: State parks are exempt from the law requiring a license or permit to consume liquor in a public place (RCW 66.04.011). Banquet permits shall not be issued for the service and consumption of liquor in state parks.

(b) City and county parks: Applicants will be issued banquet permits only upon presentation of written approval from the appropriate local authority for the banquet applied for.

(c) Commercial parks (privately owned and operated): Store and agency managers may issue banquet permits for use in such commercial parks even though the event is to be held partly or wholly out-of-doors.

(d) All other outdoor areas: Issuance is conditioned upon approval of the area liquor enforcement officer.

(4) Where the application is for a banquet permit for an event to be held on a college or university campus or upon the premises of an elementary or high school, public or private; permits will be issued provided that approval, in writing, by an appropriate official of the college, university, elementary, or high school is furnished with the application.

(5) When the application is for a banquet permit for an event to be held in or at a state armory used for military purposes, permits will be issued provided that approval, in writing, by the adjutant general or his/her

designee is furnished by the applicant to the board and to the chief of police of the incorporated city or town in which the armory is located or to the county sheriff if the armory is located outside the boundaries of incorporated cities or towns.

(6) Banquet permits will not be issued:

(a) For use at premises that have a license issued by the board that is or will be suspended on the date of the scheduled banquet.

(b) For functions held in a tavern.

((6)) (7) The event for which the banquet permit application is made cannot be open to the public through general admission ticket sales.

((7)) (8) The event for which the banquet permit application is made cannot be open to the public or advertised to the public.

((8)) (9) Approval of the area enforcement officer is required for banquet permits intended for use in the cocktail lounge facilities or tap rooms of Class A, C, D, or H licensed premises, including hotels, restaurants, and clubs, unless the entire premises under the control of the licensee is devoted to the banquet, and then only if all licensee liquor is removed from view and securely isolated.

WSR 84-09-026

ADOPTED RULES

DEPARTMENT OF FISHERIES

[Order 84-22—Filed April 11, 1984]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

This action is taken pursuant to Notice No. WSR 84-03-060 filed with the code reviser on January 18, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 12, 1984.

By Russell W. Cahill

Deputy

for William R. Wilkerson

Director

NEW SECTION

WAC 220-16-375 WESTPORT BOAT BASIN. "Westport Boat Basin" shall include those waters of Grays Harbor inside the breakwater surrounding the boat basin and inside of lines drawn between lighted day markers 10 and 11 and between lighted day markers 1 and 2 which mark the two entrances to the boat basin.

NEW SECTION

WAC 220-16-380 ENGLISH CAMP TIDE-LANDS. "English Camp tidelands" includes those waters of Wescott Bay lying inside the boundaries of San Juan Island National Historical Park (English Camp).

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Germany Creek - Highway 4 Bridge.

Hoquiam River - Highway 101 Bridge.

Humptulips River - ((Highway 109 Bridge))
Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.

Methow River - Highway 97 Bridge.

Mill Creek - Highway 4 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - Kenmore Highway Bridge.

Skagit River (North Fork) - A line projected from the white monument on the easterly end of

Ika Island to the terminus of the jetty with McGlenn Island.

Skagit River (South Fork) – A line projected from the flashing red four-second navigational light true north to its intersection with the old jetty shown on U.S.C.G.S. chart No. 6450.

Skamokawa Creek – Highway 4 Bridge.

Snohomish River – Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River – Lynn Point 117 degrees true to the opposite shore.

Tucannon River – State Highway 261 Bridge.

Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

White Salmon River – Highway 14 Bridge.

Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River – Highway 101 Bridge.

Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(d) It is lawful for each angler to use one line with two lures or two lines with one lure per line while fishing for salmon in all of Punch Card Area 12, that portion of Punch Card Area 8 lying southeasterly of a line between East Point on Whidbey Island and the flashing light north of Lowell Point on Camano Island, and that portion of Area 9 including waters of Possession Sound lying northerly of a line running 90 degrees true east from Possession Point.

(2) It shall be unlawful for any person to take, fish for or possess food fish for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel not utilizing power to retract the line in either case, except as provided in subsections (3) and (4) of this section.

(3) It shall be lawful, while angling for food fish in saltwater from shore, piers, jetties or docks, for an individual to:

(a) Leave the pole in a pole holder while playing or landing the fish. The pole holder may be affixed to a bench, pier railing, wheelchair or other solid object.

(b) Use a power-operated reel attached to a pole.

All other provisions of this section shall apply.

(4) It shall be unlawful to take, fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) in those waters west of the mouth of the Sekiu River, Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(5) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-125 UNLAWFUL PROVISIONS—SHILSHOLE BAY. (1) It shall be unlawful to use artificial lures to take, fish for or possess food fish in that portion of Shilshole Bay upstream (~~from the~~) of a line parallel to the Burlington Northern Railroad Bridge approximately 175 feet seaward of the bridge through the wooden piling tower structure near the south shore to the Chittenden Locks.

(2) It shall be unlawful to take, or fish for food fish, for personal use, from a boat in that portion of Shilshole Bay upstream of the Burlington Northern Railroad Bridge, to the Chittenden Locks.

NEW SECTION

WAC 220-56-132 LES DAVIS PUBLIC FISHING PIER UNDERWATER ARTIFICIAL REEF AREA. (1) It is unlawful to take, fish for or possess food fish or shellfish taken by any means from within the boundaries of the underwater artificial reef described in subsection (2) of this section except while fishing from the Les Davis public fishing pier.

(2) The Les Davis public fishing pier underwater artificial reef area includes those waters lying inside lines projected from the southeasterly white fishing boundary marker on the shore to the easterly reef marker buoy thence to the westerly reef marker buoy thence to the northwesterly white fishing boundary marker on shore.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(3) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 15 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(c) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(4) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 15 through June 15 in Punch Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except:

(i) During the period ~~((April 1))~~ March 15 through ~~((June 30))~~ July 15, it is unlawful to retain ~~((and))~~ or possess chinook salmon taken ~~((from contiguous marine waters south of a line from Apple Cove Point to Edwards Point))~~ for personal use while fishing in Punch Card Areas 10, 11, ~~((and))~~ or 13((3)).

(ii) During the period April 1 through June 30, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Area 9, except for those waters of Possession Sound lying northerly of a line running 90 degrees true east from Possession Point.

(iii) During the period ~~((April 1))~~ July 16 through July 31, it is unlawful to retain and possess chinook salmon taken ~~((from))~~ for personal use while fishing in waters of Carr Inlet northerly of a line ~~((from Allen Point to the southernmost point of land on the eastern shore of Glen Cove))~~ running westerly 273 degrees true from the northernmost point of land on the south side at the entrance of Horsehead Bay to a marker on the Longbranch Peninsula.

(iv) The daily bag limit in Punch Card Area 12 is three salmon of any species.

(d) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Code I: In waters having this code designation, the bag limit in any one day is eight salmon, not less than 6 inches in length or an aggregate daily catch of eight

salmon and other salmonid fish. The aggregate catch may not contain more than 3 fish over 14 inches nor more than 2 fish over 20 inches. The possession limit is the same as the daily catch limit. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound contiguous marine waters east of the mouth of the Sekiu River – bag limit H – open the entire year, except as provided in WAC 220-56-120, 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island – open entire year, unless the season in the Pacific Ocean closes a week or more before Puget Sound coho salmon management needs prevail (the Sunday nearest September 2); in which case, this area will be closed concurrently with the ocean from the time of the ocean closure until the Puget Sound coho salmon management period (the Sunday nearest September 2). Bag and size limits shall conform with Pacific Ocean regulations during those times when salmon angling is permitted in adjacent coastal ocean waters. During those periods when the ocean salmon angling season is closed and the area described in this subsection is open to salmon angling, the bag limit shall conform with regulations of adjacent waters of the Strait of Juan de Fuca (Area 5—Sekiu), but minimum size limits shall remain unchanged from those which were in effect when the ocean season was last open.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 – bag limit F – open on the Saturday preceding Memorial Day through Labor Day.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) – (a) bag limit F – open to salmon angling coincidentally with the season in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) all Westport Boat Basin waters and adjacent waters of Grays Harbor when fishing from the Westport Marina Fishing Boardwalk only – special bag limit – six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30. The

possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) – (a) bag limit F – open (~~entire year~~) November 1 through August 31, (b) special bag limit – six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length; coho over 20 inches in length; pink, chum, or sockeye over 10 inches in length – open September 1 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-196 CLOSED AREAS—PINK SALMON ANGLING. It is unlawful to take or possess pink salmon taken for personal use from the following waters: None.

~~((1) Those waters of Punch Card Area 7 bounded on the west and south by a line running from Gooseberry Point true south to Lummi Island, along the east shoreline of the island to Carter Point, then to the north tip of Vendovi Island, then to Clark Point on Guemes Island, along the east shoreline to Southeast Point on Guemes Island, then to March Point on Fidalgo Island, and north of the Burlington Northern railroad bridges at the north entrances of Swinomish Channel.~~

~~(2) All of Punch Card Areas 8 through 13.))~~

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-198 DUWAMISH WATERWAY—UNLAWFUL PROVISIONS. During the period September 1 through October 15, ~~((it is unlawful to take, fish for or possess salmon taken for personal use from the))~~ in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that specified in WAC 220-56-205 (freshwater salmon angling gear) (~~or at any time other than that specified in WAC 220-56-225 (freshwater salmon angling hours)~~)).

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

NEW SECTION

WAC 220-56-201 MARKING SPORT-CAUGHT SALMON. It is unlawful to possess salmon taken for personal use from Punch Card Areas 5 and 6 unless the top half of the tail fin has been removed.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light, thence to Bonilla Point.

(b) Rockfish – 15 fish.

(c) All other species – no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson(;) and west of the 77 line ~~((and north of the Trial Island line))~~ (Punch Card Areas 5 through 7) – 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish.

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson(;) and east of the 77 line ~~((and south of the Trial Island line))~~ (Punch Card Areas 8 through 13) – 15 fish in the aggregate of all species of bottomfish, no more than 1 of which may be lingcod, and no more than 5 of which may be rockfish. ~~((During the period April 15, 1983, through June 30, 1983, it is lawful to retain up to a maximum of 2 lingcod in the 15 fish aggregated limit, but it is unlawful to retain or possess lingcod taken from these waters at any other time.))~~

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-240 POSSESSION LIMITS—OTHER FOOD FISH. It shall be lawful, unless otherwise provided, for any one person to take in any one day or possess at any one time in the state of Washington the following quantities and sizes of food fish for personal use:

(1) Sturgeon: 3 fish not less than 36 inches nor more than 72 inches in length.

(2) Smelt: 20 pounds.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish: No limit.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess

lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area ((f)) (a) Salmon Punch Card Areas 1 through 3 ((and that portion of Area 4 west of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point)) - open the entire year, (b) Salmon Punch Card Area 4 - April 15 through November 30.

(2) Salmon Punch Card Areas 5, 6, and 7 ((and that portion of area 4 east of a line projected from the most westerly point on Cape Flattery to Tatoosh Island Light, thence to Bonilla Point)) - April 15 through November 30.

(3) Salmon Punch Card Areas 8 through 13 - April 15((-1983)) through ((June 30, 1983)) May 31.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed.

(2) It is unlawful to use a gaff in the restraint, handling or landing of any sturgeon which is not of legal size.

(3) It is unlawful to fail to immediately return to the water any sturgeon that is not of legal size.

AMENDATORY SECTION (Amending Order 83-06, filed 1/27/83)

WAC 220-56-310 SHELLFISH—POSSESSION LIMITS. It is lawful unless otherwise provided for any one person to take in any one day or possess for personal use at any one time the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, except razor clams, geoduck clams and horse clams:

(a) Hood Canal south of a line projected from Tala Point to Foulweather Bluff - 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.

(b) Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(c) All portions of Puget Sound except those described in (a) and (b) of this subsection - Bag limit January 1 - May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 - December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(d) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance, diggers may retain up to 20 pounds of eastern softshell clams in the shell in addition to the limit set in (c) of this subsection.

(e) Willapa Bay - clams and borers five pounds in the shell in the aggregate.

(f) Willapa Bay - twenty-four cockles.

(g) In English Camp tidelands the bag limit shall be as described in (c) of this subsection plus an additional 10 pounds of clams in the shell.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds or 10 quarts in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red crabs: 18 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It is unlawful for the owner or operator of any personal-use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the shrimp license. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating ((above)) on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) ((The entire buoy)) All buoys attached to shrimp gear must be yellow or fluorescent yellow ((if attached to shrimp gear)) in color. Flags and staff, if attached, may be any color.

(c) ((The buoy)) All buoys attached to crab gear must be half fluorescent red in color and half white ((if attached to crab gear)) in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) It is unlawful for any person using shellfish traps for personal-use shellfishing to allow said traps to become uncovered by water.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and ((at least one-half of the area of the)) sides of the shellfish pots must ((have the minimum)) be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a ((square or rectangular)) mesh ((such)) that ((the inside distance between any knot or corner and each adjacent knot or corner shall be no less than)) a 7/8-inch ((: PROVIDED, That the shortest inside diagonal of each mesh shall be no less than 1-1/8 inches)) square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) Effective January 1, 1985, the sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-325 SHRIMP—AREAS AND SEASONS. It shall be unlawful to take, fish for or possess shrimp taken for personal use except from May 15 through September 15: ~~((PROVIDED, That))~~ All waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge and Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point shall remain closed except as specifically provided for by emergency regulation; it shall be unlawful to set any Hood Canal shrimp gear prior to 9:00 a.m. on the opening day of the season.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-330 CRAB—AREAS AND SEASONS. ~~((It shall be lawful to take, fish for and possess male crabs taken for personal use in any area the entire year: PROVIDED, That))~~ (1) It ((shall be)) is unlawful to take, fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear for crab in Puget Sound from April ((15)) 16 through May 25.

(2) Except as provided in subsection (1) of this section, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) Except as provided in subsection (1) of this section, it is lawful to fish for and possess red rock crabs of

either sex taken for personal use the entire year in state waters.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

~~(2)((1))~~ It is unlawful to take or possess oysters for personal use from ((all Hood Canal beaches south of a line projected from Misery Point to Quatsop (Black) Point through December 31, 1983)) public tidelands from July 15 through September 15.

~~((b) It is lawful to take and possess oysters for personal use from all other Washington state public beaches, except all))~~ (3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at Seal Rock Forest Service campground ((are closed to personal use harvest of oysters from)) except during the period ((July)) May 16 through ((May)) July 14.

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park through May 15, 1986.

(5) It is unlawful to take or possess oysters for personal use from tidelands at Scenic Beach State Park except during the period March 15 through May 15.

(6) It is unlawful to take or possess oysters for personal use from tidelands at Department of Natural Resources Beach Number 43 (north of Hoodsport) except during the period March 15 through May 15.

(7) It is unlawful to take or possess oysters for personal use from department of fisheries tidelands at Hoodsport Salmon Hatchery except during the period May 16 through July 14.

(8) It is unlawful to take or possess oysters for personal use from state tidelands at Bywater Bay except during the period May 16 through July 14.

~~((3))~~ (9) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

~~((4) It shall be lawful for private beach owners to harvest oysters for their own personal use from their own tidelands:))~~

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-120 BEAR RIVER. Bag limit A - July 1 through ~~((October 31))~~ November 30: Downstream from the lime quarry road to Highway 101 Bridge (a distance of approximately 2 stream miles).

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-130 BOGACHIEL RIVER. (1) Bag limit A - July 1 through October 31: Downstream from the Highway 101 Bridge to the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be immediately released ~~((if taken on or after October 1))~~.

(2) Bag limit A – July 1 through August 31: Downstream from the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be released immediately.

(3) Special bag limit – Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length – September 1 through November 30: Downstream from the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-135 CALAWAH RIVER. Bag limit A – July 1 through ~~((October 31))~~ November 30: Downstream from the Highway 101 Bridge. During the period September 1 through November 30, the six salmon bag limit may contain up to four fish over 24 inches in length. At all times, coho salmon greater than 20 inches in length must be ((immediately)) released ((if taken on or after October 1)) immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-150 CLALLAM RIVER. Bag limit C – July 1 through November 30: Downstream from the confluence of ~~((Boulder))~~ Blowder Creek, located approximately one mile upstream of the uppermost Highway 12 Bridge.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). (1) Bag limit C – July 1 through ~~((October 8))~~ August 31: Downstream from the mouth of the Snahapish River to the Quinault Indian Reservation boundary.

(2) Special bag limit ((A)) – Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length – ((October 9 through October 31)) September 1 through November 30: Downstream from the mouth of the Snahapish River to the Quinault Indian Reservation boundary. Coho salmon over 20 inches must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit C – June 1 through December 31: Downstream from Chief Joseph Dam to the Richland – Pasco Highway 12 Bridge except those waters between the Vernita Bridge and the old Hanford townsite wooden powerline towers are open only during the period July 1 through October 15, and except for the special season and bag limited provided for in subsection (2) of this section. The following are closed waters:

(a) Chief Joseph Dam – waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam – waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams – waters between the upstream lines of these dams and points ~~((1,000))~~ 400 feet downstream.

(d) Priest Rapids Dam – waters between the upstream line of Priest Rapids Dam and a point ~~((1,500))~~ 400 feet downstream.

(e) Jackson (Moran) Creek – waters within 500 feet of the mouth.

(2) Bag limit A – April 1 through July 31: East bank only in that portion of the Columbia River from WDF boundary marker located approximately 1/2 mile upstream from Spring Creek (Ringold hatchery rearing pond outlet) downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet.

(3) Waters downstream from the Richland-Pasco Highway 12 Bridge to Hood River Bridge: Closed entire year. The following waters are closed to fishing for food fish at all times:

(a) McNary Dam – waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(4) Bag limit A – September 1 through March 15: That portion downstream from Hood River Bridge to the Interstate 5 Bridge at Vancouver, except waters of Camas Slough are open under this bag limit from August 1 through March 15 between the upper Highway 14 Bridge on Lady Island to a line projected true north from the lower end of Lady Island and hook regulations and shad and sturgeon seasonal restrictions in Camas Slough are identical with regulations and restrictions in adjacent mainstem Columbia River waters. The following are closed waters:

(a) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(b) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(5) Bag limit C – June 1 through July 25: Waters downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

(6) Bag limit A – August 16 through March ~~((15))~~ 31: Waters downstream from the Interstate 5 bridge to the Megler-Astoria Bridge. During the month of September, it is unlawful to take, fish for, or possess salmon

for personal use in that portion of the Columbia River north of a line projected from Abernathy Point to a boundary marker east of the mouth of Abernathy Creek.

(7) Bag limit A – August 16 through March 31: Waters downstream from the Megler–Astoria Bridge to a line projected true north and south through Buoy 10, except that during the period August 16 through September 30 when size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of punch card area 1.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-175 COWLITZ RIVER. (1) Special bag limit – April 1 through July 31: Downstream from ~~((the cross river cable below))~~ a marker 400 feet below the Cowlitz Salmon Hatchery Barrier Dam on the north side of the river and downstream from the base of the barrier dam on the south side of the river to the mouth. Bag limit is six salmon per day not less than 10 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag limit A – August 1 through March 31: Downstream from markers 400 feet below the barrier dam except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the Interstate 5 Bridge must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and the mouth of Mill Creek.

(5) Bag limit ((€)) A – Open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 79-7, filed 1/30/79, effective 4/1/79)

WAC 220-57-200 DICKEY RIVER. (1) Bag limit C – July 1 through ~~((October 31))~~ September 30: Downstream of the mouth of East Fork of the Dickey River to the National Park boundary. All coho salmon greater than 20 inches in length must be released immediately.

(2) Bag limit A – October 1 through November 30: Downstream of the mouth of East Fork of the Dickey River to the National Park boundary. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-230 ELK RIVER. ~~((+))~~ Special bag limit ((€)) – Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24

inches in length and coho salmon may not be greater than 20 inches in length – July 1 ~~((through September 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge.~~

(2) Bag limit A – ~~October 1))~~ through November 30: Downstream from the confluence of the West Fork and the Middle Fork to the Highway 105 Bridge ~~((except that all chinook salmon over 24 inches must be released))~~.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-270 HOH RIVER. (1) ~~((Special))~~ Bag limit C – Saturday preceding Memorial Day through ~~((October 31))~~ November 30: Downstream from the ~~((Highway 101 Bridge the bag limit is six salmon not less than 10 inches in length, only one of which may exceed 24 inches in length except coho salmon greater than 20 inches in length must be released))~~ Olympic National Park Boundary below the confluence of the South Fork to the mouth of Willoughby Creek.

(2) Bag limit C – Saturday preceding Memorial Day to June 30: Downstream from the mouth of Willoughby Creek to the Highway 101 Bridge.

(3) Bag limit A – July 1 through November 30: Downstream from the mouth of Willoughby Creek to the Highway 101 Bridge. All coho salmon over 20 inches in length must be released immediately.

(4) Bag limit ((€)) A – Saturday preceding Memorial Day through ~~((October 31: Upstream from the Highway 101 Bridge to the confluence of the South Fork Hoh))~~ September 30: Downstream from the Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.

(5) Special bag limit – Six salmon not less than 10 inches in length not more than four of which may exceed 24 inches in length – October 1 through November 30: Downstream from the Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-280 HOQUIAM RIVER. ~~((+))~~ Special bag limit ~~((A))~~ – Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length – July 1 through November 30 – main Hoquiam River ~~((and))~~, west fork of Hoquiam River downstream from the bridge on the Dekay Road ~~((Chinook salmon over 24 inches in length must be released.~~

(2) Bag limit A – October 1 through November 30: ~~((and east fork of Hoquiam River downstream from the game department access area below Berryman Creek((except that all chinook salmon over 24 inches must be released))~~.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-285 HUMPTULIPS RIVER. (1) Bag limit C - July 1 through ~~((January))~~ August 31: Downstream from confluence of East and West forks.

(2) Bag limit C - September 1 through January 31: Downstream of confluence of East and West forks to Highway 101 Bridge.

~~((2))~~ (3) Bag limit A - ~~((July))~~ September 1 through January 31: Downstream from the Highway 101 Bridge ~~((to Highway 109 Bridge))~~. Chinook salmon over 24 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

WAC 220-57-295 JOE CREEK (GRAYS HARBOR COUNTY). Bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from the Burlington Northern Railroad Bridge located just above the Ocean Beach Road.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-300 JOHNS RIVER. ~~((+))~~ Special bag limit ((€)) - Six salmon including not more than two chum salmon. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through ((September)) November 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.

~~((2) Bag limit A - October 1 through November 30: Downstream from old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge, except that all chinook salmon over 24 inches must be released:))~~

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-319 LEWIS RIVER. (1) Mainstem - bag limit A - open entire year: Downstream from East Fork to mouth.

(2) East Fork:

(a) Bag limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag limit A - ~~((July 1))~~ Saturday preceding Memorial Day through December 31: Downstream from Lucia Falls to the LaCenter Bridge. ((From October 1 through November 30)) All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North Fork:

(a) Bag limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag limit A - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the East Fork, except that ~~((during the period September 1~~

~~through November 30;))~~ at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery fishway.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-335 NASELLE RIVER. Bag limit A - July 1 through January 31: Downstream from the Big Hill Bridge to Highway 101 Bridge. All chinook salmon greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-340 NEMAH RIVER. (1) Middle Nemah, bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road.

(2) North Nemah - bag limit A - ~~((July 1 through))~~ November ~~((30))~~ 1 through January 31: Downstream from lower bridge on dead end Lower Nemah Road to the mouth. Chinook salmon over 28 inches must be released immediately.

(3) South Nemah - bag limit ~~((€))~~ A - July 1 through ~~((October 31))~~ November 30: Downstream from the confluence of the Middle Nemah to ~~((its))~~ the mouth.

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

WAC 220-57-365 PALIX RIVER. Bag limit A - July 1 through ~~((January 31))~~ November 30: Downstream from the confluence of the South and Middle Forks to the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-385 QUILLAYUTE RIVER. (1) Bag limit ~~((A))~~ C - Saturday preceding Memorial Day through ~~((November))~~ June 30: ~~((Outside the boundary of))~~ Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary. ((During the period October 1 through November 30, coho salmon over 20 inches in length must be released:))

(2) Bag limit A - July 1 through August 31: Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary.

(3) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel Rivers to the Olympic National Park boundary. During the period September 20 through November 30, all coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-430 SKOKOMISH RIVER. Bag limit A - July ~~((+))~~ 15 through January 31: Downstream from the mouth of Vance Creek.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-440 SMITH CREEK (PACIFIC COUNTY). (1) Bag limit A - July 1 through ~~((October 31))~~ November 30: From mouth to a marker located approximately one mile upstream.

(2) Bag limit C - July 1 through ~~((October 31))~~ November 30: Downstream from Highway 101 Bridge to marker approximately one mile upstream from the mouth.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-460 SOLEDUCK RIVER. (1) Bag limit ~~((A))~~ C - Saturday preceding Memorial Day through ~~((October 31))~~ June 30: Downstream from concrete pump station at Soleduck Hatchery. ~~((During the period October 1 through October 31, coho salmon over 20 inches in length must be released.))~~

(2) Bag limit A - July 1 through August 31: Downstream from concrete pump station at Soleduck Hatchery.

(3) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through October 31: Downstream from concrete pump station at Soleduck Hatchery. During the period October 1 through October 31, all coho salmon greater than 20 inches in length must be released immediately.

(4) Bag limit A - November 1 through November 30: Downstream from concrete pump station at Soleduck Hatchery. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-473 TILTON RIVER. (1) Mainstem - Bag limit A - Saturday preceding Memorial Day through ~~((November 30))~~ December 31: Downstream from West Fork Tilton River.

(2) North Fork - Bag limit A - Saturday preceding Memorial Day through November 30: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles).

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-510 WILLAPA RIVER. (1) Bag limit A - July 1 through January 31: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the Highway 101 Bridge. Chinook salmon greater than 28 inches in length must be released immediately.

(2) Bag limit A - October 15 through January 31: Downstream from mouth of Fork~~((s))~~ Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. Chinook salmon ~~((over))~~ greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-520 WISHKAH RIVER. ~~((+))~~ Special bag limit ~~((€))~~ - Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through ~~((September))~~ November 30: Downstream from the mouth of the West Fork.

~~((2) Bag limit A - October 1 through November 30: Downstream from the mouth of the west fork, except that all chinook salmon over 24 inches must be released.))~~

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-525 WYNOOCHEE RIVER. Special bag limit ~~((A))~~ - Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - ~~((October))~~ July 1 through November 30: Downstream from the mouth of Schafer Creek. ~~((Chinook salmon over 24 inches in length must be released.))~~

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-010 ARMSTRONG LAKE (SNOHOMISH COUNTY). ~~((Closed to salmon angling the entire year.))~~ Bag limit I - April 15 through September 3.

NEW SECTION

WAC 220-57A-037 CLEAR LAKE (PIERCE COUNTY). Bag limit I - April 15 through July 4 and September 1 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-040 CUSHMAN LAKE (MASON COUNTY). Bag limit I - April ~~((+))~~ 15 through October 31.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57A-065 DUCK LAKE (GRAYS HARBOR COUNTY). ~~((Bag limit I = open))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). (~~Closed to salmon angling the entire year.~~) Bag limit I - April 15 through October 31.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-082 (UPPER) GOOSE LAKE (GRANT COUNTY). (~~Bag limit of five~~) Closed to salmon (and other salmonid fish and the salmon may not be less than 6 inches in length. Open) angling the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-112 MCMURRAY LAKE (SKAGIT COUNTY). Bag limit I - April ((+7)) 15 through September ((5)) 3.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-120 MERWIN LAKE (RESERVOIR). Bag limit I - ((April 17 through November 30)) Open the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I - April ((+7)) 15 through October 31.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

WAC 220-57A-185 WILDERNESS LAKE (KING COUNTY). (~~Closed to salmon angling the entire year~~) Bag limit I - April 15 through September 3.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I - April ((+7)) 15 through October 31.

AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-237 DESCRIPTION OF SPORT SALMON CATCH RECORD. (1) There is hereby created a sport salmon catch record form to be prepared, printed, and distributed on request, by the department of fisheries,

(2) The sport salmon catch record stub shall contain space for the following information:

- (a) Name of angler.
- (b) Home address.
- (c) City, state, zip code.
- (d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five

letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

(e) Home phone.

(f) Date of issue.

(3) The sport salmon catch record card shall contain space for the following information:

(a) Name of angler.

(b) Home address.

(c) City, state, zip code.

(d) Angler's driver's license number, or, in the case the angler does not have a driver's license, the first five letters of the anglers last name and the initial for the angler's first and middle name. If the last name is less than five letters, enter the entire last name followed by the first and middle initial. If no middle name, leave blank the initial space.

(e) Date of issue.

(f) Space for the license validation stamp.

((~~(e)~~)) (g) Month of catch.

((~~(f)~~)) (h) Day of catch.

((~~(g)~~)) (i) Marine code or stream: Location of catch.

((~~(h)~~)) (j) Species: Species code for salmon.

NEW SECTION

WAC 220-69-247 REQUIRED INFORMATION ON SPORT SALMON CATCH RECORD. The following are required on each completed sport salmon catch record:

WAC 220-69-237 (2)(a) through (d); (2)(e) if applicable; (2)(f); and WAC 220-69-237 (3)(a) through (e).

WSR 84-09-027

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed April 12, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning enforcement procedures, amending and repealing chapter 390-37 WAC;

that the agency will at 9:00 a.m., Tuesday, May 22, 1984, in the 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 22, 1984.

The authority under which these rules are proposed is RCW 42.17.370(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1984.

Dated: April 2, 1984

By: Graham E. Johnson
Administrator

STATEMENT OF PURPOSE

Title: Chapter 390-37 WAC, Enforcement procedures.

Description of Purpose: Rules enforcing chapter 42.17 RCW.

Statutory Authority: RCW 42.17.395.

Summary of Rule: This section establishes the enforcement rules.

Reasons Supporting Proposed Action: Need for updating old rules that are no longer needed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graham E. Johnson and Chip Holcomb.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: [No information supplied by agency.]

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

AMENDATORY SECTION (Amending Order 79, filed 6/25/76)

WAC 390-37-020 ENFORCEMENT PROCEDURES—INITIATION OF COMPLAINT. (1) A complaint alleging a violation of chapter 42.17 RCW may be brought to the attention of the commission staff by:

- (a) A member of the public;
- (b) the commission staff;
- (c) a commission member, who shall then be disqualified from participating in the decision of an ((contested case)) enforcement hearing that may arise from the complaint; or
- (d) referral from the office of the attorney general or any other law enforcement agency.

(2) The person or entity against whom a complaint is filed shall be known as the respondent.

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

AMENDATORY SECTION (Amending Order 79, filed 6/25/76)

WAC 390-37-030 ENFORCEMENT PROCEDURES—STATUS OF CITIZEN COMPLAINANT AND OTHERS. (1) When a citizen complaint has been filed with the commission, neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the commission. However, the staff shall give notice to the complainant of any open commission hearings on the matter and the complainant may be called as a witness in any ((contested case)) enforcement hearing or investigative proceeding.

(2) The complainant or any other person may submit documentary evidence and/or written factual or legal statements to the commission at any time. The complainant or any other person wishing to be heard in a compliance matter may request permission in advance of a public hearing on the matter or at such hearing, and the commission may grant such person a reasonable opportunity to be heard.

(3) A person not satisfied with the dismissal of a complaint by the commission or its administrator when no violation is found, may pursue an appropriate remedy under RCW 42.17.400(4).

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

AMENDATORY SECTION (Amending Order 81 [79], filed 7/22/76 [6/25/76])

WAC 390-37-040 ENFORCEMENT PROCEDURES—PROCEDURES FOR FILING CITIZEN COMPLAINTS. (1) A complaint filed with the commission, relating to an elected official or a candidate for elective office, shall be in writing and signed by the complainant under oath.

(2) A complaint filed with the commission, other than a complaint specified in subsection (1) of this section, may be made informally.

(3) A complaint filed under the provisions of either subsection (1) or (2) of this section should include:

(a) A statement of the nature of the alleged violation or violations, date, time and place of each occurrence and name of person or persons responsible; and

(b) all available documentation and other evidence which the complainant is able to supply to demonstrate a reason for believing that a violation of chapter 42.17 RCW has occurred.

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

Reviser's note: RCW 34.04.058 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 Order 81, filed 7/22/76)

WAC 390-37-060 ENFORCEMENT PROCEDURES—INVESTIGATION OF COMPLAINTS—INITIATION OF HEARING. (1) The administrator shall ((investigate and present to the commission each complaint which indicates reasonable cause to believe chapter 42.17 RCW has been violated)) initiate an enforcement hearing whenever an investigation reveals facts which the administrator has reason to believe are a material violation of chapter 42.17 RCW and do not constitute substantial compliance.

(2) The respondent shall be notified of the date of the hearing no later than twenty days before that date pursuant to WAC 10-08-040.

(3) The staff shall provide the respondent, at his/her request, with copies of all materials to be presented at the hearing by the staff.

(4) It is the policy of the commission during the course of any investigation that all records generated or collected as a result of that investigation are exempt from public inspection and copying under RCW 42.17.310(1)(d). If a request is made for any such record which implicates the privacy of an individual, written notice of the records request will be provided to the individual in order that such individual may request a protective order from a court under RCW 42.17.330.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 81, filed 7/22/76)

WAC 390-37-070 ENFORCEMENT PROCEDURES—COMPLAINTS DISMISSIBLE BY ADMINISTRATOR. The administrator, with the concurrence of the chairman, at any time prior to consideration by the commission, may dismiss a complaint which on its face, or as shown by investigation, does not show reason to believe that a material violation of chapter 42.17 RCW has occurred.

AMENDATORY SECTION (Amending Order 81, filed 7/22/76)

WAC 390-37-090 ENFORCEMENT PROCEDURES—CASES RESOLVABLE BY STIPULATION. (1) When the administrator and respondent agree ((at the prehearing conference to the criteria set forth in subsections (2)(a) through (e) of WAC 390-37-080)) that some or all the facts are uncontested, the administrator and respondent shall prepare a stipulated statement((s)) of fact ((and law)) for presentation to the commission.

(2) ((If)) The commission ((finds that there has been an actual violation by approving the findings of fact and conclusions of law as presented in the stipulation, the commission shall:

(a) Convene an ((contested case)) enforcement hearing on the issue of the sanction to be imposed, and

(b) determine the amount of the sanction)) may ask that additional facts be presented if it deems any stipulation to be inadequate.

(3) The commission shall refer the matter to the administrator for further investigation or other action consistent with the commission's deliberations if the commission((:

(a)) does not approve the ((proposed findings)) stipulated statement of fact ((and conclusions of law pursuant to subsection (1) of this section or

(b) determines its own remedy would be inadequate)).

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 81, filed 7/22/76)

WAC 390-37-100 ENFORCEMENT PROCEDURES—((CONTESTED CASE)) CONDUCT OF HEARINGS. (1) An ((contested case)) enforcement hearing shall be conducted pursuant to the Administrative Procedure Act (chapter 34.04 RCW) and its supporting regulations (chapter ((1-08)) 10-08 WAC).

(2) An ((contested case)) enforcement hearing shall be heard either by the commission or, ((if the respondent consents)) under RCW 34.12.040 or 34.12.050(2), by a duly designated ((hearing officer)) administrative law judge. ((The hearing officer may be either a member of the commission or another qualified person designated by resolution of the commission to preside at contested case hearings.))

(3) Upon the conclusion of an ((contested case, the hearing officer)) enforcement hearing heard by an administrative law judge, the judge shall prepare and present to the commission findings of fact, conclusions of law, and a proposed decision determinative of the matter. ((When the proposed decision is adverse to the respondent,)) A copy of the findings of fact, conclusions of law and the proposed decision shall be served upon the administrator and the respondent. Both the respondent and the administrator shall be afforded an opportunity to file exceptions and written argument with the commission. The commission shall review the proposed decision at its next regular meeting or at a special meeting called for that purpose. The commission shall consider the whole record or such portions as shall be cited by the parties. Oral argument may be heard at the discretion of the commission.

(4) After either a hearing by the commission or review by the commission of the proposed decision of ((a hearing officer)) an administrative law judge the commission may find that:

(a) Respondent did not violate the act, as alleged, and dismiss the case; or

(b) Respondent violated chapter 42.17 RCW, as alleged, and determine the sanction, if any, to be imposed, or

(c)((i)) Respondent is in apparent violation of chapter 42.17 RCW, ((ii)) its own remedy is inadequate and enter its order referring the matter to the appropriate law enforcement agency as provided in RCW 42.17.360.

(5) Upon the conclusion of a hearing, the commission

(a) shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(b) shall deliver, either in person or by mail, to each respondent((, or the attorney of record of each respondent,)) and their representative a copy of the findings of fact, conclusions of law and decision.

(6) When the commission finds an apparent violation and refers the matter to an enforcement agency, the commission shall give to the respondent written notice of such finding and order of referral.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 81, filed 7/22/76)

WAC 390-37-210 ((INVESTIGATIVE)) HEARINGS—SUBPOENAS. (1) The commission, ((its chairman, or designee of the commission or)) upon request by ((a respondent)) any party, may subpoena persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums or other records which the commission deems relevant or material.

(2) Such subpoena will issue and may be enforced in the form and manner set forth in RCW 34.04.105 and WAC 10-08-120.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

<u>WAC 390-37-080</u>	Enforcement Procedures—Prehearing Conference
<u>WAC 390-37-200</u>	Investigative Hearings—Commission Policy
<u>WAC 390-37-205</u>	Investigative Hearings—Respondent's Notice to Appear
<u>WAC 390-37-215</u>	Investigative Hearings—Conducted by Commission or Hearing Officer
<u>WAC 390-37-220</u>	Investigative Hearings—Procedures
<u>WAC 390-37-225</u>	Investigative Hearings—Disposition of Case by Hearing Officer
<u>WAC 390-37-230</u>	Investigative Hearings—Disposition of Case by Commission

WSR 84-09-028

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 84-26—Filed April 13, 1984]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Baker Lake opening date is conformed with the Game Department's opening date for 1984. Dungeness River origin spring chinook are in need of protection and no harvestable surplus exists.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 12, 1984.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-57A-01200A BAKER LAKE (WHATCOM COUNTY) Notwithstanding the provisions of WAC 220-57A-012, effective April 15, 1984 until further notice it is lawful to fish for and possess

salmon taken for personal use under bag limit I from Baker Lake in Whatcom County

NEW SECTION

WAC 220-56-12800B PERSONAL USE FISHERY—CLOSED AREA—DUNGENESS BAY. Effective April 15, 1984, through June 30, 1984, it is unlawful for any person to fish for or possess salmon taken for personal use from those waters of Puget Sound westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulo Point (Dungeness Bay).

**WSR 84-09-029
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Filed April 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning new sections WAC 296-62-054 through 296-62-05425 hazard communication in the general occupational and health standard, chapter 296-62 WAC. The purpose of the standard is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees within the manufacturing sector. It requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers in SIC Codes 20 through 39 to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition the distributors shall be required to transmit the required information to employers in SIC Codes 20 through 39. A list of affected standard industrial classification (SIC) employers follows:

- Major group 20 Food and kindred products.
- Major group 21 Tobacco manufacturers.
- Major group 22 Textile mill products.
- Major group 23 Apparel and other finished products made from fabrics and similar materials.
- Major group 24 Lumber and wood products, except furniture.
- Major group 25 Furniture and fixtures.
- Major group 26 Paper and allied products.
- Major group 27 Printing, publishing, and allied industries.
- Major group 28 Chemicals and allied products.
- Major Group 29 Petroleum refining and related industries.
- Major group 30 Rubber and miscellaneous plastics products.
- Major group 31 Leather and leather products.
- Major group 32 Stone, clay, glass, and concrete products.
- Major group 33 Primary metal industries.
- Major group 34 Fabricated metal products, except machinery and transportation equipment.
- Major group 35 Machinery, except electrical.
- Major group 36 Electrical and electronic machinery, equipment, and supplies.
- Major group 37 Transportation equipment.

Major group 38 Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks.

Major group 39 Miscellaneous manufacturing industries;

that the agency will at 9:30 a.m., Tuesday, June 5, 1984, in Office Building #2, 12th and Franklin, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 7, 1984.

The authority under which these rules are proposed is RCW 49.17.040 and 49.17.050.

The specific statute these rules are intended to implement is RCW 49.17.050(4) and (5), 49.17.220(3), 49.17.060(1) and 49.17.240(2).

Interested persons may submit data, views or arguments to this agency in writing to be received by this agency before May 29, 1984.

Written or oral submissions may also contain, data, views and arguments concerning the effect of the proposed rules or amendments of rules and economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the public hearing or in response to written or oral comments received before or during the public hearing.

The agency may need to change the date for public hearing or adoption on short notice. To ascertain that the public hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Richard E. Martin, Assistant Director
Industrial Safety and Health Division
Post Office Box 207
Olympia, Washington 98507
(206) 753-6500

Dated: April 13, 1984
By: Sam Kinville
Director

STATEMENT OF PURPOSE

Title and Number of Rule or Chapter: Chapter 296-62 WAC, General occupational and health standards, new sections WAC 296-62-054 through 296-62-05425 Hazard communication.

Statutory Authority: RCW 49.17.040 and 49.17.050.

Specific Statute that Rules are Intended to Implement: RCW 49.17.050(4) and (5), 49.17.220(3), 49.17.060(1) and 49.17.240(2).

Summary of the Rule: The purpose of the standard is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees within the manufacturing sector. It requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers in SIC Codes 20 through 39 to provide information to their employees about the hazardous chemicals to

which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training.

Reasons Supporting the Proposed Rule: To ensure safe and healthful working conditions for every person working in the state of Washington; and to be in compliance with federal regulations.

The Agency Personnel Responsible for Drafting: Steve Cant, Chief Industrial Hygienist, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, (206) 753-6497; Implementation: Richard E. Martin, Assistant Director, Division of Industrial Safety and Health, 814 East Fourth, Olympia, Washington 98504, (206) 753-6500; and Enforcement: Same as above.

Name of Person or Organization, Whether Private, Public, or Governmental that is Proposing the Rule: The Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: These are basic rules that will not be difficult or expensive for employers who must comply with them. However, the rules will likely prevent many costly injuries, including death, to employees in the state of Washington.

Portions of the rules are necessary to comply with a federal law, 29 U.S.C. subsection 667(c)(2).

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The standard industrial classifications (SIC) which are affected by the proposed standard are listed on the notice of intention to adopt, amend, or repeal rules filed with this statement of purpose. Using federal sources it is estimated that the initial cost per employee in the designated SIC's will be \$43.00 per employee. The average annual cost after the initial cost would \$11.00 per employee. The purpose of the hazard communication standard differs substantially from other WISHA regulations. Rather than directly control exposure levels in the workplace, it is designed to enhance employer and employee awareness of the safety and health hazards associated with chemical substances. In turn, this hazard recognition produces market-oriented responses by employers and employees that translate into lower incidences of chemically-related injury and illness on the job. The standard will also provide benefits from the avoidance of multiple and redundant searches for information on chemical ingredients and hazards that are incurred by industrial users. Most importantly, the standard will increase employee awareness of the potential health and safety risks associated with industrial chemicals. This should result in increased employee awareness of the potential health and safety risks associated with industrial chemicals. Improved hazard communication should also result in early job transfers and treatment of chronic disease and lowering of future health care costs.

NEW SECTION

WAC 296-62-054 HAZARD COMMUNICATION PURPOSE. (1) The purpose of this section is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees within the manufacturing sector. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training.

(2) This occupational safety and health standard is intended to address comprehensively the issue of evaluating and communicating chemical hazards to employees in the manufacturing sector.

NEW SECTION

WAC 296-62-05403 SCOPE AND APPLICATION. (1) This section requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers in SIC Codes 20 through 39 to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers in SIC Codes 20-39.

(2) This section applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

(3) This section applies to laboratories only as follows:

(a) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

(b) Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible to laboratory employees; and,

(c) Employers shall ensure that laboratory employees are apprised of the hazards of the chemicals in their workplaces in accordance with WAC 296-62-05415.

(4) This section does not require labeling of the following chemicals:

(a) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency;

(b) Any food, food additive, color additive, drug, or cosmetic, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act and regulations issued under the Act, when they are subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Food and Drug Administration;

(c) Any distilled spirits (beverage alcohols), wine, or malt beverages intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act and regulations issued under that Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco, and Firearms; and,

(d) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act and Federal Hazardous Substances Act respectively, when subject to a consumer product safety standard or labeling requirement of those Acts, or regulations issued under those Acts by the Consumer Product Safety Commission.

(5) This section does not apply to:

(a) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended when subject to regulations issued under that Act by the Environmental Protection Agency;

(b) Tobacco or tobacco products;

(c) Wood or wood products;

(d) Articles; and,

(e) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

NEW SECTION

WAC 296-62-05405 DEFINITIONS APPLICABLE TO THIS SECTION. (1) Article - a manufactured item:

(a) which is formed to a specific shape or design during manufacture;

(b) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(c) which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

(2) Chemical – any element, chemical compound or mixture of elements and/or compounds.

(3) Chemical manufacturer – an employer in SIC Codes 20 through 39 with a workplace where chemical(s) are produced for use or distribution.

(4) Chemical name – the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules or nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(5) Combustible liquid – any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

(6) Common name – any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

(7) Compressed gas

(a) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C); or

(b) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D-323-72.

(8) Container – any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section, pipes or piping systems are not considered to be containers.

(9) Designated representative – any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(10) Director – the Director of the Department of Labor and Industries or his/her designee.

(11) Distributor – a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to manufacturing purchasers.

(12) Employee – a worker employed by an employer in a workplace in SIC Codes 20 through 39 who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies, including, but not limited to production workers, line supervisors, and repair or maintenance personnel. Office workers, grounds maintenance personnel, security personnel or nonresident management are generally not included, unless their job performance routinely involves potential exposure to hazardous chemicals.

(13) Employer – a person engaged in a business within SIC Codes 20 through 39 where chemicals are either used, or are produced for use or distribution.

(14) Explosive – a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

(15) Exposure or exposed – an employee that is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (e.g. accidental or possible) exposure.

(16) Flammable – a chemical that falls into one of the following categories:

(a) Aerosol flammable – an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame protection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(b) Gas, flammable:

(i) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen (13) percent by volume or less; or

(ii) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve (12) percent by volume, regardless of the lower limit;

(c) Liquid, flammable – any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up 99 percent or more of the total volume of the mixture.

(d) Solid, flammable – a solid, other than a blasting agent or explosive as defined in s1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(17) Flashpoint – the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(a) Tagliabue Closed Tester – (See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(b) Pensky-Martens Closed Tester – (see American National Standard Method of Test for Flash Point by Pensky-Martens closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(c) Setaflash Closed Tester – (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

(18) Foreseeable emergency – any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

(19) Hazardous chemical – any chemical which is a physical hazard or a health hazard.

(20) Hazard warning – any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemical(s) in the container(s).

(21) Health hazard – a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

(22) Identify – any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

(23) Immediate use – that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

(24) Importer – the first business with employees within the Customs Territory of the United States which receives hazardous chemicals produced in other countries, for the purpose of supplying them to distributors or manufacturing purchasers within the United States.

(25) Label – any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

(26) Manufacturing purchaser – an employer with a workplace classified in SIC Codes 20 through 39 who purchases a hazardous chemical for use within that workplace.

(27) Material safety data sheet (MSDS) – written or printed material concerning a hazardous chemical which is prepared in accordance with WAC 296-62-05413.

(28) Mixture – any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

(29) Organic peroxide – an organic compound that contains the bi-valent–O–O–structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(30) Oxidizer – a chemical other than a blasting agent or explosive as defined in WAC 296-52-030, that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.

(31) Physical hazard – a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

(32) Produce – to manufacture, process, formulate, or repackage.

(33) Pyrophoric – a chemical that will ignite spontaneously in air at a temperature of 130°F (54.4°C) or below.

(34) Responsible party – someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(35) Specific chemical identity – the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance.

(36) Trade secret – any confidential formula, pattern, process, device, information or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(37) Unstable (reactive) – a chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

(38) Use – to package, handle, react, or transfer.

(39) Water-reactive – a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

(40) Work area – a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

(41) Workplace – an establishment at one geographical location containing one or more work areas.

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

NEW SECTION

WAC 296-62-05407 HAZARD DETERMINATION. (1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(2) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards. For health hazards, evidence which is statistically significant and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this section. WAC 296-62-05421, Appendix A, shall be consulted for the scope of health hazards covered, and WAC 296-62-05423, Appendix B, shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

(3) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

(a) Chapter 296-62 WAC, General Occupational Health Standards; or,

(b) Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment, American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).

The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of this standard.

(4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

(a) National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);

(b) International Agency for Research on Cancer (IARC) Monographs (latest editions); or

(c) Chapter 296-62 WAC, General Occupational Health Standards.

NOTE: The Registry of Toxic Effects of Chemical Substances published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be potential carcinogen.

(5) The chemical manufacturer, importer or employer shall determine the hazards of mixtures or chemicals as follows:

(a) If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

(b) If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under WAC 296-62-05407(4);

(c) If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and,

(d) If the employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established WISHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health hazard to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(6) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the director or his/her designee. The written description may be incorporated into the written hazard communication program required under WAC 296-62-05409.

NEW SECTION

WAC 296-62-05409 WRITTEN HAZARD COMMUNICATION PROGRAM. (1) Employers shall develop and implement a written hazard communication program for their workplaces which at least describes how the criteria specified in WAC 296-62-05411, 296-62-05413 and 296-62-05415, for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following:

(a) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas);

(b) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas; and,

(c) The methods the employer will use to inform any contractor employers with employees working at the the employer's workplace of the hazardous chemicals their employees may be exposed to while performing their work, and any suggestions for appropriate protective measures.

(2) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this section.

(3) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, and the director or his/her designee in accordance with the requirements of WAC 296-62-05209.

NEW SECTION

WAC 296-62-05411 LABELS AND OTHER FORMS OF WARNING. (1) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

(a) Identity of the hazardous chemical(s);

- (b) Appropriate hazard warnings; and
- (c) Name and address of the chemical manufacturer, importer, or other responsible party.

(2) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act and regulations issued under that Act by the Department of Transportation.

(3) If the hazardous chemical is regulated by WISHA in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(4) Except as provided in subsection (5) and (6) of this section, the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with the following information:

- (a) Identity of the hazardous chemical(s) contained therein; and
 - (b) Appropriate hazard warnings.
- (5) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by subsection (4) of this section to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.
- (6) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.
- (7) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.
- (8) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.
- (9) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this section if existing labels already convey the required information.

NEW SECTION

WAC 296-62-05413 MATERIAL SAFETY DATA SHEETS.

- (1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import. Employers shall have a material safety data sheet for each hazardous chemical which they use.
- (2) Each material safety data sheet shall be in English and shall contain at least the following information:
- (a) The identity used on the label, and, except as provided for in WAC 296-62-05417 on trade secrets:
 - (i) If the hazardous chemical is a single substance, its chemical and common name(s);
 - (ii) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or,
 - (iii) If the hazardous chemical is a mixture which has not been tested as a whole:
 - (A) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under WAC 296-62-05407(4) shall be listed if the concentrations are 0.1% or greater; and,
 - (B) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;
 - (b) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);
 - (c) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(d) The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

- (e) The primary route(s) of entry;
 - (f) The WISHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where available;
 - (g) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions, or by WISHA);
 - (h) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;
 - (i) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;
 - (j) Emergency and first aid procedures;
 - (k) The date of preparation of the material safety data sheet or the last change to it; and,
 - (l) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.
- (3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet mark it to indicate that no applicable information was found.
- (4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.
- (5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.
- (6) Chemical manufacturers or importers shall ensure that distributors and manufacturing purchasers of hazardous chemicals are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the manufacturing purchaser prior to or at the time of the shipment. If the material safety data sheet is not provided with the shipment, the manufacturing purchaser shall obtain one from the chemical manufacturer, importer, or distributor as soon as possible.
- (7) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and manufacturing purchasers of hazardous chemicals.
- (8) The employer shall maintain copies of the required material safety data sheets for each hazardous chemical in the workplace, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s).
- (9) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(10) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the director or his/her designee in accordance with the requirements of WAC 296-62-05209.

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

NEW SECTION

WAC 296-62-05415 **EMPLOYEE INFORMATION AND TRAINING.** Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area.

(1) Information. Employees shall be informed of:

- (a) The requirements of this section;
- (b) Any operations in their work area where hazardous chemicals are present; and,
- (c) The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by this section.

(2) Training. Employee training shall include at least:

- (a) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);
- (b) The physical and health hazards of the chemicals in the work area;
- (c) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and,
- (d) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

NEW SECTION

WAC 296-62-05417 **TRADE SECRETS.** (1) The chemical manufacturer, importer or employer may withhold the specific chemical identity including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

(c) The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and,

(d) The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this section.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (3) and (4) of this section, as soon as circumstances permit.

(3) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (1) of this section, to a health professional (i.e. physician, industrial hygienist, toxicologist, or epidemiologist) providing medical or other occupational health services to exposed employee(s) if:

(a) The request is in writing;

(b) The request describes with reasonable detail one or more of the following occupational health needs for the information:

(i) To assess the hazards of the chemicals to which employees will be exposed;

(ii) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(iii) To conduct pre-assignment or periodic medical surveillance of exposed employees;

(iv) To provide medical treatment to exposed employees;

(v) To select or assess appropriate personal protective equipment for exposed employees;

(vi) To design or assess engineering controls or other protective measures for exposed employees; and,

(vii) To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in subdivision (3)(b) of this section:

(i) The properties and effects of the chemical;

(ii) Measures for controlling workers' exposure to the chemical;

(iii) Methods of monitoring and analyzing worker exposure to the chemical; and,

(iv) Methods of diagnosing and treating harmful exposures to the chemical;

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and,

(e) The health professional, and the employer or contractor of the health professional's services (i.e., downstream employer, labor organization, or individual employer), agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to the department, as provided in subsection (6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

(4) The confidentiality agreement authorized by subdivision (3)(d) of this section:

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and,

(c) May not include requirements for the posting of a penalty bond.

(5) Nothing in this standard is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to the department, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional within thirty days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and,

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional whose request for information is denied under subsection (3) of this section may refer the request and the written denial of the request to the department for consideration.

(9) When a health professional refers the denial to the department under subsection (8) of this section, the director or his/her designee shall consider the evidence to determine if:

(a) The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional has supported the claim that there is a medical or occupational health need for the information; and,

(c) The health professional has demonstrated adequate means to protect the confidentiality.

(10)(a) If the director or his/her designee determines that the specific chemical identity requested under subsection (3) of this section is not a bona fide trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality

agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by the department.

(b) If a chemical manufacturer, importer, or employer demonstrates to the department that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the director or his/her designee may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

(11) If, following the issuance of a citation and any protective orders, the chemical manufacturer, importer, or employer continues to withhold the information, further action may be taken by the department in accordance with chapter 49.17 RCW.

(12) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the director or his/her designee any information which this section requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the director or his/her designee so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(13) Nothing in this section shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is trade secret.

NEW SECTION

WAC 296-62-05419 EFFECTIVE DATES. Employers shall be in compliance with this section within the following time periods:

(1) Chemical manufacturers and importers shall label containers of hazardous chemicals leaving their workplaces, and provide material safety data sheets with initial shipments by November 25, 1985.

(2) Distributors shall be in compliance with all provisions of this section applicable to them by November 25, 1985.

(3) Employers shall be in compliance with all provisions of this section by May 25, 1986, including initial training for all current employees.

NEW SECTION

WAC 296-62-05421 APPENDIX A—HEALTH HAZARD DEFINITIONS (MANDATORY). Although safety hazards related to the physical characteristics of a chemical can be objectively defined in terms of testing requirements (e.g. flammability), health hazard definitions are less precise and more subjective. Health hazards may cause measurable changes in the body—such as decreased pulmonary function. These changes are generally indicated by the occurrence of signs and symptoms in the exposed employees—such as shortness of breath, a non-measurable, subjective feeling. Employees exposed to such hazards must be apprised of both the change in body function and the signs and symptoms that may occur to signal that change.

The determination of occupational health hazards is complicated by the fact that many of the effects or signs and symptoms occur commonly in non-occupationally exposed populations, so that effects of exposure are difficult to separate from normally occurring illnesses. Occasionally, a substance causes an effect that is rarely seen in the population at large, such as angiosarcomas caused by vinyl chloride exposure, thus making it easier to ascertain that the occupational exposure was the primary causative factor. More often, however, the effects are common, such as lung cancer. The situation is further complicated by the fact that most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects.

There have been many attempts to categorize effects and to define them in various ways. Generally, the terms "acute" and "chronic" are used to delineate between effects on the basis of severity or duration. "Acute" effects usually occur rapidly as a result of short-term exposures, and are of short duration. "Chronic" effects generally occur as a result of long-term exposure, and are of long duration.

The acute effects referred to most frequently are those defined by the American National Standards Institute (ANSI) standard for Precautionary Labeling of Hazardous Industrial Chemicals (Z129.1-1982) — irritation, corrosivity, sensitization and lethal dose. Although these are important health effects, they do not adequately cover the

considerable range of acute effects which may occur as a result of occupational exposure, such as, for example, narcosis.

Similarly, the term chronic effect is often used to cover only carcinogenicity, teratogenicity, and mutagenicity. These effects are obviously a concern in the workplace, but again, do not adequately cover the area of chronic effects, excluding, for example, blood dyscrasias (such as anemia), chronic bronchitis and liver atrophy.

The goal of defining precisely, in measurable terms, every possible health effect that may occur in the workplace as a result of chemical exposures cannot realistically be accomplished. This does not negate the need for employees to be informed of such effects and protected from them.

Appendix B, which is also mandatory, outlines the principles and procedures of hazard assessment.

For purposes of this section, any chemicals which meet any of the following definitions, as determined by the criteria set forth in Appendix B are health hazards:

(1) Carcinogen. A chemical is considered to be carcinogen if:

(a) It has been evaluated by the International Agency for Research on Cancer (IARC), and found to be a carcinogen or potential carcinogen; or

(b) It is listed as a carcinogen or potential carcinogen in the Annual Report on Carcinogens published by the National Toxicology Program (NTP) (latest edition; or,

(c) It is regulated by WISHA as a carcinogen.

(2) Corrosive. A chemical that causes visible destruction of, or irreversible alterations in, living tissue by chemical action at the site of contact. For example, a chemical is considered to be corrosive if, when tested on the intact skin of albino rabbits by the method described by the U.S. Department of Transportation in Appendix A to 49 CFR Part 173, it destroys or changes irreversibly the structure of the tissue at the site of contact following an exposure period of four hours. This term shall not refer to action on inanimate surfaces.

(3) Highly toxic. A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD₅₀) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD₅₀) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC₅₀) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

(4) Irritant. A chemical, which is not corrosive, but which causes a reversible inflammatory effect on living tissue by chemical action at the site of contact. A chemical is a skin irritant if, when tested on the intact skin of albino rabbits by the methods of 16 CFR 1500.41 for four hours exposure or by other appropriate techniques, it results in an empirical score of five or more. A chemical is an eye irritant if so determined under the procedure listed in 16 CFR 1500.42 or other appropriate techniques.

(5) Sensitizer. A chemical that causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure to the chemical.

(6) Toxic. A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD₅₀) of more than 50 milligrams per kilogram but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD₅₀) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC₅₀) in air of more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

(7) Target organ effects. The following is a target organ categorization of effects which may occur, including examples of signs and symptoms and chemicals which have been found to cause such effects. These examples are presented to illustrate the range and diversity of effects and hazards found in the workplace, and the broad scope employers must consider in this area, but are not intended to be all-inclusive.

- | | |
|--|---|
| (a) Hepatotoxins: | Chemicals which produce liver damage. |
| Signs & Symptoms: | Jaundice, liver enlargement |
| Chemicals: | Carbon tetrachloride, nitrosamines. |
| (b) Nephrotoxins: | Chemicals which produce kidney damage. |
| Signs & Symptoms: | Edema; proteinuria |
| Chemicals: | Halogenated hydrocarbons; uranium |
| (c) Neurotoxins: | Chemicals which produce their primary toxic effects on the nervous system. |
| Signs & Symptoms: | Narcosis; behavioral changes; decrease in motor functions. |
| Chemicals: | Mercury, carbon disulfide |
| (d) Agents which act on the blood or hematopoietic system: | Decrease hemoglobin function; deprive the body tissues of oxygen. |
| Signs & Symptoms: | Cyanosis; loss of consciousness |
| Chemicals: | Carbon monoxide; cyanides |
| (e) Agents which damage the lung: | Chemicals which irritate or damage the pulmonary tissue. |
| Signs & Symptoms: | Cough; tightness in chest; shortness of breath. |
| Chemicals: | Silica; asbestos |
| (f) Reproductive toxins: | Chemicals which affect the reproductive capabilities including chromosomal damage (mutations) and effects on fetuses (teratogenesis). |
| Signs & Symptoms: | Birth defects; sterility |
| Chemicals: | Lead; DBCP |
| (g) Cutaneous hazards: | Chemicals which affect the dermal layer of the body. |
| Signs & Symptoms: | Defatting of the skin; rashes; irritation |
| Chemicals: | Organic solvents; acids |

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

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

NEW SECTION

WAC 296-62-05423 APPENDIX B—HAZARD COMMUNICATION (MANDATORY). The quality of a hazard communication program is largely dependent upon the adequacy and accuracy of the hazard determination. The hazard determination requirement of this standard is performance-oriented. Chemical manufacturers, importer, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, but they must be able to demonstrate that they have adequately ascertained the hazards of the chemicals produced or imported in accordance with the criteria set forth in this Appendix.

Hazard evaluation is a process which relies heavily on the professional judgement of the evaluator, particularly in the area of chronic hazards. The performance-orientation of the hazard determination does not diminish the duty of the chemical manufacturer, importer or employer to conduct a thorough evaluation, examining all relevant data and producing a scientifically defensible evaluation. For purposes of this standard, the following criteria shall be used in making hazard determinations that meet the requirements of this standard.

(1) Carcinogenicity. As described in paragraph (d)(4) and Appendix A of this section, a determination by the National Toxicology Program, the International Agency for Research on Cancer, or WISHA that a chemical is a carcinogen or potential carcinogen will be considered conclusive evidence for purposes of this section.

(2) Human data. Where available, epidemiological studies and case reports of adverse health effects shall be considered in the evaluation.

(3) Animal data. Human evidence of health effects in exposed populations is generally not available for the majority of chemicals produced or used in the workplace. Therefore, the available results of toxicological testing in animal populations shall be used to predict the health effects that may be experienced by exposed workers. In particular, the definitions of certain acute hazards refer to specific animal testing results (see Appendix A).

(4) Adequacy and reporting of data. The results of any studies which are designed and conducted according to established scientific principles, and which report statistically significant conclusions regarding the health effects of a chemical, shall be a sufficient basis for a hazard determination and reported on any material safety data sheet.

The chemical manufacturer, importer, or employer may also report the results of other scientifically valid studies which tend to refute the findings of hazard.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 296-62-05425 APPENDIX C—INFORMATION SOURCES (ADVISORY). The following is a list of available data sources which the chemical manufacturer, importer, or employer may wish to consult to evaluate the hazards of chemicals they produce or import:

(1) Any information in their own company files such as toxicity testing results or illness experience of company employees.

(2) Any information obtained from the supplier of the chemical, such as material safety data sheets or product safety bulletins.

(3) Any pertinent information obtained from the following source list (latest editions should be used):

Condensed Chemical Dictionary

Van Nostrand and Reinhold Co.
135 West 50th Street
New York, NY 10020

The Merck Index: An Encyclopedia of Chemicals and Drugs

Merck and Company, Inc.
126 E. Lincoln Avenue
Rahway, NJ 07065

IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man

Geneva: World Health Organization
International Agency for Research on Cancer, 1972-1977
(Multivolume work)
49 Sheridan Street
Albany, New York

Industrial Hygiene and Toxicology, by F.A. Patty

John Wiley & Sons, Inc.
New York, NY
(Five volumes)

Clinical Toxicology of Commercial Products

Gleason, Gosselin and Hodge

Casarett and Doull's Toxicology; The Basic Science of Poisons

Doull, Klaassen, and Amdur
Macmillan Publishing Co., Inc.
New York, NY

Industrial Toxicology, by Alice Hamilton and Harriet L. Hardy

Publishing Sciences Group, Inc.
Action, MA

Toxicology of the Eye, by W. Morton Grant

Charles C. Thomas
301-327 East Lawrence Avenue

Springfield, IL

Recognition of Health Hazards in Industry

William A. Burgess
John Wiley and Sons
605 Third Avenue
New York, NY 10158

Chemical Hazards of the Workplace

Nick H. Proctor and James P. Hughes
J.P. Lipincott Company
6 Winchester Terrace
New York, NY 10022

Handbook of Chemistry and Physics

Chemical Rubber Company
18901 Cranwood Parkway
Cleveland, OH 44128

Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment with Intended Changes

American Conference of Governmental Industrial Hygienists
6500 Glenaway Avenue, Bldg. D-5
Cincinnati, OH 45211

NOTE: The following documents are on sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Occupational Health Guidelines

NIOSH/OSHA (NIOSH Pub. No. 81-123)

NIOSH/OSHA Pocket Guide to Chemical Hazards

NIOSH Pub. NO. 78-210

Registry of Toxic Effects of Chemical Substances

U.S. Department of Health and Human Services
Public Health Service
Center for Disease Control
National Institute for Occupational Safety and Health
(NIOSH Pub. No. 80-102)

The Industrial Environment - Its Evaluation and Control

U.S. Department of Health and Human Services
Public Health Service
Center for Disease Control
National Institute for Occupational Safety and Health
(NIOSH Pub. No. 74-117)

Miscellaneous Documents - National Institute for Occupational Safety and Health

- (1) Criteria for a recommended standard... Occupational Exposure to "_____"
- (2) Special Hazard Reviews
- (3) Occupational Hazard Assessment
- (4) Current Intelligence Bulletins

BIBLIOGRAPHIC DATA BASES

Service Provider	File Name
Bibliographic Retrieval Services (BRS) Corporation Park, Bldg. 702 Scotia, New York 12302	AGRICOLA BIOSIS PREVIEWS CA CONDENSATES CA SEARCH DRUG INFORMATION MEDLARS MEDOC NTIS POLLUTION ABSTRACTS SCIENCE CITATION INDEX SSIE
Lockheed - DIALOG Lockheed Missiles & Space Company, Inc. P.O. Box 44481 San Francisco, CA 94144	AGRICOLA BIOSIS PREV. 1979-PRESENT BIOSIS PREV. 1969-71 CA CONDENSATES 1970-71 CA SEARCH 1972-76

CA SEARCH 1977-PRESENT
CHEMNAME
CONFERENCE PAPERS INDEX
FOOD SCIENCE & TECH. ABSTR.
FOODS ADLIBRA
INTL. PHARMACEUTICAL
ABSTR.
NTIS
POLLUTION ABSTRACTS
SCISEARCH 1978-PRESENT
SCISEARCH 1974-77
SSIE CURRENT RESEARCH

AGRICOLA
BIOCOCODES
BIOSIS/BIO6973
CAS6771/CAS7276
CAS77
CHEMDEX
CONFERENCE
ENVIROLINE
LABORDOC
NTIS
POLLUTION
SSIE

SDC - ORBIT
SDC Search Service
Department No. 2230
Pasadena, CA 91051

Chemical Information System (CIS)
Chemical Information Systems, Inc.
7215 Yorke Road
Baltimore, MD 21212

National Library of Medicine
Department of Health and Human Services
Public Health Service
National Institutes of Health
Bethesda, MD 20209

Structure & Nomenclature Search system
Acute Toxicity (RTECS)
Clinical Toxicology of Commercial Products
Oil and Hazardous Materials Technical Assistance Data System

Toxicology Data Bank (TDB)
MEDLINE
TOXLINE
CANCERLIT
RTECS

WSR 84-09-030

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed April 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Eastern Washington University intends to adopt, amend, or repeal rules concerning equal opportunity policy, affirmative action program, repealing chapter 172-148 WAC and amending chapter 172-150 WAC;

that the institution will at 9:00 a.m., Thursday, May 24, 1984, in the Pence Union Building, EWU Campus, Cheney, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.35.120 and 43.21C.120.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 24, 1984. (Business and Finance, ATTN: Judy Samples)

Dated: March 22, 1984
By: Bert Shaber
Chairman, Board of Trustees

STATEMENT OF PURPOSE

Title: Repeals chapter 172-148 WAC in its entirety and amends chapter 172-150 WAC. Amending WAC 172-150-010, 172-150-020, 172-150-040, 172-050-050, 172-150-060, 172-150-070, 172-150-080, 172-150-090, 172-150-100, 172-150-110, 172-150-120, 172-150-130, 172-150-140, 172-150-145, 172-150-150, 172-150-160, 172-150-170, 172-150-180 and 172-150-190.

Description of Purpose: To repeal defunct regulation pertaining to affirmative action policies and to update existing chapter 172-150 WAC to indicate the name change of Eastern Washington State College to Eastern Washington University and to update chapter 172-150 WAC to conform with current executive orders and legislation relating to affirmative action programs and minority and women owned business enterprises.

Statutory Authority: RCW 28B.35.120, et seq.

Summary of Rule Changes: See information above.

Reasons Supporting Proposed Rule Changes: To ensure compliance with state and federal legislation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mr. Russell Hartman, Vice President for Business and Finance, 206 Showalter Hall, Eastern Washington University, Cheney, WA 99004, phone: (509) 359-2421.

Comments: None.

Small Business Impact: None.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-010 GENERAL POLICY. As a major educational institution, a large scale employer, and an influence on our society through its students, its faculty, its alumni, and its employees, Eastern Washington ((State-College)) University stands committed to the principles of equal opportunity in employment ((and)), in education, and in business opportunities.

In its most elementary form, our adherence to the concept of equality of opportunity requires that considerations of age, race, sex, national origin, handicap, and religion are irrelevant as determinants of the access an individual has to opportunities for education, employment, achievement, and personal fulfillment. Rather, the controlling factors in all such matters must be individual ability, interest, and merit.

It is the ((college's)) university's present course and future intent to move beyond nondiscrimination, i.e., the elimination of all policies and practices that work to the disadvantage of individuals on the basis of age, race, sex, national origin, handicap, or religion, and to reaffirm our commitment to the concept of affirmative action.

The principle of affirmative action requires the ((college)) university to determine if it has met its responsibilities to recruit, admit, employ, promote, and reward women and minorities to a degree consistent with the availability of qualified individuals. The fundamental premise underlying this commitment is that the effects of systematic exclusion, inattention, and overt discrimination in the past cannot be remedied in appropriate ways and in a reasonable time by a posture of neutrality. To this end, the ((college)) university will seek to recruit and employ women and minorities at least in proportion to their availability, and will provide new opportunities for career development when possible and consistent with program and institutional needs which both stimulate and respond to their changing interests, aspirations, and requirements.

Achievement of the foregoing goals and attainment of the longer range objectives require adoption of the following principles:

(1) All categories of employment at the ((college)) university having fewer minorities and women than would reasonably be expected on the basis of their availability in the work force must be identified. These imbalances must be reduced by vigorous and systematic recruitment efforts, job training, and professional or career development.

(2) All employees will be encouraged to make the fullest use of their skills and talents by participating in educational and career developmental opportunities and by taking advantage of opportunities for promotion and transfer consistent with both the needs of the ((college)) university and the individual's ability and aspirations.

(3) Compensation, benefits, and support for all staff and other employees will be based on training, experience, and equivalency of position without regard to age, race, sex, national origin, handicap, or religion.

(4) Access to educational programs, financial assistance, and other services and facilities will be provided to students in a manner that does not discriminate against women ((and)), minority, and handicapped students.

(5) It will be our goal to increase the numbers of women and members of minority groups within our undergraduate, professional, and graduate student bodies until their enrollment approximates their percentage within the state's population.

(6) Selections among candidates for employment and among student applicants must reflect a recognition that narrow interpretation of qualifications or credentials may have worked to the disadvantage of women and minorities. In other words, the ((college's)) university's employment practices and its admissions policies should emphasize individual merit and performance, in ways that reflect that limited prior opportunity, social discrimination, and enforced segregation influence a person's record of achievement.

(7) Procurement and purchasing practices must ((assure)) provide maximum practical opportunity for the increased participation ((of)) by certified minority and women vendors in the provision of services ((and)), materials and for the employment of minority and women contractors and construction workers in the construction of renovation of ((college)) university facilities, either on or off campus. In this regard, each contractor who seeks ((EWSE)) EWU business is expected to have and to follow an affirmative action program that is in accord with federal and state regulations as well as ((college)) university policy specified in WAC 172-150-130, chapter 39.19 RCW, and Title 326 WAC.

(8) The primary responsibility for adherence to these principles and for the establishment of an atmosphere in which the evolving concept of affirmative action is accepted and supported, rests with all members of the ((college)) university community. Accordingly, where appropriate, the work performance of each employee will be evaluated on the basis of his or her equal opportunity efforts and results as well as other criteria specified in ((college)) university bylaws. The ((college)) university therefore assumes that its faculty, administration, students, and classified personnel staff will comply with the equal opportunity and affirmative action program described hereinafter.

(9) The ((college)) university will not condone or permit any behavior or action that will in any way interfere with the institutional efforts to insure that protected group members will have equal employment opportunity. Furthermore, the ((college)) university will insure that all members of the protected group will be able to exercise those rights guaranteed by federal and state laws.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-020 LEGAL BASES. This broad policy requiring equal opportunity and affirmative action is intended to comply with the requirements of the following applicable state and federal statutes, regulations, and directives:

(1) State of Washington, chapter 49.60 RCW, which prohibits discrimination based on age, race, creed, color, sex, or national origin;

(2) State of Washington, chapter 28B.16 RCW, the state higher education personnel law;

(3) ((State of Washington, Governor Evans' executive orders of September, 1966 and July, 1972 relative to agency goals, which set forth a policy of nondiscrimination and affirmative action in state employment and state contracts;

(4)) Civil Rights Act of 1964 (Public Law 88-352), which prohibits discrimination based on sex, race, creed, color, or national origin;

((5)) (4) Presidential Executive Order 11246, issued September, 1965, which prohibits discrimination and includes contracts dealing with the states where federal funds are involved, and requires the contractor to take affirmative steps to insure compliance;

((6)) (5) Presidential Executive Order 11375, issued September, 1967, amending Presidential Order 11246 to expressly prohibit discrimination on account of sex;

((7)) (6) Education (Title IX) Amendments of 1972.

(7) State of Washington, Governor Spellman's Executive Order of August, 1983, relative to sexual harassment of employees;

(8) Chapter 39.19 RCW and Title 326 WAC relating to minority and women's business enterprises.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-035 AFFIRMATIVE ACTION FOR FACULTY—OBJECTIVES. (1) Aims. At the present time, women and minorities are under-represented in some academic positions within the ((college)) university, including faculty positions, both tenured and nontenured. Our commitment to a policy of affirmative action requires that we make every effort and show substantial progress over time in the following directions:

(a) When normal attrition and/or growth creates vacancies, the ((college)) university will accept its legal and moral obligations to increase the proportion of minority and women on its faculty and academic staff. This increase will be commensurate with departmental needs for teaching and research talent and consistent with the needs for development of existing and/or professional fields and programs.

(b) The ((college)) university must seek to broaden the pool of available candidates by recruiting and educating minority and women students (see WAC 172-150-090 through 172-150-120, inclusive).

(c) Additionally, we are committed to supporting those who are now on our faculty and academic staff by providing for them the opportunities for professional growth (for example, by encouraging them to serve on various ((college)) university committees and in professional organizations both on and off campus) which will in turn increase their representation in the senior ranks of the academic professions.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-040 AFFIRMATIVE ACTION FOR FACULTY—COURSE OF ACTION. (1) Course of action. The following course of action is intended to achieve the ((college's)) university's goals and meet existing problems in the area of faculty positions at ((EWSE)) EWU.

(a) Upon adoption of this plan, and annually thereafter, each academic department will, in cooperation with the affirmative action officer ((and the affirmative action council)), identify the extent to which women and minorities are underutilized in each professional rank, by means of utilization analysis of the departments' facilities and academic staffs (as described in 40 CFR 60-2.11): PROVIDED, That "underutilization" is defined as having fewer minorities and women in a particular job classification than would reasonably be expected by their availability. Upon completion of such analysis, the departments shall then establish their plan for eliminating any existing underutilization, subject to availability of candidates and approval by the vice president for academic affairs, and the affirmative action officer ((and the affirmative action council)).

(b) In areas where there is underutilization of women and minorities, vigorous and systematic recruiting efforts will be undertaken to identify women and minority candidates.

(c) Affirmative action goals for professional employment within the faculty shall be based on the results of the utilization analysis required in WAC 172-150-040.

(i) For women, there shall be a target for hiring new female employees which shall be no less than thirty per cent of all new hirings into faculty positions in each year of the affirmative action program, until the utilization of women within the ((college)) university and departments meets availability.

(ii) For minorities, there shall be a target for hiring new minority faculty members which shall be no less than ten per cent of all new hirings into faculty positions in each year of the affirmative action program, until the utilization of minorities within the ((college)) university and departments meets availability.

(d) Each ((academic)) department will seek to increase the pool of potential candidates in their areas by vigorous recruitment of women and minority ((graduate)) students.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-050 AFFIRMATIVE ACTION FOR FACULTY—IMPLEMENTING COURSE OF ACTION. (1) Responsibility for implementing course of action.

(a) Responsibility for meeting departmental goals and timetables rests with each college or school dean, who will be assisted in the preparation and implementation of specific plans by the ((college's))

university's affirmative action officer and any staff assistants appointed by the ((college)) university president to insure effectiveness and continuity.

(b) To insure good communication and to fix responsibility, each ((college)) university dean will act as college or school equal employment opportunity representative.

(c) The specific responsibilities of the college or school equal employment opportunity representative will be as follows:

(i) To seek the support of everyone in the college or school, particularly women and minorities, in identifying problem areas related to the goals of affirmative action and in referring qualified minority and women candidates for both academic and nonacademic positions;

(ii) ((To develop a strategy, including an up-to-date list of contacts, for identifying women and minority applicants in career fields appropriate to the college or school needs;

(iii) To maintain a file on minority and women applicants and potential candidates for academic positions within the college or school;

(iv)) To undertake a careful review of employment criteria utilized by departments within each college or school relating to merit and to make certain that all job requirements are necessary for the category under consideration;

((iv)) (iii) To review the criteria for departmental hiring, retention, promotion, and tenure as actually implemented to insure that procedures are in compliance with the education amendments of 1972, HEW guidelines per Executive Order 11246, and other relevant state and federal regulation.

(iv) To disseminate the latest college policies and procedures on equal employment opportunity to all members of each department in the college or school, both professional and nonprofessional;

((v)) (v) To develop strategies for increasing and available pool of candidates for academic positions, such as actively recruiting women and minorities for graduate programs and training.

(d) It is expected, however, that all members of the academic staff will cooperate and support these efforts, in terms of both their supervisory roles and their participation on various college and school committees. (See WAC 172-150-010(8).)

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-060 AFFIRMATIVE ACTION FOR NONACADEMIC STAFF—EXEMPTED ADMINISTRATION—CLASSIFIED STAFF—OBJECTIVES. (1) Women and minorities are underrepresented in many nonacademic positions at the ((college)) university. Furthermore, the ((college)) university recognizes that many inequitable situations in employment are rooted in occupational segregation and in stereotyping of ((roles)) roles in our society. These persistent problems have resulted in widely held perceptions by many present and prospective employees, especially those who are minority and women, that job responsibilities and opportunities for advancement are seriously limited and that individual skills and talents will be inadequately recognized and rewarded.

(2) Accordingly, given the ((college's)) university's commitment to equal opportunity in all employment areas, the affirmative action plan for nonacademic employment has a double responsibility:

(a) To correct the present underrepresentation and underutilization of women and minorities; and

(b) To reverse feelings of frustration and low expectations for change on the part of many women and minority staff.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-070 AFFIRMATIVE ACTION FOR NONACADEMIC STAFF—EXEMPTED ADMINISTRATION—CLASSIFIED STAFF—COURSE OF ACTION. In view of both the problems and aims described in WAC 172-150-060, the following course of action has been established:

(1) Upon adoption of this plan, and annually thereafter, the administrative officer responsible for the area, in cooperation with the affirmative action officer ((and the affirmative action council)) will determine within each nonfaculty area (administrative unit, office, department) of Eastern Washington ((State College)) University the extent to which minorities and women are underutilized and will develop plans for the correction of the deficiencies.

(2) Affirmative action goals for non-faculty employees will be based upon the results of the utilization analysis required in WAC 172-150-070(1):

(a) For women in:

(i) Exempt administration: There shall be a target for hiring new female employees which shall be no less than thirty per cent of all new hirings into exempt administrative positions until the utilization of (~~minorities~~) women within such positions corresponds to availability.

(ii) Classified personnel: There shall be a target for hiring new female employees into positions where they are underutilized which shall be no less than thirty per cent of all new hirings into classified positions until the utilization of females within classified positions corresponds to availability.

(b) For minorities in:

(i) Exempted administration: There shall be a target for hiring new minority staff members which shall be no less than ten per cent of all new hirings into exempted administrative positions, until the utilization of minorities within such positions corresponds to availability.

(ii) Classified personnel: There shall be a target for hiring new minority members which shall be no less than ten per cent of all new hirings into classified positions, until the utilization of minorities within such positions corresponds to availability.

(3) Vigorous and systematic recruitment of minorities and women both inside and outside the (~~college~~) university will be undertaken.

(4) Job training, career counseling, and professional development programs will be offered where appropriate and feasible.

(5) All employees will be informed of the policies, goals, and procedures in respect to nondiscrimination outlined in the (~~college's~~) university's affirmative action program. Special efforts will be made to ensure that women and minorities are aware of specific opportunities for promotion, transfer, and training that may be of interest to them.

(6) Steps will be taken to sensitize supervisors to both subtle and overt forms of discrimination and to inform them in detail about the affirmative action program, both in terms of legal requirements and of the (~~college's~~) university's particular commitments.

(7) The (~~college~~) university will make efforts in the direction of improving access by all persons to job categories which have not traditionally been preponderantly occupied by woman and/or minorities.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-080 AFFIRMATIVE ACTION FOR NONACADEMIC STAFF—EXEMPT ADMINISTRATION—CLASSIFIED PERSONNEL—IMPLEMENTING COURSE OF ACTION.

(1) Responsibility for administration.

(a) Responsibility for meeting the objectives in the area of exempt administration and classified personnel at (~~EWSE~~) EWU rests with the major administrative officer of each nonacademic area (administrative unit, office, or department).

(b) For recruitment, referral, and hiring of candidates for classified staff categories, there is a sharing of responsibility between the administrative unit leadership and the personnel office.

(i) Specifically, in order to enable each department to meet its equal opportunity goals for classified staff, the personnel office is responsible for providing minority and women applicants according to their availability.

(ii) It is the responsibility of individual departments to supply the personnel office with basic, essential job requirements for each available classified staff position in sufficient time to allow for a serious search to produce qualified minority and women candidates (as defined in WAC 172-150-010(6)) either from within the (~~college~~) university or from external recruitment sources.

(c) An annual review and analysis of all employment categories will be undertaken by the affirmative action officer to monitor progress toward full representation of minority and women employees.

(d) The affirmative action officer and the (~~college~~) university president will play the same roles in developing, coordinating, and monitoring departmental affirmative action programs as described in WAC 172-150-050 (1)(a).

(e) The head of each administrative unit (office or department), or his designee, will be appointed as equal employment opportunity (EEO) representative and will have specific responsibilities as outlined for academic EEO representatives in WAC 172-150-050(c).

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-090 AFFIRMATIVE ACTION FOR EDUCATIONAL OPPORTUNITY—PURPOSE. The purpose of this section is to describe Eastern Washington (~~State College's~~) University's commitment to increasing the numbers of women and minority group members in our undergraduate and graduate student body and in all professional programs through a vigorous and systematic program of

recruitment and when required through provision of remedial programs designed to correct differences that are the result of prior discrimination or exclusion.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-100 AFFIRMATIVE ACTION FOR EDUCATIONAL OPPORTUNITY—OBJECTIVES. At the present time, women and minority members of some minority groups are underrepresented in some student categories at (~~EWSE~~) EWU. It is our policy to reduce these imbalances. It is also our objective to remove educational, social, and financial barriers which have discouraged many women (~~and~~), minority, and handicapped students from taking advantage of educational opportunities offered by the (~~college~~) university.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-110 AFFIRMATIVE ACTION FOR EDUCATIONAL OPPORTUNITY—COURSE OF ACTION. In view of the objectives expressed in WAC 172-150-100, the (~~college~~) university has established the following plan of action:

(1) Access to educational programs, financial assistance, and other services and facilities will be provided to students in a manner that does not discriminate against women (~~and~~), minority, and handicapped students.

(2) Minorities and women often feel isolated academically and socially both because of their small numbers and because of cultural and/or sex role stereotypes. To address this problem, the (~~college~~) university will provide special support both formally, through the office of the vice president of student services and the office of the (~~dean of undergraduate studies~~) vice president of academic affairs, and informally by encouraging minority and women faculty, staff, and students to serve as advisors on academic and social matters.

(3) The (~~college~~) university is committed to provide special academic support services, where appropriate and feasible, to insure that the needs of students with special problems are met. These services may include the establishment of a learning resource center or centers in which regular faculty members teach the fundamentals of mathematics, reading, writing, and speech.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-120 AFFIRMATIVE ACTION FOR EDUCATIONAL OPPORTUNITY—IMPLEMENTING COURSE OF ACTION. (1) Responsibility for implementation of affirmative action programs and procedures in student-related areas rests with all members of the (~~college~~) university staff but specifically with the vice president for academic affairs(~~(:)~~) and the vice president for student services(~~(, and the dean of undergraduate studies)~~).

(2) On a yearly basis, the vice president for academic affairs(~~(:)~~) and the vice president for student services(~~(, and the dean of undergraduate studies)~~) will review their plan and will prepare an annual report which will outline both efforts and progress made toward meeting (~~EWSE~~) EWU goals and federal regulations. This annual report, including any proposed changes in policies or procedures, will be submitted to the president by the end of each academic year and will be reviewed by the affirmative action officer and other appropriate staff.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-130 AFFIRMATIVE ACTION IN CONSTRUCTION AND PROCUREMENT—OBJECTIVES AND COURSE OF ACTION. Eastern Washington (~~State College~~) University has become a leader in promoting minority group participation in firms engaged in construction, vendor enterprises, and other organizations providing goods and services to the (~~college~~) university. To maintain its leadership position in this area and to continue in compliance with the federal and state regulations governing construction and procurement, the (~~college~~) university is committed to the following course of action:

(1) In general:

(a) Existing procedures will continue to be employed, and new procedures will be developed to (~~secure~~) provide the maximum practical opportunity for increased participation ((of) by certified women and minority vendors in ((college) university purchasing and certified women and minority contractors or construction workers in public works, both on campus and off campus.

(b) An effort will also be made to develop appropriate policies to address the problem of discrimination against women and minorities in these areas.

(c) Contractors and vendors will be informed, at the time they enter into a contractual relationship with the ((college)) university, that failure to achieve the ((college's)) university's affirmative action goals may result in disqualification on future contracts.

(2) Construction contracts will contain the following provisions:

(a) An equal employment opportunity clause will be written into all renovation and new construction contracts:

(b) The ((college)) university, through the department involved, will require contractors, negotiating or bidding on work, to be in compliance with Executive Order No. 11246 ((and)), No. 11375, and No. 12086 before contracts are awarded;

(c) A description of the plan for minority contractor utilization, including subcontractors, will be required as a component of the bid procedure, and each contractor will be required to establish a minimum goal of the state percentage of minorities for his minority hiring goal;

(d) During actual construction, each prime contractor will submit a monthly statement to the ((office of facilities planning)) vice president for business and finance outlining the work force composition of his entire work force and the use of minorities by his or her organization both directly and through subcontracting;

(e) The ((facilities planning office)) vice president for business and finance representative will visit construction sites weekly to review and report on affirmative action compliance.

(3) Vending contracts will contain the following provision:

(a) An equal opportunity clause will appear on all purchase orders.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-140 AFFIRMATIVE ACTION IN CONSTRUCTION AND PROCUREMENT—IMPLEMENTING ACTION. (1) Construction contracts. The vice president for business and ((management)) finance shall be responsible for assuring that the provisions of WAC 172-150-130 (2)(b) are carried out during all phases of the planning and actual construction of each project.

Reports of each project will be forwarded to the affirmative action officer. The affirmative action officer will be responsible for auditing the construction program efforts and for recommending changes whenever necessary.

(2) Procurement contracts. It is the responsibility of the director of purchasing to identify minority and women businesses among potential suppliers and to require the compliance of all suppliers to Executive Orders 11246 ((and)), 11375, and 12086, chapter 39.19 RCW and Title 326 WAC.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-145 REDUCTIONS IN FORCE. In accordance with ((college)) university bylaws and other governing documents, and to the extent permitted by law, the concepts of affirmative action developed in this plan shall apply to any reduction in force or layoff.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-150 GRIEVANCE PROCEDURE. The affirmative action officer (~~(; in cooperation with the affirmative action committee;))~~ will assure that adequate and appropriate grievance procedures which provide for the hearing of complaints of race or sex discrimination as well as all other complaints are developed for all members of the ((college)) university community. These grievance procedures, for faculty, exempt administrative, students, and classified staff, must include specific procedures for the hearing of complaints of discrimination because of race or sex.

When charges of discrimination based on race or sex are made, the affirmative action officer will act in an advisory capacity to the appropriate hearing body convened to hear the complaint, to assure that the process for reviewing the charge of discrimination takes into account the provisions of the various state and federal laws dealing with discrimination and/or affirmative action. At the request of either party to the complaint, the affirmative action officer may be in attendance at all stages of the hearing process.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-160 REFERRALS OF COMPLAINTS. Discrimination complaints which cannot be resolved to the satisfaction of

the complaining party, within the college, may be submitted by the complaining party to appropriate state or federal agencies, such as one of the following:

(1) State human rights commission. This agency investigates, hears, and acts upon individual employment complaints and other grievances as empowered by chapter 49.60 RCW, the state law against discrimination.

(2) Wage and hour division, department of labor. This office investigates complaints concerning equal pay for equal work and other grievances concerning work hours and compensation. The division is authorized to enforce the Fair Labor Standards Act.

(3) Contract compliance agencies (state and federal) and the equal employment opportunity commission. Compliance officers having jurisdiction over state and federally funded projects also receive and act upon complaints of discrimination.

(4) Higher education personnel board. Employees of the classified staff may appeal regarding application of the higher education personnel law and rules, including complaints of discrimination.

(5) Office for minority and women's business enterprises. This office certifies, investigates, hears, and acts upon complaints concerning certification and other grievances as empowered by chapter 39.19 RCW and Title 326 WAC.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-170 MATERNITY LEAVE POLICY. (1) Maternity leave, defined as that period of time a woman is physically unable to work because of childbirth or complications of pregnancy, shall be considered a temporary disability and paid leave shall be granted on the same basis as such leave is granted for any other temporary disability as set forth in the ((college)) university leave policies. Except for disability leave exhausted by absence due to pregnancy, maternity leave shall be granted without loss of other accrued employee benefits and shall be available to married and unmarried women equally.

(2) Pregnancy, or possible pregnancy, shall not preclude the consideration of women for employment, admission, financial assistance, promotion, or any other program provided by the ((college)) university.

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-180 DISSEMINATION OF POLICY. (1) This equal employment opportunity policy and a summary of the current affirmative action program will be disseminated to all employees at least once each year through official publications or other media.

(2) The new employee orientation program will include a thorough familiarization with the equal opportunity policy and affirmative action program of the ((college)) university.

(3) Notices of equal employment opportunity will continue to be prominently displayed on bulletin boards in all locations throughout the ((college)) university.

(4) Deans, directors, department chairpersons, and supervisors, will explain the intent of the policy and program and individual responsibility at staff meetings at least once every year to insure effective implementation. The equal employment opportunity policy and the affirmative action program will also be a basic item on the agenda of the board of trustees at least once a year.

(5) Written notification of this policy will be provided to community agencies and persons who request it and to all contractors, vendors, and suppliers.

(6) It is the intent of the ((college)) university that any collective bargaining agreement covering the members of the classified staff will include a clause such as the following:

"Nondiscrimination. There shall be no discrimination against any individual with respect to compensation, terms or conditions of employment, nor with respect to union membership, because of race, color, religion, national origin, age, or sex. Any violation as herein set forth shall constitute a breach of this agreement."

(7) All sources for recruitment of employees will be notified in writing that this policy applies to referrals for employment application. All printed advertisements for employment will contain the phrase, "an equal opportunity employer."

AMENDATORY SECTION (Amending Order 75-6, filed 6/16/75)

WAC 172-150-190 CORRECTIVE EMPLOYMENT STATUS. Any organizational unit of the ((college)) university which is found to have substantial under-representation of women and/or minorities within its work force may be placed on corrective employment status

by the administrative officers responsible for that unit until such deficiency is overcome.

While under corrective employment status the organizational unit will be provided additional recruiting resources with which to attempt to overcome underutilization. No modification of bona fide ((job)) occupational qualifications will be required under this section.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- (1) WAC 172-148-010 GENERAL POLICY.
- (2) WAC 172-148-020 LEGAL BASES.
- (3) WAC 172-148-030 AFFIRMATIVE ACTION COUNCIL.
- (4) WAC 172-148-040 WRITTEN OBJECTIVES OF AFFIRMATIVE ACTION PLAN.
- (5) WAC 172-148-050 ESTABLISHMENT OF MINORITY HIRING OBJECTIVES.
- (6) WAC 172-148-060 TARGETS FOR HIRING OF FEMALE EMPLOYEES.
- (7) WAC 172-148-070 PROMOTIONAL OPPORTUNITIES.
- (8) WAC 172-148-080 TARGET FOR RECRUITMENT OF STUDENTS.
- (9) WAC 172-148-090 NOTICE TO HIGHER EDUCATION PERSONNEL BOARD.
- (10) WAC 172-148-100 JOB STRUCTURING AND CLASSIFICATION PLAN—CLASSIFIED EMPLOYEES.
- (11) WAC 172-148-110 JOB STRUCTURING AND CLASSIFICATION PLAN—FACULTY AND EXEMPT PERSONNEL.
- (12) WAC 172-148-120 RECRUITMENT.
- (13) WAC 172-148-130 SELECTION.
- (14) WAC 172-148-140 APPOINTMENT, PLACEMENT AND INDOCTRINATION.
- (15) WAC 172-148-150 TRAINING AND EDUCATION—MINORITY EMPLOYEES.
- (16) WAC 172-148-160 GRIEVANCE PROCEDURE.
- (17) WAC 172-148-170 REFERRALS OF COMPLAINTS.
- (18) WAC 172-148-180 CONTRACT COMPLIANCE REVIEW—CLASSIFIED PERSONNEL STAFF.
- (19) WAC 172-148-190 RECORDS AND REPORTS.
- (20) WAC 172-148-200 AFFIRMATIVE ACTION RESPONSIBILITIES—PRESIDENT OF THE COLLEGE.
- (21) WAC 172-148-210 EMPLOYING OFFICIAL RESPONSIBILITIES.
- (22) WAC 172-148-220 CONTRACT COMPLIANCE REVIEW OFFICIAL.
- (23) WAC 172-148-230 EQUAL EMPLOYMENT OPPORTUNITY ADMINISTRATORS.
- (24) WAC 172-148-240 COMMUNICATION OF POLICY.
- (25) WAC 172-148-990 FORM—EQUAL EMPLOYMENT OPPORTUNITY REPORT—CLASSIFIED EMPLOYEES.

WSR 84-09-031
PROPOSED RULES
PENINSULA COLLEGE
 [Filed April 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that Community College District No. 1, Peninsula College, intends to adopt, amend, or repeal rules concerning this notice proposes to amend WAC 132A-136-010, college sponsored publications, which sets forth the college policy for this subject area. The amended policy reflects the duties and responsibilities of the publications committee in relation to the powers of the board of trustees as publisher, and includes students' grievance procedures. This notice proposes to amend WAC 132A-116-025, enforcement. The amended policy sets forth procedure to ensure due process for the owner of an impounded vehicle;

that the agency will at 3:00 p.m., Wednesday, June 20, 1984, in the Peninsula College, Port Angeles, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 28B.50 RCW.

The specific statute these rules are intended to implement is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 20, 1984.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Paul G. Cornaby
 Peninsula College
 1502 East Lauridsen Blvd.
 Port Angeles, WA 98362
 Phone (206) 452-9277

Dated: April 5, 1984
 By: Paul G. Cornaby
 President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s):
 WAC 132A-136-010 College sponsored publications;
 and WAC 132A-116-025 Enforcement.

Statutory Authority: Chapter 28B.50 RCW.

Specific Statute that Rule is Intended to Implement:
 RCW 28B.50.140.

Summary of the Rules: To amend WAC 132A-136-010, College sponsored publications, which sets forth the college policy for this subject area. The amended policy reflects the duties and responsibilities of the publications committee in relation to the powers of the board of trustees as publisher, and includes students' grievance procedures. Substantial rewording is for the purpose of clarity only; and to amend WAC 132A-116-025, Enforcement. The amended policy sets forth procedure to ensure due process for the owner of an impounded vehicle.

Reasons Supporting the Proposed Rules: This year, a committee composed of faculty, administrators, and student representatives was charged with the task of updating the college publications policy. The result was a policy which provides for the administration of a program including student publications as well as journalism classes. A substantial amount of editing was for the purpose of clarity; however, the new policy outlines the

powers of the committee in relation to the powers of the board of trustees as publisher, and includes procedure for filing a grievance; and on the advice of the assistant attorney general representing the college, a paragraph was added to ensure due process for the owner of an impounded vehicle.

The Agency Personnel Responsible for the Drafting: Lucile C. Mealey, Executive Assistant, Peninsula College, Port Angeles, Washington 98362, (206) 452-9277; Implementation and Enforcement: Paul G. Cornaby, President, Peninsula College, Port Angeles, Washington 98362, (206) 452-9277.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule(s): Community College District No. 1, Peninsula College.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rules: Changes to these rules are the result of a review of procedures which have been changed from time to time to improve the implementation process, to ensure due process, or to clarify these processes.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

No small business economic impact statement is required.

AMENDATORY SECTION (Amending Order 4, filed 8/31/77)

WAC 132A-136-010 ~~COLLEGE SPONSORED PUBLICATIONS.~~ (1) The publication advisory board shall be the central authority representing the publishers (Peninsula College) in the formulation and enactment of policy regarding the college publications including the ~~BUCANEER and TIDE POOL~~:

(a) The respective editors will be responsible to this advisory board and are charged with the day-to-day operation of the individual publications.

(b) The publication advisory board will consider nominations for the position of editor each year or quarter, according to the qualifications stated subsequently, and will appoint such personnel. If necessary, the board can censure, suspend, or replace any of its appointees.

(c) The publication advisory board can recommend the creation or dissolution of authorized student publications to the office of the president or his designated representative, the dean of students, and the Associated Student Council.

(d) The publication advisory board shall review any material the faculty publication advisor wishes to bring before the group. It will be its responsibility to advise the faculty publication advisor, in light of governing policies (Canons of Journalism, etc.) as to a course of action.

(2) The publication advisory board will have authority to conduct hearings, hold public meetings, conduct investigations, and make recommendations concerning all publications within its scope of authority, whether actually published or proposed for future publication, as long as the college shall be viewed as the publisher.

(f) The publication advisory board will have the authority to determine frequency and method of publication.

(3) The publication advisory board shall be made up of seven members:

(a) The president of the college shall appoint three faculty members and one administrator who act for the publisher and represent the college.

(b) The president of the Associated Student Council shall appoint three members of the student body who must meet the requirements for committee membership.

(c) The dean of students, president of the Associated Student Council, publication editor, and director of student activities may be seated as nonvoting members:

(d) The board shall select its own chairman.

(e) The board shall meet at the call of the chairman or any three of its members:

(4) Each student publication has a faculty or professional advisor who shall be appointed by the president. His primary duty will be to counsel the student editors regarding ethical responsibility, content and coverage, technical and managerial aspects of composition and publication. The publications advisor shall have the authority, after consultation with the concerned editor, to withhold from publication any material he believes should be reviewed by the publication advisory board.

(a) The advisor shall recommend to the publication advisory board students for position of editorship.

(b) The publications advisor as well as the editors are expected to cooperate fully with the publication advisory board.

(5) The student editor shall be responsible for the content and presentation of material in each of the publications authorized by the publication advisory board.

(a) The student editor shall appoint members of his staff and will assume responsibility for having members of his staff conform to the policies as stated by the publication advisory board.

(b) The student editor shall consult with the publications advisor at all times in matters of policy and management.

(6) The primary function of the ~~BUCANEER~~ will be to provide a laboratory experience for those students involved in the news writing sequence of courses offered by Peninsula College. The opportunity for writing and related newspaper experience will not be exclusively for those who are enrolled in these journalism courses. However, all students will be urged to participate in newspaper reporting and similar assignments which will be made available on a regular schedule arranged by the faculty advisor charged with the responsibility of the journalism laboratory.

(7) The purpose of ~~TIDE POOL~~ is to provide an opportunity for student writers to have their writing efforts published. This magazine is primarily a laboratory vehicle of the creative writing classes, but pictures, poems, and short stories from all students are considered in this publication.

(8) In keeping with the highest ideals of journalistic endeavor, Peninsula College and its related publications subscribe to the ~~CANONS OF JOURNALISM~~ as adopted by the American Society of Newspaper Editors, and hereinafter set forth. These canons have been excerpted and modified to apply more directly to a student newspaper and are listed as modified:

(a) The purpose of the student publications is to report the news and to provide an outlet for student opinion and student creative effort. The prime purpose of Peninsula College publications shall be to publicize and promote the activities and interests of the general college community of Peninsula College.

(b) It is the responsibility of student publications to maintain the highest standards of accuracy, truthfulness, fairness, and decency in fulfilling this goal.

(c) Student publications must maintain the utmost respect for the privacy and rights of the individual.

(d) Student publications must not impugn the character or motives of the individual or groups without substantial evidence, nor shall it ever knowingly violate a confidence.

(e) Student publications will adhere to the laws of libel of the state of Washington and the United States of America.

(f) Personal bias, vested interest, or editorial policy must not dictate or influence the writing, placement, or length of news stories. News value must be the only criterion.

(g) An article from another publication must not be reprinted in whole or part without due credit, and permission, if necessary.

(h) The editor must accept final responsibility for the contents of the publication.

(i) When an editor flagrantly or consistently violates the ethics of the student press as outlined in this code, he may be removed by the authority which appointed him, the publication advisory board, in accordance with well established criteria for due process in which the student editor is given full right of defense.

STUDENT PUBLICATIONS. Publications covered by this policy shall be those providing laboratory experiences for instructional programs. The purpose of such publications shall be consistent with the purposes of Peninsula College as stated in the Community College Act. The primary purpose of student publications shall be to provide a learning experience for students. In addition,

(1) the college newspaper shall

(a) provide a source of information about current events, people, and other subjects of interest to the campus community.

(b) provide a forum for the exchange of opinions through clearly identified editorial columns and letters to the editor.

(c) provide opportunities for journalism students to gain experience under instructional supervision in reporting, writing, editing, page design, photography, and other skills involved in newspaper operations.

(2) The literary magazine shall

(a) provide a forum for students of Peninsula College to publish their creative efforts, both verbal and visual.

(b) provide a magazine in which the school community and the public can read and view such creative efforts.

(c) provide opportunities for members of the magazine's staff in soliciting material, choosing material, and editing and assembling a magazine.

The Peninsula College Board of Trustees, represented by the president of Peninsula College, is the publisher of all college-sponsored student publications. The president may appoint a faculty member to serve as the publisher's representative and advisor for each student publication in order to assure that such publications function according to policy requirements. The advisor's primary duty will be to counsel the student editors regarding ethical responsibility, content, and coverage, and technical and managerial aspects of composition and publication. Publications shall contain a statement that editorial opinions are not necessarily those of the institution or its members.

Except for the position of editor, students will not be paid for work on the college newspaper or magazine.

The Trustees support the freedom of student publications to report news and to express opinion without fear of reprisal. At the same time, the Trustees reserve the right, as publishers, to require that student publications observe the restraints imposed by journalistic ethics and the responsibility to avoid the printing of libelous statements and materials. The Trustees, as publishers, also reserve the right to require that all publications include fair comment; observe high standards of writing, accuracy, and good taste; and that student publications avoid discrimination, obscenity, and invasion of privacy. Such rights shall be exercised by the Trustees through their designated representative.

Publications Committee membership: The college president shall appoint three faculty members and one administrator to the Committee. The president of the Associated Students shall be invited to appoint three students, each of whom must be enrolled in a minimum of ten credit hours. Committee members shall serve through one college year, with terms beginning at the start of the fall quarter. They may be reappointed. Preference for one position shall be given to a college newspaper or literary magazine staff member.

Duties of the Publications Committee: Duties shall be advising on recommendations from the Associated Students for establishing or dissolving publications, reviewing decisions of the faculty advisors involving selection or dismissal of editors, and hearing disputes which require due process consideration.

Students who wish to edit the college newspaper or magazine will make written application through the advisor, preferably in the quarter before their duties begin. The advisor shall bring the applications for editor to the Committee. Any applicant may attend in person. The advisor shall make a recommendation to the Committee. If the Committee agrees on that candidate, he/she will be appointed as editor. If the Committee selects another candidate, that person shall be editor unless the advisor wishes to appeal the decision through the president. In such instance, the decision of the president shall be final.

If the Committee receives a recommendation for the suspension or dismissal of an editor, the recommendation must be accompanied by written reasons. The Committee must conduct a hearing confined to the issues contained in the written reasons accompanying the recommendation. This hearing must take place within two weeks after the notice of intent to suspend or dismiss the editor has been presented to the editor by the advisor. The hearing will be open to the public unless the editor charged with suspension and/or dismissal requests a closed hearing. Within three days of the hearing, the Committee shall vote to determine whether the recommendation shall be followed. Appeals following such committee action shall be heard by the president. In such instances, the decision of the president shall be final.

Proposed name change of student publication: If the editor or staff of a college-sponsored publication wishes to change the name of the publication, he/she shall request a hearing from the Publications

Committee. After the hearing is held, the Committee shall vote to approve or deny the name change request. If approval is granted, the staff or editor will inform the Associated Student Council and publicize the proposed titles in the college newspaper. One full week after publicizing, the Associated Student Council shall hold a referendum election to make or deny the necessary bylaw change. The referendum may include more than one proposed name. A referendum for a name change for the literary magazine must be held in the fall quarter of the year the magazine is published.

Meetings: The Committee shall elect a faculty or administrative representative to chair the Committee and another to serve as secretary. The Committee shall meet at least once during each quarter and additionally as deemed necessary by the chair.

Minutes: All minutes of publications committee sessions shall be provided to publications committee members, faculty advisors, and the college president, and shall be open to public inspection.

Grievance Procedures: When a student feels that his/her rights relating to student publications have been violated, he/she shall provide the advisor with a written copy of his/her complaint. If there is no resolution to the student's satisfaction, the student may file a grievance with the Publications Committee in writing through the chairperson. The Committee will meet within five school days and recommend a course of action. If there is no resolution to the student's satisfaction, the student may file his/her complaint with the president for a hearing. The complaint shall be filed within five days of the committee's decision. If there is still no resolution to the student's satisfaction, the student may appeal to the Board of Trustees at its next regularly scheduled meeting. The decision of the Board is final.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

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

AMENDATORY SECTION (Amending Order 5, filed 5/30/80)

WAC 132A-116-025 ENFORCEMENT. (1) Campus motor vehicle regulations are enforced by the Peninsula College employees and merchant police operating under the supervision of the college parking officer. Citations will be issued for traffic violations which include: parking in "No Parking" zones, parking in "Visitors" area, parking in assigned staff areas, parking in "Handicapped" areas without permission, parking in service areas, parking in the dormitory area, improper display of parking permit, back-in parking, violation of parking lanes.

(2) Citations issued for violations are payable at the business office. Penalty is \$1.00 per violation if paid within 48 hours and \$3.00 if paid after the first 48 hours.

(3) Failure by students to clear violation penalties may result in the withholding of transcripts, denial or cancellation of admission or registration, or withholding of degree awards.

(4) Vehicles repeatedly in violation of the campus parking regulations may be impounded at the expense of the operator until all charges are cleared.

(5) Appeals of citations may be made to the director of student activities. In the event that a vehicle is impounded for a violation of these regulations, the owner of the impounded vehicle shall have a right to a hearing within forty-eight (48) hours of his/her request for such a hearing. The appeal should be made to the director of student activities within seventy-two (72) hours of impoundment. Prior to the hearing, the owner of the vehicle shall be entitled to a release of his/her vehicle upon payment of the impoundment costs to the towing company. If, at the hearing, the owner shows that his/her vehicle was improperly impounded, he/she will be entitled to have the costs of towing expense refunded to him/her.

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

WSR 84-09-032
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2092-Filed April 13, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to maximum allowable compensation of certain administrative personnel, amending WAC 275-38-730.

This action is taken pursuant to Notice No. WSR 84-04-056 filed with the code reviser on January 31, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 14, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-730 MAXIMUM ALLOWABLE COMPENSATION OF CERTAIN ADMINISTRATIVE PERSONNEL. (1) Compensation for administrative personnel shall be an allowable cost, subject to the limits contained in this section.

(2) Total compensation of the licensed administrator for services actually rendered to an IMR facility on a full-time basis (at least forty hours per week, including reasonable vacation, holiday, and sick time) will be allowable at the lower of:

(a) Actual compensation received((:)); or

(b) The maximum amount ((in the table in subsection (5) of this section corresponding to)) allowed by the department based on the number of set-up beds in the IMR facility. Compensation of the licensed administrator will only be allowable if the department is given written notice of his or her employment within ten days after the employment begins.

(3) Total compensation of not more than one full-time licensed assistant administrator will be allowable if there are at least eighty set-up beds in the IMR, at the lower of:

(a) Actual compensation received((:)); or

(b) Seventy-five percent of the ((appropriate)) maximum amount ((in the table in subsection (5) of this section)) allowed.

(4) Total compensation of not more than one full-time registered administrator-in-training will be allowable at the lower of:

(a) Actual compensation received((:)); or

(b) Sixty percent of the ((appropriate)) maximum amount ((in the table in subsection (5) of this section)) allowed.

(5)

((TABLE

Maximum Allowable Total Compensation for Licensed Administrators—Calendar Year 1982

SET-UP BED

Table with 3 columns: Set-up Bed range, and Maximum Allowable Total Compensation. Rows include 16-39, 40-79, 80-119, 120-159, 160-239, 240-319, 320-399, and 400 and up.

(6)) If the licensed administrator, licensed assistant administrator, or registered administrator-in-training regularly works fewer than forty hours per week, allowable compensation shall be the lower of:

(a) Actual compensation received, or

(b) The ((appropriate)) maximum amount ((in the table in subsection (5) of this section)) allowed multiplied by the percentage derived ((from the division of the)) by dividing actual hours worked by forty hours. Further discounting is required if the person was licensed or registered and/or worked for less than the entire report period.

((7)) (6) The contractor shall maintain time records for the licensed administrator and for an assistant administrator, administrator-in-training, or QMRP, if any.

((8)) (7) The cost of a licensed administrator, assistant administrator, or administrator-in-training is not an allowable expense in IMR facilities of fifteen beds or less. Administrative services will be provided by the QMRP in these facilities. Total compensation of wages and salaries for the QMRP will be allowable at the lower of:

(a) Actual compensation received; or

(b) The hourly cost of wages and salaries of QMRP in level C and D IMR contracting with the department multiplied by the QMRP regularly worked hours per week, not to exceed forty hours per week.

WSR 84-09-033
EMERGENCY RULES
EMPLOYMENT SECURITY DEPARTMENT
[Order 2-84-Filed April 13, 1984]

I, Ernest F. LaPalm, deputy commissioner of the Employment Security Department, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New	WAC 192-12-151	Payment of benefits—Not a determination of allowance.
Rep	WAC 192-12-131	Pending of benefit claims—Notice.
Rep	WAC 192-12-132	Pending of benefit claims—Notice—Advice on rights.

I, Ernest F. LaPalm, Deputy Commissioner, Employment Security Department, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the superior court of Thurston County has declared the current pend practices of the Employment Security Department as they relate to continued claimants to be unconstitutional. The two regulations repealed by this order relate to the pend practice. The court's order further requires payment of benefits in situations formerly subject to pend when the department has not had an opportunity to obtain all facts necessary for determination of eligibility for benefits or disqualification from benefits thus requiring a formal statement that such payments do not constitute a determination which would become final under RCW 50.20.160(3).

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 50.20.160(3) and 50.20.180 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Employment Security Department as authorized in RCW 50.12.010 and 50.12.040.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 11, 1984.

By Ernest F. LaPalm
Deputy Commissioner

NEW SECTION

WAC 192-12-151 BENEFIT PAYMENTS MADE ON AND AFTER APRIL 16, 1984—NOT A DETERMINATION OF ALLOWANCE. *Payment of benefits made on and after April 16, 1984, which are identified as "conditional payments" in the message portion of the mailer will not be deemed determinations of allowance under RCW 50.20.160(3).*

REPEALER

The following sections of the Washington Administrative Code are each repealed:

(1) WAC 192-12-131 PENDING OF BENEFIT CLAIMS—NOTICE.

(2) WAC 192-12-132 PENDING OF BENEFIT CLAIMS—NOTICE—ADVICE ON RIGHTS.

WSR 84-09-034

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning:

New	WAC 192-12-151	Payment of benefits—Not a determination of allowance.
Rep	WAC 192-12-131	Pending of benefit claims—Notice.
Rep	WAC 192-12-132	Pending of benefit claims—Notice—Advice on rights;

that the agency will at 9:00 a.m., Monday, June 11, 1984, in the Commissioner's Conference Room, 2nd Floor, 212 Maple Park, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Monday, June 11, 1984, at 2:30 p.m.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

The specific statute these rules are intended to implement is RCW 50.20.160(3) and 50.20.180.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 7, 1984.

Dated: April 11, 1984

By: Ernest F. LaPalm
Deputy Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

WAC 192-12-151 Benefit payments—Not a determination of allowance. The department is currently pending claims when factual issues arise regarding propriety of payment. Claims are pending until the claimant provides information on the issue. The superior court of Thurston County has declared the current pend practice of the Employment Security Department as it relates to continued claimants to be unconstitutional. The court's order further requires payment of benefits in situations formerly subject to pend when the department has not had an opportunity to obtain all facts necessary for determination of eligibility for benefits or disqualification from benefits thus requiring a formal statement that such payments do not constitute a determination which would become final under RCW 50.20.160(3). This section provides that payment of benefits without a formal determination of allowance of benefits will not be deemed a determination of allowance as the term is used in RCW 50.20.160(3). Payment of benefits for such weeks may be subject to a determination of denial pursuant to RCW 50.20.180 under the eligibility or disqualification provisions of Title 50 RCW. This practice is currently covered by emergency regulation.

Repeal of WAC 192-12-131 Pending of benefit claims—Notice. This repealed regulation relates to the pend practice.

Repeal of WAC 192-12-132 Pending of benefit claims—Notice—Advice on rights. This repealed regulation relates to the pend practice.

The rules were drafted by Joseph M. Littlemore, Senior Assistant Attorney General. His office is located in the Employment Security Building, 212 Maple Park, Olympia, Washington 98504. His office telephone number is 753-7323. Clinton E. Petty, Assistant Commissioner (UI), and Jim Wolfe, Chief, Technical Services (UI), are responsible for the implementation and enforcement of the rules. Their office address is Employment Security Department, 212 Maple Park, Olympia, Washington 98504. Their office telephone numbers are 753-5120 and 753-5170.

NEW SECTION

WAC 192-12-151 BENEFIT PAYMENTS—NOT A DETERMINATION OF ALLOWANCE. Benefit payments which are identified as "conditional payments" in the message portion of the mailer will not be deemed determinations of allowance under RCW 50.20.160(3).

REPEALER

The following sections of the Washington Administrative Code are each repealed:

(1) WAC 192-12-131 PENDING OF BENEFIT CLAIMS—NOTICE.

(2) WAC 192-12-132 PENDING OF BENEFIT CLAIMS—NOTICE—ADVICE ON RIGHTS.

**WSR 84-09-035
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 13, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the amending of WAC 296-17-765 (classification 72-3) and WAC 296-17-895 (industrial insurance accident fund base rates and medical aid rates by class of industry). These amendments provide for changes contained in SSB 4334 extending elective coverage for all offenders performing community service work pursuant to court order or under the provisions of chapter 13.40 RCW at the option of any county, city or town and providing an accident fund rate for classification 72-3;

that the agency will at 1:30 p.m., Tuesday, May 22, 1984, in the Director's Conference Room, General Administration Building, 3rd Floor, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.16.100, changes in classification.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5 p.m., May 21, 1984.

Dated: April 13, 1984

By: Sam Kinville

Director

STATEMENT OF PURPOSE

Title and Number of Rule(s) or Chapter: The proposals for rule changes which follow amend chapter 296-17 WAC comprising the "Manual of rules, classifications, rates, and rating system for Washington state workers' compensation insurance." The proposed rules govern the classification of offenders performing community service work pursuant to court order or under the provisions of chapter 13.40 RCW and the accident fund rate for the purposes of industrial insurance coverage.

Statutory Authority: RCW 51.04.020(1) and 51.16.100.

Implementation of Specific Statute: RCW 51.16.100.

Description of the Proposed Rule(s): The notice proposes to amend WAC 296-17-765 (classification 72-3) and WAC 296-17-895 (industrial insurance accident fund base rates and medical aid rates by class of industry). These amendments provide for changes contained in SSB 4334 extending elective coverage for all offenders performing community service workers at the option of any county, city or town and providing an accident fund rate for classification 72-3.

Reasons Supporting the Proposed Rule(s): The proposed rule changes will bring the classification phraseology and premium rate schedule in conformance with the enactment of SSB 4334 which was signed into law by the governor on February 21, 1984.

The Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule(s): Richard Slunaker, Assistant Director for Industrial Insurance, 753-6308; Marjorie Shavlik, Employer Services Chief, 753-7016; and Gary Brown, Rating and Data Analysis Supervisor, 753-6463, General Administration Building, Olympia, Washington 98504, AX-31.

Name of Person or Organization Whether Private, Public or Governmental, that is Proposing the Rule(s): These rules are proposed by the Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): None.

These rules are not proposed to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Department of Labor and Industries, Division of Industrial Insurance, is proposing to amend two sections of chapter 296-17 WAC, Manual of rules, classifications, rates and rating system for Washington workers' compensation insurance. The proposed amended rules will only affect counties, cities and towns and will have no direct economic impact on other employers. Amending WAC 296-17-765 Classification 72-3, this rule will change

the classification phraseology to reflect the provisions of SSB 4334 which was signed into law by the governor effective February 21, 1984. The new law provides elective coverage for offenders performing community service work pursuant to court order or under the provisions of chapter 13.40 RCW at the option of any county, city or town. Previously the law provided such election of coverage only to counties. Amending WAC 296-17-895 Industrial insurance accident fund base rates and medical aid rates by class of industry, this rule provides for an accident fund rate for classification 72-3 (community service workers). Prior to the enactment of SSB 4334 only medical aid coverage was provided to juvenile offenders performing community service work at the option of any county. With the enactment of SSB 4334 into law effective February 21, 1984, coverage was extended to all offenders performing community service work at the option of the county, city or town and provided the worker with all the benefits under Title 51 RCW, including time-loss benefits, as opposed to medical benefits only.

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-765 CLASSIFICATION 72-3.

~~(Juvenile)~~ Community service workers

This classification includes all community service workers performing work for counties, cities or towns pursuant to court order or under the provisions of chapter 13.40 RCW.

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.

Rates Effective
January 1, 1984

Class	Accident Fund Base Rate	Medical Aid Fund Rate
1-1	.6897	.4712
1-2	.4642	.4157
1-3	.5756	.5629
1-4	.4729	.3509
1-5	.5802	.5533
1-6	1.1119	.7710
1-7	.5008	.3805
1-8	.5516	.3842
1-9	.9017	.7761
2-1	1.2644	.8667
2-2	1.4438	1.0578
2-6	.6145	.5299
3-1	.3027	.2989
3-2	.9070	.4880
3-6	.2985	.3109
3-7	.2849	.3448
4-1	1.1969	.9475
4-2	.7472	.8755
4-3	.8635	.6254
5-2	.5704	.4199
5-3	.3547	.4093
5-4	.6620	.4903
5-5	.6870	.5786
5-6	.8826	.7491
5-7	.9005	.7277
5-8	1.0040	.7730

Rates Effective
January 1, 1984

Class	Accident Fund Base Rate	Medical Aid Fund Rate
5-9	.8546	.6579
6-1	.2488	.2646
6-2	.2606	.2413
6-3	.4458	.2739
6-4	.6820	.7121
6-6	.1259	.1492
6-7	.1643	.1710
7-1	.6832	.7223
8-3	.2346	.2085
8-4	.3787	.5207
9-1	1.2688	.4948
10-2	.6220	.4093
10-3	.3633	.2779
10-4	.3633	.2779
10-5	1.5333	1.0170
10-7	.0491	.0727
11-1	.2739	.2697
11-2	.6368	.4830
11-3	.2111	.2125
11-4	.2761	.2916
11-6	.0602	.0957
11-8	.2853	.2897
13-1	.2165	.2266
13-3	.1165	.1643
13-4	.0072	.0140
13-5	.1350	.1884
14-1	.4712	.5766
14-4	.2812	.1908
15-1	.2097	.2296
15-7	.1744	.1764
17-1	1.1894	.6408
17-2	1.1894	.6408
17-3	.3126	.2402
17-4	.3434	.3618
18-1	.4416	.4813
20-2	.3628	.2953
20-3	.2348	.2312
20-4	.4022	.4622
20-5	.1918	.2349
20-7	.2304	.2400
20-8	.1591	.1500
21-1	.2665	.2907
21-2	.2348	.2312
21-4	.1039	.1658
21-5	.4050	.3988
22-1	.1438	.1335
22-2	.2069	.1612
24-1	.3419	.3343
29-3	.4101	.4165
29-4	.5145	.4117
29-6	.2615	.2753
29-8	.4168	.4232
31-1	.4325	.3453
31-2	.3122	.2466
31-3	.3122	.2466
31-4	.3424	.2733
31-5	.4718	.4629
33-1	.4532	.4365
33-2	.3269	.3180
33-3	.1760	.2333
33-9	.2279	.3075
34-1	.2201	.2312
34-2	.2318	.2810
34-3	.0728	.0529
34-4	.2761	.2897
34-5	.1200	.1223
34-6	.1029	.1842
34-7	.1759	.2141
34-8	.0680	.0793

Rates Effective January 1, 1984			Rates Effective January 1, 1984		
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
34-9	.1014	.1308	52-1	.2275	.2250
35-1	.2660	.3516	52-4	.8762	.4040
35-3	.1849	.2459	52-6	.2450	.2506
35-6	.3539	.2729	52-7	.0746	.0964
35-8	.2028	.2459	52-8	.4017	.4901
36-2	.0516	.0637	52-9	.3101	.3760
36-3	.2735	.3318	53-1	.0094	.0135
36-4	.4951	.4203	53-5	.0160	.0199
36-5	.1790	.2027	53-6	.0188	.0172
36-6	.3566	.3526	53-7	.1167	.1142
37-1	.1144	.1506	61-3	.0182	.0277
37-2	.2944	.2461	61-4	.2076	.2027
37-7	.2132	.2141	61-5	.1216	.1578
37-8	.1195	.1352	61-7	.0899	.1087
38-1	.1560	.1784	61-8	.2379	.2306
38-2	.0950	.1075	61-9	.0213	.0233
38-8	.1061	.1199	62-1	.0914	.1098
39-1	.1858	.1632	62-2	.3765	.3076
39-2	.3561	.3063	62-3	.0693	.0824
39-3	.5012	.6399	62-4	.0766	.1057
39-5	.0759	.1165	62-5	.0766	.1057
39-6	.2698	.2807	62-6	.0766	.1057
39-9	.0967	.1452	62-7	.4319	.7898
40-2	.3949	.2951	62-8	.1486	.1633
41-1	.0744	.0994	62-9	.1109	.1970
41-3	.1386	.1872	63-1	.0672	.0595
41-7	.0394	.0577	63-2	.0954	.0859
41-8	.0744	.0994	63-3	.0256	.0277
41-9	.0744	.0994	63-4	.0719	.0729
42-1	.2878	.2277	63-5	.0324	.0482
43-1	.4455	.4505	63-6	.1022	.1537
43-2	.4374	.4525	63-8	.0223	.0188
43-3	.4736	.5513	63-9	.0542	.0854
43-4	.3737	.3327	64-2	.1326	.1222
43-5	.6971	.4550	64-3	.0798	.1023
44-1	.2475	.2277	64-4	.0279	.0387
44-2	.3239	.3004	64-5	.2361	.2813
44-4	.2348	.2312	64-6	.0437	.0544
45-1	.0696	.0772	64-7	.1031	.1215
45-2	.0287	.0267	64-8	.1747	.2354
45-4	.0355	.0641	64-9	.2597	.3415
46-1	.2762	.4672	65-1	.0235	.0256
48-2	.1319	.1340	65-2	.0083	.0123
48-3	.1562	.2269	65-3	.0706	.0394
48-4	.3137	.3029	65-4	.0955	.1589
48-5	.1642	.1788	65-5	.1020	.1077
48-6	.0409	.0534	65-6	.0249	.0308
48-7	.6870	.5786	65-8	.1718	.1967
48-8	.1807	.2547	65-9	.0959	.1225
48-9	.1109	.1211	66-1	.1335	.1521
49-1	.0358	.0565	66-2	.2489	.2088
49-2	.0804	.0914	66-3	.1306	.1409
49-3	.0358	.0565	66-4	.0410	.0440
49-4	.0089	.0122	66-5	.1086	.1299
49-5	.1460	.1484	66-7	.0746	.0964
49-6	.0294	.0374	66-8	.1691	.1301
49-7	.0584	.0574	66-9	.9389	1.1782
49-8	.0596	.1286	67-4	.0967	.1220
49-9	.0596	.1286	67-5	.2727	.4213
50-1	2.1618	1.5449	67-6	.1522	.1847
50-2	.2249	.2750	67-7	4.66*	8.98*
50-3	.7123	.3866	67-8	1.0846	1.0980
50-4	.3808	.4928	67-9	.0681	.1052
51-1	.4732	.4309	68-1	.3776	.2545
51-2	.7544	.7078	68-2	.2118	.2730
51-3	.6477	.5469	68-3	1.8960	1.5451
51-6	.3264	.4004	68-4	.1230	.1576
51-8	.4214	.4669	68-9	1.0015	2.0736
51-9	.3154	.2806	69-1	-	.0562

Rates Effective
January 1, 1984

Class	Accident Fund Base Rate	Medical Aid Fund Rate
69-2	.6083	.3585
69-3	2.4133	2.7010
69-4	.1876	.1990
69-5	.1876	.1990
69-6	-	.1990
69-7	.6494	.5735
69-8	.2631	.2148
69-9	.0451	.0544
71-1	.0243	.0256
71-2	7.20*	27.14*
71-3	.1081	.1108
71-4	.0216	.0209
71-5	.1581	.1456
71-6	.2772	.2683
71-7	.3861	.4111
71-8	.9391	.7929
71-9	2.5333	2.2113
72-1	.1155	.1154
72-2	.0294	.0296
72-3	((=).0547)	.0575
72-4	-	-
73-1	.2179	.3068
73-2	.2170	.3079
73-7	.2145	.3109
73-8	.1042	.1235

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

WSR 84-09-036
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Order 84-5—Filed April 13, 1984]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at the Director's Office, Olympia, Washington, the annexed rules relating to the amending of WAC 296-17-765 (classification 72-3) and WAC 296-17-895 (industrial insurance accident fund base rates and medical aid rates by class of industry). These amendments provide for changes contained in SSB 4334 extending elective coverage for all offenders performing community service work pursuant to court order or under the provisions of chapter 13.40 RCW at the option of any county, city or town and providing an accident fund rate for classification 72-3.

I, Sam Kinville, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Substitute Senate Bill No. 4334 was signed into law by the governor effective February 21, 1984, amending RCW 51.12.045 creating a need for a change in classification phraseology and establishing an accident fund rate for risk classification 72-3.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 51.04.020(1) which directs that the Department of Labor and Industries has authority to implement the provisions of RCW 51.16.100, changes in classification.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 13, 1984.

By Sam Kinville
Director

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-765 CLASSIFICATION 72-3.

~~((Juvenile))~~ Community service workers

This classification includes all community service workers performing work for counties, cities or towns pursuant to court order or under the provisions of chapter 13.40 RCW.

AMENDATORY SECTION (Amending Order 83-36, filed 11/30/83, effective 1/1/84)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.

Rates Effective
January 1, 1984

Class	Accident Fund Base Rate	Medical Aid Fund Rate
1-1	.6897	.4712
1-2	.4642	.4157
1-3	.5756	.5629
1-4	.4729	.3509
1-5	.5802	.5533
1-6	1.1119	.7710
1-7	.5008	.3805
1-8	.5516	.3842
1-9	.9017	.7761
2-1	1.2644	.8667
2-2	1.4438	1.0578
2-6	.6145	.5299
3-1	.3027	.2989
3-2	.9070	.4880
3-6	.2985	.3109
3-7	.2849	.3448
4-1	1.1969	.9475
4-2	.7472	.8755
4-3	.8635	.6254
5-2	.5704	.4199
5-3	.3547	.4093

Rates Effective January 1, 1984			Rates Effective January 1, 1984		
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
5-4	.6620	.4903	29-4	.5145	.4117
5-5	.6870	.5786	29-6	.2615	.2753
5-6	.8826	.7491	29-8	.4168	.4232
5-7	.9005	.7277	31-1	.4325	.3453
5-8	1.0040	.7730	31-2	.3122	.2466
5-9	.8546	.6579	31-3	.3122	.2466
6-1	.2488	.2646	31-4	.3424	.2733
6-2	.2606	.2413	31-5	.4718	.4629
6-3	.4458	.2739	33-1	.4532	.4365
6-4	.6820	.7121	33-2	.3269	.3180
6-6	.1259	.1492	33-3	.1760	.2333
6-7	.1643	.1710	33-9	.2279	.3075
7-1	.6832	.7223	34-1	.2201	.2312
8-3	.2346	.2085	34-2	.2318	.2810
8-4	.3787	.5207	34-3	.0728	.0529
9-1	1.2688	.4948	34-4	.2761	.2897
10-2	.6220	.4093	34-5	.1200	.1223
10-3	.3633	.2779	34-6	.1029	.1842
10-4	.3633	.2779	34-7	.1759	.2141
10-5	1.5333	1.0170	34-8	.0680	.0793
10-7	.0491	.0727	34-9	.1014	.1308
11-1	.2739	.2697	35-1	.2660	.3516
11-2	.6368	.4830	35-3	.1849	.2459
11-3	.2111	.2125	35-6	.3539	.2729
11-4	.2761	.2916	35-8	.2028	.2459
11-6	.0602	.0957	36-2	.0516	.0637
11-8	.2853	.2897	36-3	.2735	.3318
13-1	.2165	.2266	36-4	.4951	.4203
13-3	.1165	.1643	36-5	.1790	.2027
13-4	.0072	.0140	36-6	.3566	.3526
13-5	.1350	.1884	37-1	.1144	.1506
14-1	.4712	.5766	37-2	.2944	.2461
14-4	.2812	.1908	37-7	.2132	.2141
15-1	.2097	.2296	37-8	.1195	.1352
15-7	.1744	.1764	38-1	.1560	.1784
17-1	1.1894	.6408	38-2	.0950	.1075
17-2	1.1894	.6408	38-8	.1061	.1199
17-3	.3126	.2402	39-1	.1858	.1632
17-4	.3434	.3618	39-2	.3561	.3063
18-1	.4416	.4813	39-3	.5012	.6399
20-2	.3628	.2953	39-5	.0759	.1165
20-3	.2348	.2312	39-6	.2698	.2807
20-4	.4022	.4622	39-9	.0967	.1452
20-5	.1918	.2349	40-2	.3949	.2951
20-7	.2304	.2400	41-1	.0744	.0994
20-8	.1591	.1500	41-3	.1386	.1872
21-1	.2665	.2907	41-7	.0394	.0577
21-2	.2348	.2312	41-8	.0744	.0994
21-4	.1039	.1658	41-9	.0744	.0994
21-5	.4050	.3988	42-1	.2878	.2277
22-1	.1438	.1335	43-1	.4455	.4505
22-2	.2069	.1612	43-2	.4374	.4525
24-1	.3419	.3343	43-3	.4736	.5513
29-3	.4101	.4165	43-4	.3737	.3327

Rates Effective
January 1, 1984Rates Effective
January 1, 1984

Rates Effective January 1, 1984			Rates Effective January 1, 1984		
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
43-5	.6971	.4550	62-4	.0766	.1057
44-1	.2475	.2277	62-5	.0766	.1057
44-2	.3239	.3004	62-6	.0766	.1057
44-4	.2348	.2312	62-7	.4319	.7898
45-1	.0696	.0772	62-8	.1486	.1633
45-2	.0287	.0267	62-9	.1109	.1970
45-4	.0355	.0641	63-1	.0672	.0595
46-1	.2762	.4672	63-2	.0954	.0859
48-2	.1319	.1340	63-3	.0256	.0277
48-3	.1562	.2269	63-4	.0719	.0729
48-4	.3137	.3029	63-5	.0324	.0482
48-5	.1642	.1788	63-6	.1022	.1537
48-6	.0409	.0534	63-8	.0223	.0188
48-7	.6870	.5786	63-9	.0542	.0854
48-8	.1807	.2547	64-2	.1326	.1222
48-9	.1109	.1211	64-3	.0798	.1023
49-1	.0358	.0565	64-4	.0279	.0387
49-2	.0804	.0914	64-5	.2361	.2813
49-3	.0358	.0565	64-6	.0437	.0544
49-4	.0089	.0122	64-7	.1031	.1215
49-5	.1460	.1484	64-8	.1747	.2354
49-6	.0294	.0374	64-9	.2597	.3415
49-7	.0584	.0574	65-1	.0235	.0256
49-8	.0596	.1286	65-2	.0083	.0123
49-9	.0596	.1286	65-3	.0706	.0394
50-1	2.1618	1.5449	65-4	.0955	.1589
50-2	.2249	.2750	65-5	.1020	.1077
50-3	.7123	.3866	65-6	.0249	.0308
50-4	.3808	.4928	65-8	.1718	.1967
51-1	.4732	.4309	65-9	.0959	.1225
51-2	.7544	.7078	66-1	.1335	.1521
51-3	.6477	.5469	66-2	.2489	.2088
51-6	.3264	.4004	66-3	.1306	.1409
51-8	.4214	.4669	66-4	.0410	.0440
51-9	.3154	.2806	66-5	.1086	.1299
52-1	.2275	.2250	66-7	.0746	.0964
52-4	.8762	.4040	66-8	.1691	.1301
52-6	.2450	.2506	66-9	.9389	1.1782
52-7	.0746	.0964	67-4	.0967	.1220
52-8	.4017	.4901	67-5	.2727	.4213
52-9	.3101	.3760	67-6	.1522	.1847
53-1	.0094	.0135	67-7	4.66*	8.98*
53-5	.0160	.0199	67-8	1.0846	1.0980
53-6	.0188	.0172	67-9	.0681	.1052
53-7	.1167	.1142	68-1	.3776	.2545
61-3	.0182	.0277	68-2	.2118	.2730
61-4	.2076	.2027	68-3	1.8960	1.5451
61-5	.1216	.1578	68-4	.1230	.1576
61-7	.0899	.1087	68-9	1.0015	2.0736
61-8	.2379	.2306	69-1	-	.0562
61-9	.0213	.0233	69-2	.6083	.3585
62-1	.0914	.1098	69-3	2.4133	2.7010
62-2	.3765	.3076	69-4	.1876	.1990
62-3	.0693	.0824	69-5	.1876	.1990

Rates Effective
January 1, 1984

Class	Accident Fund Base Rate	Medical Aid Fund Rate
69-6	-	.1990
69-7	.6494	.5735
69-8	.2631	.2148
69-9	.0451	.0544
71-1	.0243	.0256
71-2	7.20*	27.14*
71-3	.1081	.1108
71-4	.0216	.0209
71-5	.1581	.1456
71-6	.2772	.2683
71-7	.3861	.4111
71-8	.9391	.7929
71-9	2.5333	2.2113
72-1	.1155	.1154
72-2	.0294	.0296
72-3	((=)).0547	.0575
72-4	-	-
73-1	.2179	.3068
73-2	.2170	.3079
73-7	.2145	.3109
73-8	.1042	.1235

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

WSR 84-09-037
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 84-27—Filed April 13, 1984]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is restrictions in Areas 4B, 5, 6, 6A, 6C, 7, 7A and 7D provide protection for Puget Sound and Canadian origin spring chinook while allowing troll harvest of maturing summer-fall chinook. Restrictions in Areas 6D, 7B, 7C, 8 and 13A and the Elwha, Dungeness, Nooksack, Skagit, Stillaguamish, Puyallup and White rivers and Minter Creek provide protection for local spring chinook stocks.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 13, 1984.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-28-401 *PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS*. Effective April 15, 1984, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:

*Areas 4B, 5, 6, 6A, 6C, 7, 7A, 7D - Closed to all net gear, and troll gear must release chinook salmon greater than 30 inches in length.

*Areas 6D, 7B, 7C, 8, and 13A - Closed to all commercial fishing.

*Elwha River, Dungeness River, Nooksack River, Skagit River, Stillaguamish River, Puyallup River, White River, and Minter Creek - Closed to all commercial fishing.

WSR 84-09-038
PROPOSED RULES
INSURANCE COMMISSIONER
FIRE MARSHAL
[Filed April 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner/State Fire Marshal intends to adopt, amend, or repeal rules concerning Group care facilities for severely and multiply-handicapped children—Standards for fire protection, chapter 212-70 WAC;

that the agency will at 10:00 a.m., Tuesday, May 22, 1984, in the Office of Insurance Commissioner/Conference Room, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is chapter 74.15 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1984.

Dated: April 16, 1984
By: Thomas R. Brace
Director, Division of State Fire Marshal

STATEMENT OF PURPOSE

Chapter 212-70 WAC, Group care facilities for severely and multiply-handicapped children—Standards for fire protection.

Rules of the State Fire Marshal governing fire/life safety in a category of agency subject to licensing by the state of Washington, pursuant to chapter 74.15 RCW.

The Department of Social and Health Services (DSHS) added a new category of child care agency, identified as a group care facility for severely and multiply-handicapped children.

The purpose of these rules is to establish minimum standard fire/life safety requirements for group care facilities for severely and multiply-handicapped children.

These rules are promulgated pursuant to authority contained in RCW 74.15.050(1).

These rules establish minimum fire/life safety requirements necessary for obtaining state fire marshal approval for group care facilities serving severely and multiply-handicapped children. The rules include, but are not limited to requirements for fire protection systems, exits, staff training, exit drills, and maintenance of systems and equipment.

The individual within the state fire marshal office responsible for drafting, implementing and enforcement of these rules is: George Williams, Supervisor, Residential Inspection Division, Office of State Fire Marshal, AQ-21, Olympia, WA 98504, (206) 753-3605.

Implementing these rules will not expand the responsibilities currently embodied in the laws governing the State Fire Marshal's Office.

These rules are proposed by the Office of State Fire Marshal, a state agency.

These rules are not made necessary by either a change in federal law or state court action.

Chapter 212-70 WAC
GROUP CARE FACILITIES FOR SEVERELY AND MULTIPLY-HANDICAPPED CHILDREN—STANDARDS FOR FIRE PROTECTION

NEW SECTION

WAC 212-70-010 PURPOSE. The purpose of these regulations is to identify the minimum standard fire and life safety requirements for buildings used as group care facilities for severely and multiply-handicapped children, which require state fire marshal approval in accordance with chapter 74.15 RCW.

NEW SECTION

WAC 212-70-020 DEFINITIONS. All terms not defined in this section, but which are defined in chapter 388-73 WAC, shall receive the definition and construction given them by chapter 388-73 WAC, unless the context clearly indicates otherwise.

(1) "Approved" as to fire protection systems, assemblies, and devices means approved by the state fire marshal as the result of tests conducted by him, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.

(2) "Building official" means the person or agency appointed by the governing body of each city, town, or county for the administration and enforcement of the Uniform Building Code, adopted by reference in the State Building Code Act, chapter 19.27 RCW.

(3) "Exit" means a continuous and unobstructed means of egress to a public way and shall include intervening doors, doorways, corridors, exterior exit balconies, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts and yards.

(4) "Fire official" means the person or agency appointed by the governing body of each city, town, or county for the administration and

enforcement of the Uniform Fire Code, adopted by reference in the State Building Code Act, chapter 19.27 RCW.

(5) "Heat detector" means an approved device which detects abnormally high temperatures or rate of temperature rise.

(6) "Licensing agency" means the Washington state department of social and health services.

(7) "Person, nonambulatory," is one who is incapable of leaving a fire area within a reasonable length of time without assistance in event of an emergency.

(8) "Smoke detector" means an approved device which senses visible or invisible particles of combustion.

NEW SECTION

WAC 212-70-030 INSPECTIONS AND APPROVAL. (1) Upon receipt of an application for a license to operate a group care facility for severely and multiply-handicapped children, or at least ninety days prior to the expiration date of a current license, the licensing agency shall submit a written request for inspection to the state fire marshal. The state fire marshal or his designated representative shall inspect the facility. If the facility fails to meet the requirements contained in this regulation, a written report shall be forwarded to the applicant or licensee, indicating the violations noted and corrective action required. Upon expiration of the time specified for corrective action, a reinspection shall be made to determine compliance.

(2) Upon completion of the inspection and the facility is found to be in compliance with this regulation, notification of approval shall be forwarded to the licensing agency, and a certificate of compliance shall be forwarded to the applicant or licensee.

NEW SECTION

WAC 212-70-040 RIGHT OF APPEAL. An owner or occupant aggrieved by any such order made by a deputy state fire marshal may within five days after the date of the order appeal to the state fire marshal. If the state fire marshal confirms the order, the order shall remain in force and be complied with by the owner or occupant.

NEW SECTION

WAC 212-70-050 CONTACT WITH LOCAL BUILDING AND FIRE OFFICIALS. The applicant for a license to operate a group care facility for severely and multiply-handicapped children shall contact the local building official and fire official of the city, town, or county where the facility is located, to ascertain that all local building code and fire code requirements have been met.

NEW SECTION

WAC 212-70-060 CONSTRUCTION REQUIREMENTS—NEW CONSTRUCTION. (1) Group care facilities serving severely or multiply-handicapped children, constructed or licensed after the effective date of these regulations, shall comply with the Group I, Division 1, occupancy requirements, Uniform Building Code, 1982 Edition. Compliance with the uniform building code requirements are the minimum construction standards necessary for ensuring state fire marshal approval of such group care facilities.

(2) No construction in either modernization or renovation projects shall diminish the fire safety features of the facility below the level of new construction. Alterations or installations of new building services equipment shall be accomplished in conformance with the requirements for new construction.

NEW SECTION

WAC 212-70-070 CONSTRUCTION REQUIREMENTS—EXISTING FACILITIES. Group care facilities serving severely and multiply-handicapped children in existence prior to the effective date of these regulations, shall comply with all the fire and life safety requirements contained in WAC 212-70-080 through 212-70-250.

NEW SECTION

WAC 212-70-080 DESIGN, OPERATION. All facilities shall be so designed, constructed, maintained, and operated as to minimize the possibility of a fire emergency requiring the evacuation of residents. The protection of residents from fire shall be provided by appropriate arrangement of facilities, adequate staffing, and careful

development of operating and maintenance procedures composed of the following:

- (1) Proper design, construction, and compartmentation.
- (2) Provision for detection, alarm, and fire extinguishment.
- (3) Fire prevention and planning, training and drilling programs for the isolation of fire, transfer of residents to areas of refuge, or evacuation of the building.

NEW SECTION

WAC 212-70-090 ADDITIONS. Any addition shall be separated from any existing nonconforming structure by a fire wall having at least a two hour fire-resistive rating. Communicating openings in the fire wall shall occur only in corridors and shall be protected by approved self-closing fire doors.

NEW SECTION

WAC 212-70-100 MIXED OCCUPANCIES. Sections of the group care facility not providing customary services such as housing or treatment may be classified as a different occupancy if adequately separated by construction having a fire resistance rating of at least two hours.

NEW SECTION

WAC 212-70-110 INTERIOR STAIRWAY ENCLOSURE. Every interior stairway, including landings between flights, shall be enclosed with walls of at least one hour fire-resistive construction. Doors entering stairway enclosures shall be not less than one and three-fourth inch solid bonded wood core doors, maintained self-closing and positive latching.

NEW SECTION

WAC 212-70-120 OTHER VERTICAL OPENINGS. Elevators, dumbwaiters, laundry and rubbish chutes, pipe chases and other openings between floors shall be fire-stopped at each floor level or enclosed in continuous shafts, with all openings provided with self-closing or locking doors. Shafts not of fire-resistive or noncombustible construction shall be provided with an automatic sprinkler head installed at the top of the shaft.

NEW SECTION

WAC 212-70-130 FIRE ALARM. Every group home for severely and multiply-handicapped children shall have an approved, electrically supervised manual fire alarm system. Operation of any fire alarm initiating device shall automatically, without delay, activate a general alarm throughout the building. The fire alarm system shall automatically transmit a signal off the premises by the most direct and reliable method approved by the state fire marshal. These include, but are not limited to, in order of preference:

- (1) A direct connection of the building alarm to a municipal alarm system.
 - (2) A direct connection of the building alarm to an approved central station.
- Annunciators shall be provided where the system serves more than one floor, one building or one fire division.

NEW SECTION

WAC 212-70-140 SMOKE DETECTION SYSTEM. An approved, automatic smoke detection system shall be installed in all corridors. Detectors shall not be spaced further than thirty feet apart nor more than fifteen feet from any wall, and shall be electrically interconnected with the fire alarm system.

EXCEPTION: Where each resident sleeping room is protected by such an approved detection system and a local detector is provided at the smoke partition and horizontal exits, such corridor systems will not be required on the sleeping room floors.

NEW SECTION

WAC 212-70-150 AUTOMATIC FIRE SPRINKLER SYSTEM. Every group care facility for severely and multiply-handicapped children shall be equipped with an approved automatic fire sprinkler system. The main sprinkler control valve shall be electrically supervised. The sprinkler system shall be electrically interconnected to the

fire alarm system. The fire department connection shall be installed at a location approved by the fire chief.

NEW SECTION

WAC 212-70-160 WINDOWS IN SLEEPING ROOMS. Every sleeping room below the fourth floor shall have an outside window or outside door arranged and located so that it can be opened from the inside without the use of tools or keys to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency.

EXCEPTION: Buildings designed with an engineered smoke control system in accordance with the 1978 edition of National Fire Protection Association Standard 90A need not comply with this requirement.

NEW SECTION

WAC 212-70-170 INTERIOR FINISH. The flame spread rating of ceiling and wall finishes materials shall not exceed the following:

- (1) Enclosed vertical exitways—25 or less
- (2) Other exitways—75 or less

NEW SECTION

WAC 212-70-180 EXITS. At least two exits, remote from each other, shall be provided on each floor occupied by residents of the group care facility.

NEW SECTION

WAC 212-70-190 EMERGENCY LIGHTING. Every group care facility for severely and multiply-handicapped children shall be equipped with an emergency exit lighting system. The system shall be so arranged as to provide the required illumination automatically in the event of any interruption of normal lighting, such as any failure of public utility or other outside electrical power supply, opening of a circuit breaker or fuse, or any manual act(s), including accidental opening of a switch controlling normal lighting facilities. The emergency lighting system shall include, as a minimum, the following provisions:

(1) Where maintenance of illumination depends upon changing from one energy source to another, there shall be no appreciable interruption of illumination during the changeover. Where emergency lighting is provided by an electric generator set, a delay of not more than ten seconds shall be permitted.

(2) Electric battery-operated emergency lights shall use only reliable types of storage batteries, provided with suitable facilities for maintenance in properly charged conditions.

(3) Emergency lighting facilities shall be arranged to maintain illumination to values of not less than one footcandle measured at the floor for a period of one-half hour, or one hour in buildings of one hundred twenty feet or more in height.

NEW SECTION

WAC 212-70-200 STAFF TRAINING. The staff of the group care facility shall maintain proficiency in their area of responsibility, with respect to the fire and evacuation plan. The licensee or administrator shall ensure that all employees are instructed and informed of their respective duties or defined in the plan. Special training classes shall be conducted to ensure that all the staff can react to fire emergencies.

NEW SECTION

WAC 212-70-210 FIRE AND EVACUATION PLAN. The licensee or administration of every group care facility for severely and multiply-handicapped children shall have in effect, and available to all supervisory personnel, written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and, when necessary, evacuation from the building.

NEW SECTION

WAC 212-70-220 FIRE DRILLS. At least twelve fire drills shall be held every year. Drills shall be conducted quarterly on each shift to familiarize personnel with signals and emergency action required under varied conditions. When drills are conducted between 9:00 p.m. and 6:00 a.m., a verbal or coded announcement may be used instead of audible alarm. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions.

NEW SECTION

WAC 212-70-230 MAINTENANCE. Fire protection systems, equipment and devices shall be properly maintained as follows:

(1) Manual fire alarm systems shall be operationally tested by the facility staff at least once each month. A record of the operational tests shall be maintained on the premises.

(2) Automatic fire detection systems shall be inspected at least annually. The inspection shall be conducted by a person or company with the required licenses, technical qualifications, and special purpose equipment necessary to accomplish the inspection. A report of the inspection shall be provided on forms supplied by the state fire marshal office.

(3) Sprinkler systems shall be inspected at least annually. The inspection shall be conducted by a person or company with the required licenses, technical qualifications, and special purpose equipment necessary to accomplish the inspection. A report of the inspection shall be provided on forms supplied by the state fire marshal office.

(4) Automatic smoke detection devices (single station) shall be operationally tested at monthly intervals by the facility staff, in accordance with the instructions supplied by the manufacturer. A record of the operational tests shall be maintained on the premises.

(5) At monthly intervals, the facility staff shall accomplish a visual inspection of fire extinguishers. The visual inspection must provide a reasonable assurance that the extinguisher is operational, and at its proper location. Monthly visual inspections shall be recorded, indicating the date inspected and initials of the inspector.

(6) Self-closing fire doors shall be maintained in the closed position, except where they are held open on approved door releases activated by products of combustion detectors other than heat. Under no conditions shall manually activated door stops be installed on a fire door. Use of wedges to block fire doors in the open position is prohibited.

(7) Fire door hardware, latches and closing devices shall be maintained in proper working condition.

(8) Corridor, stairway and exit lights shall be inspected daily. Burned-out bulbs shall be promptly replaced.

(9) Fire retardant paints or solutions shall be renewed at intervals necessary to maintain the fire retardant properties of the object or exposure to which it has been applied.

(10) "No smoking" signs shall be posted in rooms or areas where the state fire marshal determines smoking to be hazardous. Where smoking is permitted, suitable ash trays or receptacles shall be provided to deposit used smoking materials.

NEW SECTION

WAC 212-70-240 ALTERNATE METHODS. The state fire marshal may modify any of the provisions of this regulation upon application in writing by the owner or licensee or his duly authorized representative, where there are practical difficulties in carrying out the strict letter of this regulation. The particulars of such modification may be granted or allowed: PROVIDED, That it does not create a condition that is dangerous to life. The decision of the state fire marshal shall be entered upon the record, and a signed copy shall be furnished the owner or licensee.

NEW SECTION

WAC 212-70-250 SEVERABILITY. If any provision of this regulation, or its application to any person or circumstance is held invalid, the remainder of the regulation or the application of the provisions to other persons or circumstances is not affected.

WSR 84-09-039

PROPOSED RULES

HIGHLINE COMMUNITY COLLEGE

[Filed April 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Highline Community College intends to adopt, amend, or repeal rules concerning parking and traffic regulations for pedestrian and vehicular traffic over property owned, operated, or

maintained by the college district, chapter 132I-116 WAC;

that the institution will at 10:00 a.m., Thursday, June 7, 1984, in the Highline Community College Building 25 Board Room, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140.

The specific statute these rules are intended to implement is RCW 28B.50.140(10).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 5, 1984.

Dated: April 13, 1984

By: Edward M. Command

Vice President

STATEMENT OF PURPOSE

Title: Parking and traffic regulations, chapter 132I-116 WAC. The board of trustees of Highline Community College District 9 is granted authority to make rules and regulations for pedestrian and vehicular traffic over property owned, operated, or maintained by the college district.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: The purposes of parking and traffic rules and regulations are to protect and control pedestrian and vehicular traffic; to assure access at all times for emergency equipment; to minimize traffic disturbances during class hours; and to facilitate the operation of the community college of the district by assuring access for vehicles and to regulate the use of parking spaces. The proposed action amends and updates these rules to conform to the recent incorporation of Highline Community College into Des Moines city laws rather than county statutes among other minor changes.

Drafting Responsibility: Edward M. Command, Vice President, Highline Community College, Midway, Washington 98032, (206) 878-3710.

Proposing Organization: Highline Community College.

Institution Comments: None.

These rules are not necessitated by any federal law or federal or state court action.

Chapter 132I-116 WAC
PARKING AND TRAFFIC REGULATIONS

WAC

132I-116-010	Purpose.
132I-116-020	Definitions.
132I-116-030	Applicable <u>parking and</u> traffic rules and regulations— <u>Areas affected</u> .
132I-116-040	Parking and traffic responsibility.
132I-116-050	Permits required for vehicles on campus.
132I-116-070	Authorization for issuance of permits.
132I-116-090	Display of permit.
132I-116-100	Transfer of permits.
132I-116-110	Permit revocation.
132I-116-140	Designation of parking spaces.
132I-116-150	Parking within designated spaces.
132I-116-160	Day parking.
132I-116-170	Night parking.
132I-116-190	Regulatory signs and directions.

132I-116-210	Pedestrian's right of way.
132I-116-222	Impounding of vehicles.
132I-116-230	Report of accident.
132I-116-240	Specific traffic and parking regulations and restrictions authorized.
132I-116-250	Enforcement.
132I-116-260	Issuance of traffic citations.
132I-116-270	Fines and penalties.
132I-116-280	Parking fees.
132I-116-300	Appeal of fines and penalties.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-010 PURPOSE. Pursuant to ~~((the authority granted by the))~~ RCW 28B.50.140(10), the board of trustees of Highline Community College District 9 is granted authority to make rules and regulations for pedestrian and vehicular traffic over property owned, operated, or maintained by the college district. ~~((The rules and regulations contained herein are established for the following purposes:))~~ The purposes of parking and traffic rules and regulations are:

- (1) To protect and control pedestrian and vehicular traffic.
- (2) To assure access at all times for emergency equipment.
- (3) To minimize traffic disturbances during class hours.
- (4) To facilitate the operation of the community college of the district by assuring access for vehicles and to regulate the use of parking spaces.

AMENDATORY SECTION (Amending Order 015, filed 8/19/76)

WAC 132I-116-020 DEFINITIONS. As used in this document, the following words shall mean:

- (1) College: Highline Community College, or any additional community college hereafter established with Community College District 9, state of Washington, and collectively, those responsible for its control and operations.
- (2) College community: Trustees, students, employees, and guests on college owned or controlled facilities.
- (3) College facilities: Includes any or all property controlled or operated by the college.
- (4) Student: Includes all persons enrolled at the college, both full time and part time.
- (5) Campus police chief ~~((of campus security))~~: An employee of Highline Community College District 9, state of Washington, who is responsible to the ~~((manager of business and finance))~~ vice president for campus security, safety, parking, and traffic control.
- (6) Vehicle: An automobile, truck, motor-driven cycle, scooter, or any vehicle powered by an engine. Also included will be bicycles and other nonengine vehicles.
- (7) Visitor: Any person(s) ~~((or persons,))~~ who comes ~~((upon))~~ on to the campus as guest(s) ~~((and person or persons who lawfully))~~ or to visit the campus for meetings and/or other purposes ~~((which are in keeping with the college's role as an institution of higher learning in the state of Washington)).~~
- (8) ~~((Permanent permits: Permits which are valid for a school quarter, term, or portion thereof.~~
- (9) ~~Temporary permits: Permits which are valid for a specific period designated on the permit or application.~~
- (10) School ~~((term))~~ year: Unless otherwise designated, the time period commencing with the summer quarter of ~~((a))~~ the community college calendar year and extending through the ~~((immediately))~~ subsequent fall, winter, and spring quarters. ~~((The summer school session shall be considered the first quarter of the college year for parking and traffic control purposes.~~
- (11) Car pool: Means two to five persons currently enrolled at Highline have decided to share a single parking permit subject to the restrictions set forth in WAC 132I-116-070-))

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-030 APPLICABLE PARKING AND TRAFFIC RULES AND REGULATIONS—AREAS AFFECTED. ~~((The other traffic rules and regulations which are also applicable upon the campus are as follows:))~~ The following rules and regulations apply upon lands devoted to educational and recreational activities of Highline Community College.

- (1) The motor vehicle and other traffic laws of the state of Washington. These shall be applicable upon all lands located within the state of Washington.

(2) The municipal traffic code of the ~~((county of King))~~ city of Des Moines, state of Washington. This code applies upon all lands located within the city of Des Moines.

(3) The Highline Community College parking and traffic regulations. These shall be applicable to all lands which are or may hereafter be devoted to the educational, recreational, or parking activities of Highline Community College. In case of conflict with the state or municipal motor vehicle laws, those laws shall govern and take precedence over the college rules.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 132I-116-040 PARKING AND TRAFFIC RESPONSIBILITY. The ~~((manager of business and finance))~~ vice president is responsible for parking and traffic management on campus. In general, the responsibility is delegated to the campus police chief ~~((of campus security who is authorized to coordinate directly with the dean of student services and others on campus as required by his duties))~~ who is to coordinate with the dean of students. Likewise, duly appointed campus security officers and other security employees of Highline Community College shall be delegated the authority to enforce all college parking and traffic regulations.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-050 PERMITS REQUIRED FOR VEHICLES ON CAMPUS. ~~((Students, faculty and staff))~~ No person shall ~~((not stop,))~~ park~~((;))~~ or leave ~~((a))~~ any vehicle, whether attended or unattended, upon the campus of Highline Community College without a ~~((parking))~~ permit issued ~~((pursuant to WAC 132I-116-020))~~ by the campus security office. All persons parking on the campus will be given a reasonable time to secure a temporary or permanent permit from the campus security office.

- (1) A valid permit is:
 - (a) A current Highline Community College vehicle permit displayed in accordance with instructions.
 - (b) A temporary or guest permit authorized by the campus security office and displayed in accordance with instructions.
- (2) Parking permits are not transferable, except as provided in WAC 132I-116-100.
- (3) The college reserves the right to refuse the issuance of a parking permit.

AMENDATORY SECTION (Amending Order 015, filed 8/19/76)

WAC 132I-116-070 AUTHORIZATION FOR ISSUANCE OF PERMITS. The campus security office is authorized to issue parking permits to students, faculty, and staff members of the college pursuant to the following regulations:

- (1) Students may be issued a parking permit upon the registration of his vehicle with the campus security office at the beginning of each academic period.
- (2) Faculty and staff members may be issued a parking permit upon the registration of their vehicles ~~((at the beginning of fall quarter, provided that new faculty and staff members employed during the regular academic year may be issued a parking permit upon the registration of their vehicles))~~ at the time they begin their employment at the college.
- (3) Full-time faculty and staff personnel may be issued a second car permit for another personally owned vehicle. A condition of issuance is that at no time will more than one vehicle be parked on campus.
- (4) ~~((A transferable car pool parking permit may be issued to each car pool and may be transferred among the registered members of the car pool only provided that at no time will more than one vehicle be parked on campus.))~~ Car pool permits may be purchased by faculty, staff, and students. A car pool is defined as being from two to five persons. One transferable permit will be issued by the campus security office for each car pool. This permit is transferable only among the registered members of the car pool. This permit will be displayed in accordance with the instructions provided with the permit. A condition of issuance is that at no time will more than one vehicle owned by members of the pool be parked on campus.
- (5) Campus security may issue temporary and special parking permits when such permits are necessary to enhance the business or operation of the college.
- (6) Any permit-holder may obtain temporary parking permits at the campus security office without charge for an unregistered vehicle when necessary due to the nonavailability of his registered vehicle.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-090 DISPLAY OF PERMIT. ~~((All permanent parking permits))~~ The parking permit issued by the college shall be permanently affixed ~~((to the))~~ on the inside of the rear window on the lower left corner directly behind the driver. If the vehicle is a convertible or a truck camper, or has no permanently fixed rear window, the permit shall be ~~((permanently affixed to the top center of the windshield. Special and temporary parking permits shall be placed within the vehicle where it can be plainly observed))~~ displayed on the front windshield. Permits not displayed in accordance with the provisions of this section shall not be valid and vehicles displaying the improper placed permit shall be subject to citation. Permits shall be displayed on the front fender of a motorcycle.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 132I-116-100 TRANSFER OF PERMITS. Parking permits are not transferable. If a vehicle is sold or traded, a new permit will be issued to the permit holder at no additional cost if the permit holder does the following:

- (1) Records invalid permit number;
- (2) Removes invalid permit;
- (3) Brings invalid permit or remnant thereof and permit number to the campus security office. This office shall then issue the permit holder a new parking permit. Subject vehicle will then be registered under the new number.
- (4) Permits may be reissued as authorized by the campus police chief ~~((of campus security))~~.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-110 PERMIT REVOCATION. Parking permits are licenses and the property of the college and may be recalled for any of the following reasons:

- (1) When the purpose for which the permit was issued changes or no longer exists; or
- (2) When a permit is used for an unregistered vehicle or by an unauthorized individual; or
- (3) Falsification of a parking permit application; or
- (4) Continued violation of parking rules and regulations; or
- (5) Counterfeiting or altering of a parking permit; or
- (6) Failure to comply with a final decision of the citation review committee or institutional hearing officer.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-140 DESIGNATION OF PARKING SPACES. The parking spaces available on campus shall be designated and allocated in such a manner as will best achieve the objective of the rules and regulations contained in this document.

- (1) Faculty and staff spaces shall be designated.
- (2) Student spaces shall be designated for their use; provided physically handicapped students may be granted special permits to park in ~~((close))~~ proximity to the classrooms used by such students.
- (3) Parking spaces shall be designated for use of visitors on campus.
- (4) Parking spaces shall be designated for motorcycles, motorized bicycles, and scooters.
- (5) Parking spaces may be designated for other purposes as deemed necessary.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-150 PARKING WITHIN DESIGNATED SPACES. (1) Any person parking a vehicle on Highline Community College property shall park his vehicle in designated parking areas only. These areas are marked by a curb, white lines ~~((or))~~, or signs. Parking on or over a line constitutes a violation.

(2) No vehicle may be parked any place where official signs prohibit parking, or within ten feet of a fire hydrant; on any area which has been landscaped or designed for landscaping; or any cement walkway or unpaved pathway designated for pedestrian use, except for the purposes of maintenance by an appropriate Highline Community College employee or by an agent from an outside firm employed by Highline Community College, or in the case of emergency vehicles.

(3) ~~((No vehicle may be stopped, parked, or left on the Highline Community College campus without a valid parking permit, except trucks or cars making deliveries.))~~ No motorcycles, motorized bicycles, scooters, or bicycles shall be parked inside a building, near a building,

or on a path or sidewalk. Bicycles must be secured to racks as provided.

(4) ~~((No disabled or inoperative vehicle shall be parked on campus for a period in excess of 72 hours.))~~ Vehicles which have been parked in excess of 72 hours and which appear to be inoperative or abandoned may be impounded and stored at the expense of either or both owner and operator thereof.

(5) Personnel who require parking longer than normal parking hours may apply through the security office for permission.

(6) All vehicles shall follow traffic arrows and other markings established for the purposes of directing traffic on campus.

(7) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion or more than one space or stall shall not constitute an excuse for a violation of this section.

(8) ~~((There are three))~~ Designated parking areas on campus for student use ~~((They))~~ will be open from 6:30 a.m. to 10:45 p.m., Monday through Friday. In addition, the Midway Drive-in Theater parking lot (when designated), is available for student parking between 7:30 a.m. and 5:00 p.m., Monday through Friday.

(9) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132I-116-140.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-160 DAY PARKING. The rules and regulations pertaining to the use of certain parking permits in specified areas as contained in WAC 132I-116-140 shall be in force during the hours of 7:00 a.m. to ~~((5:00))~~ 4:00 p.m.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-170 NIGHT PARKING. Students, faculty, and staff may park in any area A or B spaces ~~((of the east, north, or south parking lots;))~~ on a first-come first-serve basis between the hours of ~~((5:00))~~ 4:00 p.m. and 10:45 p.m.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 132I-116-190 REGULATORY SIGNS AND DIRECTIONS. The campus police chief ~~((of campus security and other campus authorities, are))~~ is authorized to erect signs, barricades, and other structures and to paint marks or other directions upon the entry ways and streets on campus and upon the various parking lots owned or operated by the college. Such signs, barricades, structures, markings, and directions ~~((;))~~ shall be so made and placed as ~~((in the opinion of the manager of business and finance, or his designees, with))~~ to best effectuate the objectives ~~((stated in WAC 132I-116-010, and will best effectuate the))~~ of these rules and regulations ~~((contained herein))~~, in the opinion of the vice president or his designee. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings, and directions erected pursuant to this section. Drivers shall also comply with the directions given them by the campus ~~((patrolman))~~ security officer or other campus security personnel in the control and regulation of traffic.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

WAC 132I-116-210 PEDESTRIAN'S RIGHT OF WAY. (1) The operator of a vehicle shall yield right of way, slowing down or stopping, if need be, to so yield to any pedestrian, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator ~~((or))~~ of any other vehicle approaching from the rear shall not overtake and pass such a vehicle which has slowed or stopped to yield to pedestrian traffic.

(3) Where a sidewalk is provided, pedestrian shall proceed upon such a sidewalk.

NEW SECTION

WAC 132I-116-222 IMPOUNDING OF VEHICLES. Any vehicle parked upon lands devoted to the educational, recreational, or parking activities of Highline Community College in violation of these regulations, including the motor vehicle and other traffic laws of the state of Washington and the traffic code of the city of Des Moines as

incorporated in WAC 1321-116-030, may be impounded and taken to such place for storage as the campus police chief selects. The expense of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by him prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such immobilization, impounding, and/or storage.

Impounding of vehicles shall include but not be limited to the following:

- (1) Blocking roadway which blocks the flow of traffic;
- (2) Blocking walkway which impedes the flow of pedestrian traffic;
- (3) Blocking a fire hydrant or fire-land;
- (4) Creating a safety hazard in the opinion of the campus police chief or his designee;
- (5) Blocking another legally parked car;
- (6) Parking in a marked "tow-away" zone;
- (7) Having an accumulation of four outstanding parking/traffic violations.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 1321-116-230 REPORT OF ACCIDENT. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or total or claimed damage to either or both vehicles of any amount, shall within 24 hours report such accident to the campus police chief ~~((of campus security))~~. This does not relieve any person so involved in an accident from his responsibility to file a state of Washington motor vehicle accident report within 24 hours after such accident.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 1321-116-240 SPECIFIC TRAFFIC AND PARKING REGULATIONS AND RESTRICTIONS AUTHORIZED. Upon special occasions ~~((causing additional and/or heavy traffic and))~~ or during emergencies, the campus police chief ~~((of campus security))~~ is authorized to impose additional traffic and parking regulations and restrictions ~~((for the achievement of))~~ consistent with the objectives specified in WAC 1321-116-010.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 1321-116-250 ENFORCEMENT. ~~((++))~~ Parking rules and regulations will be enforced throughout the calendar year. Parking and traffic rules and regulations are enforced on a 24 hour daily basis.

~~((2))~~ ~~The manager of business and finance and the dean of student services or their designees, shall be responsible for the enforcement of the rules and regulations contained in this document. Pursuant to the provisions of WAC 1321-116-040, the manager of business and finance and the dean of student services are authorized to delegate this responsibility to the chief of campus security or his designee.)~~

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 1321-116-260 ISSUANCE OF TRAFFIC CITATIONS. Upon the ~~((violations))~~ violation(s) of any of the rules and regulations contained in this document the campus police chief ~~((of campus security))~~ or subordinates are authorized to issue traffic citations, setting forth the date, the approximate time, permit number, license number, name of permit holder, infraction, officer, and schedule of fines. Such traffic citations may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator. Violation(s) of the college parking and traffic rules and regulations refers to:

(1) No parking permit displayed. Highline Community College parking decal is necessary when parking in any area on campus. The permit must be prominently displayed.

(2) Failure to stop at stop sign/signals. The failure to bring a vehicle to a complete stop at properly erected and identified stop signs/signals.

(3) Failure to yield right of way. The fact of depriving another vehicle or pedestrian of the right of way at an intersection or crosswalk.

(4) Improper parking. Parking a vehicle in areas that are intended for purposes more than parking, i.e., fire-lanes, driveways, sidewalks, lawns, or taking more than one parking stall.

(5) Parking in the wrong area. Parking in faculty/staff areas, disabled persons area, or visitor area and/or any other area differing from the locations indicated on the issued permit.

(6) Negligent/reckless driving. The operation of a vehicle in such a manner as to place person(s) or property in danger of injury or grievous harm.

(7) Speeding. The operation of a vehicle in such a manner as to exceed the posted speed limits.

(8) Wrong way on one-way roadways. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(9) Permits not displayed pursuant to the provisions of this chapter shall not be valid.

(10) Other violations. Clearly indicated and an actual violation of the law or traffic ordinances. The violation must be recorded in the space provided on HCC parking/traffic citation.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 1321-116-270 FINES AND PENALTIES. ~~((Dean of student services working with the chief of campus security is authorized to impose the following fines and penalties for the violations of the rules and regulations contained in this document:))~~

~~((1))~~ ~~((Except as provided under subsection (2)))~~ Fines ~~((with))~~ may be levied for all violations of the rules and regulations contained ~~((herein))~~ in WAC 1321-116-260.

~~((2))~~ ~~Such vehicles will be taken to a place for storage as the manager of business and finance, or his designee selects. The expenses of such impoundings and storage shall be the responsibility of the registered owner or driver of the vehicle. The college shall not be liable for loss or damage of any kind resulting from such impounding and storage.)~~ In addition to a fine imposed under these regulations, illegally parked ~~((vehicles or those vehicles not displaying a valid parking permit may be impounded))~~ vehicle(s) may be taken to a place for storage as the campus police chief selects. The expenses of such impoundings and storage shall be the responsibility of the registered owner or driver of the vehicle. The college shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(2) Parking and traffic fines and penalties schedule shall be adopted by the board of trustees. This schedule shall be published and made available for public review in the campus security office.

(3) An accumulation of traffic violations by a student ((may)) shall be cause for disciplinary action, and the dean of students ((services)) may initiate disciplinary proceedings against such students.

(4) ((At the discretion of the manager of business and finance;)) An accumulation of traffic violations by faculty or staff members shall be turned over to the controller for the collection of fines not received by the ((manager of business and finance)) vice president, or his designee.

(5) ((Vehicles involved in violations of these rules and regulations may be impounded as provided for in subsection (2) herein.

(6)) Parking and traffic violations will be processed by the college. Parking and traffic fines are to be paid to the ((cashier in the administration building)) campus security office.

~~((7) A))~~ (6) The schedule of fines shall be ((set and)) reviewed ((annually)) by a parking advisory committee appointed by the ((dean of student services, or his designee)) student affairs council as requested by the dean of students or the vice president. ((This schedule shall be published in the summary of parking of traffic rules and regulations, and traffic violation form:

(8) Offense and fine:

(a) Vehicle parked in a manner so as to obstruct traffic; \$3.00

(b) Occupying more than one space; \$2.00

(c) Occupying space not designated for parking; \$2.00

(d) Illegal parking (parked in area not authorized by permit); \$2.00

(e) Failure to yield right of way; \$3.00

(f) Parking in a fire lane; \$3.00

(g) Speeding; \$5.00

(h) Failure to stop for stop sign/signal; \$5.00

(i) Reckless/negligent driving; \$5.00

(j) No parking permit displayed; \$10.00))

(7) Parking and traffic fines shall be charged for offenses as indicated in a separate document.

~~((9))~~ If the fine is paid within twenty-four hours of the issuance of the citation, the fine will be reduced to \$1.00:

~~((10))~~ (8) In the event a student fails or refuses to pay a fine, the following may result:

(a) Student may not be eligible to register ((for any more courses));

(b) Student may not be able to obtain a transcript ((or his grades or credits));

(c) Student may not receive a degree until all fines are paid;

- (d) Student may be denied future parking privileges;
 (e) ~~((Impounding of))~~ Vehicle may be impounded.

AMENDATORY SECTION (Amending Order 015, filed 8/19/76)

WAC 132I-116-280 **PARKING FEES.** ~~((+))~~ Students registered for five or fewer credits will pay \$2.00 per quarter.

(2) Students registered for six or more credits will pay \$5.00 per quarter.

(3) Full-time faculty and staff will pay \$5.00 per quarter.

(4) Part-time faculty and staff will pay \$2.00 per quarter.

(5) Motorcycles, motorbikes and scooters will pay \$2.00 per quarter.

(6) Additional permits will cost \$2.00 each.

(7) Members of a registered car pool will pay a total of \$5.00 per quarter.

(8) Senior citizens registering under the reduced tuition as authorized by the Washington legislature under chapter 157, Laws of 1975 1st ex. sess., as now adopted or hereafter amended, will pay \$2.00 per quarter.) Parking fees shall be adopted by the board of trustees, specifying the charge per year and quarter. The fee schedule shall be published and made available for public review in the campus security office.

AMENDATORY SECTION (Amending Order 014, filed 1/6/76)

WAC 132I-116-300 **APPEAL OF FINES AND PENALTIES.** Any fines and penalties levied against a violator of the rules and regulations set forth herein, ~~((must))~~ may be appealed. The appeal must be made in writing, within five college days from the date of the citation, to the campus police chief ((of campus security)), who will:

(1) ((Cause a)) Review ((to be made of)) the appeal to determine whether a satisfactory solution, to all parties, can be reached without further administrative action.

(2) ((Failing a solution to the appeal, the chief of campus security will cause the creation of a citation review committee, meeting monthly, who will investigate and rule on all outstanding appeals. The citation review committee will be composed of four full-time members of the college and four matriculated students. The chief of campus security shall be a nonvoting member.)) If the appellant is not satisfied with the decision of the campus police chief, an appeal may be made, in writing, to the college's vice president within seven working days of the appellant's receipt of the decision. Within twenty working days from the receipt of any such appeal, the college's vice president shall render a written decision.

(3) If the appellant is not satisfied with the decision of the college's vice president, an appeal may be made to the college's president within seven days of the receipt of the vice president's decision.

(4) The final legal recourse for an appellant is to the Washington state superior court system.

(5) In the event that the appeal involves an impounded vehicle, the owner of such vehicle shall have the right to a hearing within 48 hours of a request for such. The owner of the vehicle shall also be entitled to a release of his vehicle upon payment of a bond in the amount of the sum of the impoundment costs and the total of all fines due and owing. If at the hearing it is shown that the vehicle was improperly impounded, the owner of the vehicle shall be entitled to a refund of the costs of impoundment.

(6) In all appeals under this section, the appellant carries the burden of proof, which shall be a preponderance of the evidence.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 132I-116-060 **REGISTRATION OF STUDENT VEHICLES.**

(2) WAC 132I-116-080 **VALID PERMIT.**

(3) WAC 132I-116-120 **RIGHT TO REFUSE PERMIT.**

(4) WAC 132I-116-180 **PARKING IN PROHIBITED PLACES.**

(5) WAC 132I-116-220 **TWO-WHEELED MOTORBIKES OR BICYCLES.**

WSR 84-09-040

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed April 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Central Washington University intends to adopt, amend, or repeal rules concerning:

New	WAC 106-124-700	Firearms, explosives, dangerous chemicals—Restrictions.
Amd	WAC 106-136-411	Use of facilities for campaign purposes—Requirements;

that the institution will at 1:30 p.m., Tuesday, May 22, 1984, in the Kachess Room, Samuelson Union Building, Central Washington University, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.19.050 and 28B.35.120(11).

The specific statute these rules are intended to implement is none.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before Tuesday, May 22, 1984.

Dated: April 11, 1984

By: Judy Couture
 Administrative Secretary

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: WAC 106-124-700 Firearms, explosives, dangerous chemicals—Restrictions; and 106-136-411 Use of facilities for campaign purposes—Requirements.

Statutory Authority: RCW 28B.19.050 and 28B.35.120(11).

Summary of Rules: WAC 106-124-700 restricts the possession and use of dangerous chemicals, weapons, or other instruments on university owned or leased property. WAC 106-136-411 prohibits the use of university facilities for any unofficial university activities.

Description of the Purpose of the Rules: WAC 106-124-700 is being proposed to enhance public safety on the university campus. WAC 106-136-411 is being amended to proscribe any use of facilities when such use may be construed as a misappropriation of state funds.

Reasons Supporting the Rules: All university faculty, staff and students, by virtue of their use of university facilities, assume and accept the role and responsibility to use such facilities only for official university activity. Use of such facilities for activities not permitted is a misappropriation of state funds. The campus residential community is densely populated, and in the interest of public safety, firearms, explosives and incendiary devices should be restricted on the university campus.

Agency Personnel Responsible for Drafting: Judy Couture, Administrative Secretary, Assistant Attorney General, Central Washington University, Ellensburg, WA 98926; Implementation and Enforcement: WAC 106-124-700, Alfred J. Teeples, Chief of Campus Safety, Central Washington University, Ellensburg, WA

98926, (509) 963-2958 or scan 453-2958, and WAC 106-136-411, Gary Smith, Director, Computer Services, Central Washington University, Ellensburg, WA 98926, (509) 963-2921 or scan 453-2921.

Name of Organization Proposing Rule: Central Washington University.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

These rules were not mandated by statute.

NEW SECTION

WAC 106-124-700 FIREARMS, EXPLOSIVES, DANGEROUS CHEMICALS—RESTRICTIONS. No person shall have in his possession any gun, pistol, firearm, explosive, dangerous chemicals, or other dangerous weapons or instruments on university owned or leased property except as follows:

(1) Authorized law enforcement officers shall be permitted to carry arms while on duty and engaged in their regular duties;

(2) Activities requiring use of the prohibited items may be conducted upon approval of the president or his designee;

(3) Persons with firearms in their possession shall be permitted to travel enroute to or from the university—provided firearm storage facilities only.

Violators of this WAC shall be subject to appropriate disciplinary or legal action.

AMENDATORY SECTION (Amending Order 43, filed 5/16/79)

WAC 106-136-411 USE OF FACILITIES FOR CAMPAIGN PURPOSES—REQUIREMENTS. The purpose of Central Washington University is to provide a liberal education in a number of academic fields; it has been established for public benefit rather than for the benefit of any private endeavors. ~~((Consequently, private organizations composed solely of students, faculty members, and staff members of Central Washington University, and others may use university facilities and services for political and other community-oriented activities, subject to applicable scheduled rental charges and university rules, regulations and procedures. Conditions for all such use include, in addition to previously mentioned rental charges, reimbursement for the use of telephones and other utilities or services, maintenance and security, campus mail services, postage, vehicles, computer time and other incidental costs.))~~ In no case may university facilities or services be used to establish or maintain an office or headquarters for a political candidate or partisan political cause. Rules, regulations, policies, procedures and practices regarding the use of university facilities shall not discriminate or promote discrimination among political parties or groups solely on the basis of their particular political viewpoint.

WSR 84-09-041

**NOTICE OF PUBLIC MEETINGS
FORT STEILACOOM
COMMUNITY COLLEGE**

[Memorandum—April 11, 1984]

Fort Steilacoom Community College, being a state institution of higher education, hereby complies with the Washington Open Public Meetings Act (chapter 42.30 RCW) with regard to advertising the meeting schedule of the Services and Activities Fees (Budget) Committee meetings of the college. Upon the advice of AGO 1983 1, reference RCW 28B.15.045(4), meetings for the spring quarter are listed as follows:

<u>Date</u>	<u>Location</u>	<u>Time</u>
May 7, 1984	Fort Steilacoom Community College (FSCC Campus) Room 5082 9401 Farwest Drive S.W. Tacoma, WA 98498	2:30-4:30 p.m.

May 9, 1984	- same location -	- same time -
May 11, 1984	- same location -	- same time -
May 14, 1984	- same location -	- same time -
May 16, 1984	- same location -	- same time -
May 21, 1984	- same location -	- same time -
May 23, 1984	- same location -	- same time -
May 25, 1984	- same location -	- same time -

WSR 84-09-042

**NOTICE OF PUBLIC MEETINGS
FORT STEILACOOM
COMMUNITY COLLEGE**

[Memorandum—April 11, 1984]

Fort Steilacoom Community College, being a state institution of higher education, hereby complies with the Washington Open Public Meetings Act (chapter 42.30 RCW) with regard to advertising the meeting schedule of the student senate meetings of the college. Upon the advice of AGO 1983 1, reference RCW 28B.15.045(4), meetings for the spring quarter 1984 are listed below. This is a revision of the list sent on January 24, 1984.

<u>Dates—Spring Quarter</u>	<u>Location</u>	<u>Time</u>
April 26	Fort Steilacoom Community College	3:00 p.m.
May 17, 31	Portable 12—Boardroom	
June 7	9401 Farwest Drive S.W. Tacoma, WA 98498	

WSR 84-09-043

**ADOPTED RULES
STATE EMPLOYEES
INSURANCE BOARD**

[Resolution No. 2-84—Filed April 16, 1984]

Be it resolved by the State Employees Insurance Board, acting at the Department of Transportation, Materials Lab Building, Tumwater, Washington, that it does adopt the annexed rules relating to:

New	WAC 182-08-195	Retroactive employer and employee contributions restricted.
Amd	WAC 182-12-125	Employee or dependents become ineligible for state group coverage.
Rep	WAC 182-08-140	New dependents' life coverage after enrollment.
Rep	WAC 182-08-150	Reduction or cancellation of optional insurance coverages.

This action is taken pursuant to Notice No. WSR 84-05-029 filed with the code reviser on February 15, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the State Employees Insurance Board as authorized in chapter 41.05 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 13, 1984.

By C. H. Shay
Group Insurance Analyst

NEW SECTION

WAC 182-08-195 RETROACTIVE EMPLOYER AND EMPLOYEE CONTRIBUTIONS RESTRICTED. Withdrawals from the SEIB revolving fund will not be allowed without written approval of the trustee or his designee. Withholding of previously paid employee or employer contribution from transmittals will be similarly restricted.

AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)

WAC 182-12-125 EMPLOYEE OR DEPENDENTS BECOME INELIGIBLE FOR STATE GROUP COVERAGE. ~~((All of the state))~~ The state's medical and life plans have a conversion privilege. However, under the individual conversion plans, coverage and/or premiums will be different than the state plan with the same carrier. Persons wishing to convert must enroll in the appropriate conversion plan within 31 days after state group coverage ends. If a person converts within 31 days, conversion coverage will be effective the day after state coverage ends.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 182-08-140 NEW DEPENDENTS' LIFE COVERAGE AFTER ENROLLMENT.
- (2) WAC 182-08-150 REDUCTION OR CANCELLATION OF OPTIONAL INSURANCE COVERAGES.

WSR 84-09-044
EMERGENCY RULES
STATE EMPLOYEES
INSURANCE BOARD

[Resolution No. 3-84—Filed April 16, 1984]

Be it resolved by the State Employees Insurance Board, acting at the Department of Transportation, Materials Lab Building, Tumwater, Washington, that it does adopt the annexed rules relating to employee or dependents become ineligible for state group coverage, repealing WAC 182-12-125.

We, the State Employees Insurance Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is early effective date is needed to implement the change on a timely basis.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the State Employees Insurance Board as authorized in chapter 41.05 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 13, 1984.

By C. H. Shay
Group Insurance Analyst

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-125

WSR 84-09-045

ADOPTED RULES

PARKS AND RECREATION COMMISSION

[Order 77—Filed April 16, 1984]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Ocean Shores, Washington, that it does adopt the annexed rules relating to moorage fees, WAC 352-12-020; campsite reservation, WAC 352-32-035; and standard fees charged, WAC 352-32-250.

This action is taken pursuant to Notice No. WSR 84-04-082 filed with the code reviser on February 1, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.51.040 and 43.51.060 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 16, 1984.

By Jack R. Gustafson
Chairperson

AMENDATORY SECTION (Amending Order 59, filed 3/31/82)

WAC 352-12-020 MOORAGE FEES. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through Labor Day, inclusive, according to the following schedule:

(a) Vessels twenty-six feet in length, and over, \$5.00 per night;

(b) Vessels under twenty-six feet in length, \$3.00 per night: PROVIDED, HOWEVER, Vessels properly displaying a valid seasonal permit shall not be charged a nightly moorage fee: PROVIDED FURTHER, There shall be no moorage fee for dinghies, vessels moored to state park buoys, vessels moored to floats not attached to piers, or any vessel riding on its own anchor: PROVIDED FURTHER, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

AMENDATORY SECTION (Amending Order 52, filed 5/28/81)

WAC 352-32-035 CAMPSITE RESERVATION.

(1) Advance campsite reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day.

(3) Requests for reservations may be made in writing and must be postmarked a minimum of 14 days in advance. Reservations may be made in person, at the park where camping is to occur, up to 24 hours in advance of the first camping day requested. Written requests may be made from the second Monday in January and up to 14 days in advance of Labor Day.

(4) Reservation requests can only be made for camping dates within the current calendar year.

(5) There will be a ~~(\$2.00)~~ \$3.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard campsite fee, regardless of the number of days reserved. Payment of the ~~(\$2.00)~~ \$3.00 nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

(6) Recreation, camping and reservation information may be obtained by calling the campsite information center on the toll-free telephone number established for that purpose. No reservation may be made by telephone.

(7) No individual may reserve a campsite in more than one state park, for one or more of the same days.

(8) Reservations for a specific campsite within a park will not be guaranteed.

(9) Unreserved campsites may be used ~~((for one night at a time))~~ on a first-come-first-served basis without a reservation.

(10) A raincheck will be issued for the camping fee paid for any confirmed reservation which is not used, provided a cancellation request is made by calling the campsite information center or the park in which the site is reserved, no less than 24 hours in advance of the first day of the reservation, or in writing to the park, post-marked seven days in advance of the first day of the reservation. Rainchecks will ~~((only))~~ be valid ~~((in the calendar year in which they are issued))~~ for one year from the date of issue. In lieu of payment, for the first night's camping fee they may accompany the reservation request for which they are to be used.

(11) Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation is not claimed by 6 p.m. on Sunday through Thursday, or 9 p.m. ~~((on))~~ on Friday, Saturday, and the night before a holiday. After these hours your site may be reassigned unless specific arrangements are made with the park to arrive later.

(12) For the 1981 season, reservations will be accepted beginning June 1 for the period beginning July 1 through Labor Day.

AMENDATORY SECTION (Amending Order 71, filed 11/22/83)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: \$5.50 per night;

(2) Overnight camping - utility campsite: \$5.50 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not;

(3) Overnight camping - primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.00 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Group camping area - certain parks: \$.35 per person per night; nonrefundable reservation fee - \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(6) Environmental learning center - overnight camping: ~~(\$2.50)~~ \$2.85 per camper per night: PROVIDED, HOWEVER, The fee shall be ~~(\$2.85)~~ \$2.95 per camper per night, effective September 6, 1983;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: ~~(\$2.90)~~ \$3.25 per camper per night: PROVIDED, HOWEVER, The fee shall be ~~(\$3.25)~~ \$3.35 per camper per night, effective September 6, 1983;

(b) Environmental learning center - day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group - whichever is higher;

(7) Hot showers: \$.25 for a minimum of six minutes shower time;

(8) Electric stoves: \$.25 for thirty minutes cooking time;

(9) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(10) Extra vehicle charge: \$2.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the

park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(11) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

WSR 84-09-046
REVIEW OF RULES
PARKS AND RECREATION
COMMISSION
 [Filed April 16, 1984]

Pursuant to RCW 19.85.050, the Washington State Parks and Recreation Commission plans to review the following rules adopted by the commission which have an economic impact on ten percent of the businesses in one industry.

Chapter 352-44 WAC, Recreation conveyances—Certification—Inspections—Operator qualification—Violations, etc.

The review will take place at the public meeting of the commission which is scheduled for September 21, 1984, at Wenatchee, Washington.

WSR 84-09-047
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning community work experience program (CWEP), amending WAC 388-57-097;

that the agency will at 10:00 a.m., Wednesday, May 23, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984.

The authority under which these rules are proposed is RCW 74.04.400.

The specific statute these rules are intended to implement is RCW 74.04.473.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services

Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by May 9, 1984. The meeting site is in a location which is barrier free.

Dated: April 16, 1984
 By: David A. Hogan, Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Amending WAC 388-57-097.

The Purpose of the Rule Change: To allow for voluntary participation in community work experience program (CWEP) except for mandatory participation CSOs.

The Reason These Rules are Necessary: To permit voluntary participation in CWEP.

Statutory Authority: RCW 74.04.400.

Summary of the Rule Change: Permits voluntary CWEP participation by AFDC recipients in unassigned registrant status and those exempt from WIN. Mandatory WIN component activity takes precedence over CWEP volunteer participation.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Kenneth E. Anderson, Program Manager, Division of Income Assistance, Mailstop: OB 31C, Telephone: 753-4920.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 2047, filed 11/4/83)

WAC 388-57-097 COMMUNITY WORK EXPERIENCE PROGRAM (CWEP). The community work experience program (CWEP) is authorized under RCW ((74.04.—— (section 41, chapter 41, Laws of 1983 1st ex. sess.)) 74.04.473 and as provided for in 45 C.F.R. 238.

(1) The program has the following objectives:

(a) To provide work experience to recipients of AFDC unable to secure employment through other employment programs; and

(b) To determine the extent work experience will assist individuals participating in the program to secure unsubsidized employment.

(2) CWEP sites shall be located in the Moses Lake and Mount Vernon CSOs.

(3) Any AFDC recipient shall, as a condition of eligibility for AFDC, participate in CWEP unless the individual:

(a) Is participating in a WIN/E&T approved training plan; or

(b) Meets the WIN/E&T exemption criteria of WAC 388-24-107; or

(c) Is both currently (or becomes) employed at least eighty hours per month and earning not less than the legally established minimum wage for such employment. Persons employed at least eighty hours per month at jobs not having an established minimum wage shall be exempted regardless of wage level; or

(d) Is denied an AFDC grant for any month solely because the amount of the entitlement is less than ten dollars per month; or

(e) Resides in a non-CWEP CSO area.

(4) The department shall:

(a) Provide coordination between CWEP and the WIN/E&T program:

(i) To ensure that job placement will have priority over participation in CWEP; and

(ii) To ensure that aid may not be denied on the grounds of failure to participate in either WIN or CWEP if participants are actively and satisfactorily participating in the other program.

(b) Provide that CWEP work hour requirements may be met hour for hour by documented job search activity which has received prior approval by the CWEP service worker;

(c) Require appropriate standards of health, safety, and other conditions applicable to the performance of work;

(d) Ensure reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

(e) Ensure participants do not perform tasks in any way related to political, electoral, or partisan activities or which would result in displacement of persons currently employed or fill established unfilled position vacancies;

(f) Ensure tasks have not been developed in response to or in any way associated with, the existence of a strike, lockout, or other bona fide labor dispute or violate any existing labor agreement between employees and employers;

(g) Reimburse necessary transportation costs;

(h) Pay customary departmental scale costs of child care needed in order to participate in CWEP;

(i) Not require the use of the participant's assistance or income or resources to pay participation costs;

(j) Provide that assignments to CWEP projects will be made taking into consideration to the extent possible, the prior training, proficiency, experience, and skills of a participant;

(k) Provide that assignment to CWEP projects shall not require participants to travel unreasonable distances from home or to remain away from home overnight without consent; and

(l) Provide worker's compensation coverage for participants through the department of labor and industries.

(5) CWEP participants shall be referred to and shall participate in work experience slots designed to serve a useful public purpose in public agencies or private nonprofit organizations as agreed on by the agency and the department.

(6) The hours of CWEP participation required of any assistance unit, regardless of the number of participants in that unit, shall be no more than the number calculated by dividing the amount of the household's assistance grant by the greater of the federal or state minimum wage, not to exceed one hundred twenty-eight hours during a calendar month. The AFDC payment shall not be construed as compensation for work performed.

(7) If a recipient of AFDC-R fails or refuses without good cause to participate in the community work experience program, his or her needs shall not be taken into account in determining the family's need for assistance and grant amount. If a recipient of AFDC-E qualifying the family for AFDC-E fails or refuses without good cause to participate in the community work experience program, the entire assistance unit shall become ineligible for AFDC-E. These sanctions shall be consistent with the WIN sanction period in WAC 388-57-064. A recipient adversely affected shall have the opportunity for administrative review and/or fair hearing as provided by RCW 74.08.070 and chapter 388-08 WAC. Good cause provisions are included in WAC 388-57-064. WAC 388-57-064 (7)(d) shall not apply to CWEP participation.

(8) Except for mandatory assignments in Moses Lake and Mt. Vernon CSOs, CWEP may be available on a voluntary basis to WIN registrants in unassigned status and AFDC recipients who are exempt from WIN registration.

(a) In WIN CSOs, requirements of WIN mandatory component activity shall take precedence over voluntary participation in CWEP;

(b) No sanctions in this chapter shall apply to CWEP volunteers for failure to participate in this program.

WSR 84-09-048

ADOPTED RULES

DEPARTMENT OF SERVICES FOR THE BLIND

[Order 84-06—Filed April 16, 1984]

I, Paul Dzedzic, director of the Department of Services for the Blind, do promulgate and adopt at 921 Lakeridge Drive, Room 202, Olympia, WA 98504, the annexed rules relating to vending facility program for the blind, chapter 67-35 WAC.

This action is taken pursuant to Notice No. WSR 84-06-055 filed with the code reviser on March 7, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Services for the Blind as authorized in section 18, chapter 194, Laws of 1983.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 11, 1984.

By Paul Dzedzic
Director

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-020 (~~(PUBLIC INFORMATION)~~) APPLICATION—HOW TO APPLY. The public may obtain additional information about the program, including how to apply for services by contacting the vending facility program (~~(supervisor)~~) staff (the vending facility program administrator and vending facility program assistant) at the Department of Services for the Blind, 921 Lakeridge Drive, #202, Olympia, WA 98504-0088, phone (206) 754-1224, toll-free 1-800-552-7103; or by contacting department of services for the blind offices located in several large cities of the state. An application for service under the vending facility program may be made to a vocational rehabilitation counselor located in any office of the department of services for the blind.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-030 TERMS DEFINED. The terms defined in this section shall have the indicated meaning when used in this chapter.

(1) "Agreement" means that document issued by the department to a blind licensee assigning responsibility for the management of a designated vending facility in accordance with these rules and the terms and conditions of the permit or contract.

(2) "Blind" means visual acuity of no more than 20/200 in the better eye with correcting lenses; or if visual acuity is greater than 20/200, a limitation in the field of vision of the better eye so that its widest diameter subtends an angle of no greater than 20 degrees, as determined by an examination by a physician skilled in diseases of the eye, or an optometrist, whichever the person chooses.

(3) "Blind licensee" or "licensee" means a person licensed by the department to operate a vending facility in the vending facility program, but who is not assigned a vending facility.

(4) "Blind vendor" or "vendor" means a person licensed by the department to operate a vending facility in

the vending facility program and who is assigned a vending facility.

(5) "Challenge test licensee" means a person who has prior work experience and/or training in food service and food service management and who takes the challenge test and is licensed by the department to operate a vending facility in the vending facility program.

(6) "Contract" means the negotiated terms and conditions between the manager controlling federal or other property and the department covering the operation of a vending facility on federal or other property.

(7) "Cost of goods purchased and other operating expenses" this item of the income statement includes the cost of goods purchased and the operating expenses such as maintenance of equipment, rent, utilities, insurance, social security, workmen's compensation, pest control, delivery services, licenses, state and local taxes.

~~((6))~~ (8) "Department" means the Washington department of services for the blind.

~~((7))~~ (9) "Equipment" means all appliances, utensils, counters, cupboards, storage devices, furniture and other furnishings used in the operation of the vending facility, to which the department retains title.

~~((8))~~ (10) "Federal property" means any building, land or other real property owned, leased or occupied by any department, agency or instrumentality of the United States including the department of defense and the United States postal service, or any other instrumentality wholly owned by the United States.

(11) "Gross income" is the aggregate of gross sales, all machine income received by vendors, rebates and any other income received by the vending operations.

~~((9))~~ (12) "License" means a written instrument issued by the department to a blind person authorizing that person to operate a vending facility on federal or other property.

~~((10))~~ (13) "Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. "Management services" does not include those services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.

(14) "Net proceeds" - (net profit) means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding set-aside charges required to be paid by blind vendors.)

~~((11))~~ (15) "Other property" means property which is not federal property.

~~((12))~~ (16) "Permit" means the official approval given the department by another department, agency or instrumentality in control of the maintenance, operation and protection of federal property, or a person in control of other property, whereby the department is authorized to establish a vending facility.

~~((13))~~ (17) "Public building" means any building which is owned by the state of Washington or any political subdivision thereof, and any space leased by the

state of Washington or any political subdivision thereof in any privately-owned building ~~((and designated by the department as being appropriate for inclusion in the vending facility program))~~: PROVIDED, ~~((HOWEVER;))~~ That any vending facility or vending machine under the jurisdiction and control of ~~((another established state or))~~ a local board ~~((or authority responsible for its maintenance and operation;))~~ of education shall not be ~~((designated))~~ included without the consent and approval of ~~((such state or))~~ that local board ~~((or authority))~~.

~~((14))~~ (18) "Program" means the vending facility program, (also known as the business enterprises program) including all of the activities, obligations and relationships described in this chapter.

~~((15))~~ (19) "Set aside funds" means any income from vending machines on federal property received by the department and not paid to vendors as income under provision of ~~((45))~~ 34 C.F.R., section ~~((369.32))~~ 395.8 (a), (b), and (c) ~~((and (d)))~~.

~~((16))~~ (20) "Vending facility" means cafeterias, snack bars, vending counters, vending carts, vending machines or any combination of the above, at which food, tobacco, refreshments or sundries are offered for sale, and which operate under the vending facility program. Vending facilities will be identified by the following classifications:

(a) "Cafeteria" means a food dispensing vending facility capable of merchandising a broad variety of prepared foods and beverages. Characteristically, the cafeteria has specialized equipment, a food preparation area, and booths and tables for seating. Vending machines may be part of a cafeteria.

(b) "Dry stand" means a vending facility which merchandises, among other things, tobacco, sundries and prepackaged food and refreshment items. Characteristically, the dry stand has no specialized equipment for refrigerating or heating foods or beverages, nor any food preparation area. Merchandise is consumed away from the dry stand. Vending machines may be a part of the dry stand.

(c) "Lunch counter" means a vending facility which merchandises, among other things, lines of refreshment and food items suitable for a light meal. Characteristically, the lunch counter has specialized equipment for the refrigerating, cooking or heating of foods and beverages, and has a limited food preparation area. Merchandise may be consumed at or away from the lunch counter. Vending machines may be part of the facility.

(d) "Other types of facilities" means those facilities not included under the cafeteria or vending machine, such as snack bars, lunch counters and dry stands which provide a variety of articles dispensed manually by the vendor.

(e) "Snack bar" means a vending facility which merchandises, among other things, limited lines of refreshment and prepared food items. Characteristically, a snack bar has specialized equipment for refrigerating or heating foods and beverages but has no food preparation area. Merchandise may be consumed at or away from the snack bar. Vending machines may be a part of the facility.

~~((t))~~ (f) "Vending machine facility" means a vending facility comprised of coin or currency operated machines merchandising, among other things, a variety of food and refreshment items. The vendor is responsible for the management of the machines and usually performs such functions as loading and servicing the machines and other customer-related services. Characteristically, there is no provision for booth or table seating at such a facility.

~~((t7))~~ (21) "Vending machine" means any coin-operated machine offering food, refreshments, tobacco or sundries for sale.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-040 ELIGIBILITY. To be eligible to enter the ~~((training))~~ program to become a blind licensee, the applicant must meet the following requirements:

- (1) Blind as defined in WAC 67-35-030(2);
- (2) A citizen of the United States;
- (3) Determined eligible for vocational rehabilitation services under ~~((45))~~ 34 C.F.R., sections ((361.34 and 361.35)) 361.33;
- (4) Found by a vocational rehabilitation counselor's thorough diagnostic study to possess adequate alternative skills to the use of vision in reading, writing and independent travel;
- (5) ~~((Has successfully completed a work evaluation in vending facility management conducted in Seattle by the vending facility program staff))~~ Be referred to the business enterprise program by a vocational rehabilitation counselor;
- (6) Receive a passing grade on the business enterprise screening test;
- (7) Successfully complete two on-the-job evaluations at two different vending facilities operated by licensed vendors. Facilities used as on-the-job training sites will be chosen by the vendors committee in conjunction with the business enterprise director. Each on-the-job evaluation will be of two weeks duration;
- (8) Successfully complete a vendor training program arranged by the business enterprise director or meet the requirements set forth in WAC 67-35-055, or meet the requirements set forth in WAC 67-35-056.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-050 LICENSEE TRAINING. The department operates a training ~~((course))~~ program for those who have met the requirements in WAC 67-35-040. In accepting ~~((persons))~~ applicants into the training ~~((course))~~ program, preference is given to those who are in need of work, otherwise ~~((persons))~~ applicants are entered into the ~~((course))~~ program according to the earliest date of application. The department ~~((maintains))~~ provides or causes to be provided a ((course)) program which includes training and experience with written criteria which the trainee must achieve. The training ~~((course))~~ program is of undetermined length, and the time of completion depends upon the trainee's ability to meet the criteria set forth in the ~~((course))~~ program.

Upon successful completion of the ~~((course))~~ program, the trainee receives a license and is eligible for benefits granted a licensee in this chapter.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-055 LICENSEE—FORMER OR CURRENT OUT-OF-STATE. Any ~~((individual))~~ applicant who meets the requirements of WAC 67-35-040(1) through (6) and is currently licensed in another state in good standing or who formerly held a license which was terminated ~~((in this program))~~ without cause in the state of Washington may attempt ~~((, for a minimum two-week period, to demonstrate at a department operated training facility their knowledge and ability to manage a vending facility. If he/she is successful in this attempt, this trainee will be granted a license, will receive the minimum basic evaluation score of thirty-five points, and will be eligible for benefits granted a licensee in this chapter))~~ to be recertified. To be recertified an individual must do the following:

- (1) Indicate in writing to the department of services for the blind a request to become a licensed vendor.
- (2) Successfully complete an on-the-job evaluation with a licensed vendor for a minimum period of three weeks at a vending facility to demonstrate his/her knowledge and ability to manage a vending facility. The facility to be used will be designated by the vendors committee in conjunction with the business enterprise program director.
- (3) Successfully complete a written examination with a score of seventy or better. If he/she is successful in this attempt, this applicant will be granted a license and will receive the basic evaluation score he/she receives in the written examination and will be eligible for benefits granted a licensee in this chapter.

NEW SECTION

WAC 67-35-056 CHALLENGE TEST LICENSEE. An applicant who meets requirements of WAC 67-35-040 (1) through (6) and who wants to become a blind licensee and who has prior experience or training in food service management may request to be certified as a blind licensee.

The director of the business enterprise program in conjunction with the blind vendors committee will make a determination as to the individual's eligibility. If the individual is found to be eligible he/she will:

- (1) Successfully complete an on-the-job evaluation with a licensed vendor for a minimum period of three weeks at a vending facility to demonstrate his/her knowledge and ability to manage a vending facility. The facility to be used will be designated by the vendors committee in conjunction with the business enterprise program director.
- (2) Successfully complete a written examination with a score of seventy or better. If he/she is successful in this attempt, this applicant will be granted a license and will receive the basic evaluation score he/she receives in the written examination and will be eligible for benefits granted a licensee in this chapter.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-070 SELECTING A LICENSEE OR VENDOR TO OPERATE VENDING FACILITY—PROCEDURE. (1) To select a licensee or vendor to operate an available vending facility, a ((basic evaluation)) score is computed for each licensee or vendor. ((The basic evaluation score will reflect an operator's level of competency as measured by the financial activities of the vending facility and compared to vending facilities which operations are more similar than dissimilar. To achieve relative ranking of vendor and licensee effectiveness, vending facilities have been grouped into ten classifications: Dry stands, snack bars under \$100,000 annual gross sales; snack bars over \$100,000 annual gross sales; lunch counters under \$100,000 annual gross sales; lunch counters over \$100,000 annual gross sales; cafeterias under \$100,000 annual gross sales; cafeterias from \$100,000 to \$200,000 annual gross sales; cafeterias over \$200,000 annual gross sales and/or those with limited income percentage; vending machines grouped to form a facility; and department training cafeteria. For each group of vending facilities, an average percent is calculated for each item used in the evaluation. Points are assigned to percentages which deviate from the average to reward superior management and to discourage overpricing and excess profiteering. One point for each year of experience in the vending facility program up to five years and .2 point for each year of experience in the vending facility program beyond five years is added to the basic evaluation score to obtain the final evaluation score. Each federal fiscal year the average percentage for the three items of evaluation will be calculated for each of the ten groups of vending facilities, and vendors shall be informed in writing of the average percentages and to which classification their vending location is assigned. Any vending facility which, as a result of modification, belongs in a different facility classification will be assigned to that classification and will use the average percentages applicable to that classification.

(2) The basic evaluation score for a vendor is determined by using three items reported on the vendor's quarterly report: Cost of merchandise sold; all other operating costs; and net profit. The vendor will separately report the value of any volunteer labor received which is essential to the operation of the facility, the cost of purchasing, leasing or renting equipment; and income received from any personnel training programs for the purpose of adjusting the category of "all other operating expenses." Income received from vending machines not managed or operated by the vendor shall not be considered in the evaluation process. Cost of merchandise sold, adjusted all other operating expenses, and adjusted net profit is determined and converted into a percentage of gross sales. The percentages in each category are converted to points, as shown in WAC 67-35-080; and the sum of the three separate scores becomes the basic evaluation score. The basic evaluation score for each of the most current two quarters will be averaged, and this average plus points earned by seniority becomes the evaluation score except that the quarter in which a licensee or

operator assumes responsibility for a new or different location shall not be included in the two most current quarters used in determining an evaluation score.

(3) A trainee shall receive a basic evaluation score by the same method as set forth in subsection (2) of this section except that the period of basic evaluation shall include those months when a trainee is in certification training and is managing a vending facility under the training program of the department of services for the blind. The basic evaluation score shall be computed monthly, and adjustment factors are not used.

(4) The licensee or vendor applying for an available facility and having the highest evaluation score shall be designated the vendor of the available facility except as provided for in subsections (5) and (6) of this section.

(5) No vendor or licensee who has been designated to operate an available vending facility will within the next six months thereafter be designated to operate a subsequently available vending facility, unless such vendor(s) or licensee(s) is (are) the only applicant.

(6) The loss of any vending facility to the vending facility program for reasons beyond the control of the vendor assigned that facility, as determined by the staff of the vending facility program, shall permit assignment of the next available vending facility to that vendor without respect to other provisions of this section. Any vendor so assigned may make application for a subsequently available facility without respect to subsection (5) of this section.

(7) A licensee or vendor who has applied for a vending facility under WAC 67-35-060 may upon request receive a review of the correctness of the selection process from the director of the department or his/her designee. The review must be requested within ten calendar days of the completion of the selection process for which the licensee or vendor has applied. The director or his/her designee will inform the licensee or vendor of the review findings within ten days of the request.) The vendor or licensee having the highest score in each respective category as defined in WAC 67-35-030 will be interviewed by a panel representative of the vendors committee, the BEP director, and the building manager. The vendor or licensee who will operate the available vending facility will be chosen in this interview.

(2) Vendor score determination:

(a) A basic evaluation score will reflect a vendor's level of competency, as measured by the financial activities of the vending facility compared with vending facilities whose operations are similar.

(b) A vendor will receive one additional point for each year of experience in the vending facility program up to five points.

(c) The basic evaluation score for a vendor is determined by using three items reported on the vendor's monthly report: Gross income, cost of goods purchased and other operating expenses, and net proceeds. The cost of goods purchased and other operating expenses, gross income and net proceeds is determined and converted into a percentage of gross income. The percentages in each category are converted to points, as shown in WAC 67-35-080, and the sum of the two separate scores become the basic evaluation score. The basic evaluation

score for each of the most current four quarters will be averaged, and this average plus points earned by seniority becomes the evaluation score.

(d) To achieve relative ranking of vendor and licensee effectiveness, vending facilities have been grouped into three classifications: Cafeterias, vending machine facilities, and other facilities. Other facilities consist of dry stands, snack bars and lunch counters. Any vending facility which as a result of modification, belongs in a different facility classification will be assigned to that classification and will use the average percentages applicable to that classification. The vendors committee in conjunction with the director of the business enterprise program will group similar vending facilities.

(e) For each group of vending facilities, the national average percentage is used to calculate each item used in the evaluation. These average percentages will be taken from the previous year's Randolph-Sheppard Vending Facility Program Annual Report, which is provided by the United States department of education, office of rehabilitation services administration. The percentages used in the evaluation are the net proceeds to gross income and the cost of goods purchased and other operating expenses. Each federal fiscal year, the vendors shall be informed in writing of the average percentages and to which classification their vending location is assigned.

(f) Any vendor who has not provided the department with current monthly financial statements will not be eligible to bid on available locations.

(3) Licensee score determination:

(a) Individuals completing department sponsored training. The licensee's score will be the total points correct on the preliminary tests, the final examination, and the Randolph-Sheppard test. The BEP director will assure that the potential number of points remain consistent from quarter to quarter.

(b) Challenge test licensee's basic evaluation score will be the score he/she receives on the challenge test.

NEW SECTION

WAC 67-35-072 AVAILABLE VENDING LOCATIONS. (1) If only one vendor or licensee bids on an available vending location, that individual will receive that available location.

(2) No vendor or licensee who has been designated to operate an available vending facility will within the next six months thereafter be designated to operate a subsequently available vending facility, unless such vendor(s) or licensee(s) is (are) the only applicant.

(3) The loss of any vending facility to the vending facility program for reasons beyond the control of the vendor assigned that facility, as determined by the staff of the vending facility program, shall permit assignment of the next available vending facility to that vendor without respect to other provisions of this section. Any vendor so assigned may make application for a subsequently available facility without respect to subsection (2) of this section. This section prevails over WAC 67-35-070 with regard to selection of vendors. When a vendor loses the vending facility he/she will be required to indicate geographic availability and will be assigned the next available vending facility within the indicated

geographic location. Any vendor who refuses the next available vending location will be required to make application for a subsequently available facility.

(4) Licensees will be required to indicate geographic availability at time of application. Any licensee who fails to bid on an available vending facility within the geographic area of availability will be removed from the bidding process and will be required to request reinstatement to the bidding process. His/her reinstatement will be determined by the business enterprise director in conjunction with the vendors committee.

AMENDATORY SECTION (Amending Order 83-09, filed 12/15/83)

WAC 67-35-080 ((LICENSEE OR)) VENDOR ((EVALUATION FORM)) SCORING—EXPLANATION. ((A licensee or vendor may accumulate a maximum of 25 basic evaluation points for the item of "cost of merchandise sold", a maximum of 20 basic evaluation points for the item of "adjusted all other operating costs", and a maximum of 30 basic evaluation points for the item of "adjusted net profit" for a maximum basic evaluation score of 75 points.

(1) Dry stands

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .33% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .33% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each percentage point beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each 1% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(2) Snack bar under \$100,000 annual gross sales

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each 1% greater than the average, 1 point shall be added, to a maximum

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each 1% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each 1% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each .5% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each .5% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each .5% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(9) Vending machines grouped to form a facility

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .2% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .2% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "adjusted all other operating costs," the average percentage shall receive 15 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 15 points, to a minimum score of zero.

For the item of "adjusted net profit," the average percentage shall receive 20 points. For each .33% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each .33% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points. For each .33% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

(10) Department training cafeteria

For the item of "cost of merchandise sold," the average percentage shall receive 20 points. For each .5% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .5% greater than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.

For the item of "all other operating costs," the average percentage shall receive 15 points. For each .33% less than the average, 1 point shall be added, to a maximum of 5 additional points. For each .33% above that percentage necessary to achieve maximum points, 1 point shall be deducted from 20 points. For each .33% greater than the average, 1 point shall be deducted from 15 points, to a minimum of zero.

For the item of "net profit," the average percentage shall receive 20 points. For each .5% greater than the average, 1 point shall be added, to a maximum of 10 additional points. For each .5% beyond that necessary to earn 30 points, 1 point shall be deducted from 30 points.

For each .5% less than the average, 1 point shall be deducted from 20 points, to a minimum score of zero.)) (1) The vendor may accumulate a maximum of twenty-five evaluation points for the item of "net proceeds" and a maximum of thirty points for the item of "cost of goods purchased and other operating expenses" for a maximum performance score of fifty-five points. The basic evaluation points for cafeterias, vending machine facilities and others will be scored as follows:

(2) For the item of "net proceeds" the average percentage shall receive twenty points. For each one percent greater than the average, one point shall be added, to a maximum of ten additional points. For each one percent less than the average, one point shall be deducted from twenty points, to a minimum score of zero.

(3) For the item of "cost of goods purchased and other operating expenses" the average percentage shall receive fifteen points. For each one percent less than the average, one point shall be added, to a maximum of five additional points. For each one percent greater than the average, one point shall be deducted from fifteen points, to a minimum of zero.

(4) The vendor's seniority points are added to the vendor's evaluation points to arrive at the total evaluation score.

NEW SECTION

WAC 67-35-082 ADMINISTRATIVE REVIEW. A licensee or vendor who has applied for a vending facility under WAC 67-35-060 may upon request receive a review of the correctness of the selection process from the director of the department or his/her designee. The review must be requested within ten calendar days of the completion of the selection process for which the licensee or vendor has applied.

**WSR 84-09-049
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed April 17, 1984]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC 356-06-010	Definitions (temporary employment).
Amd	WAC 356-06-050	Exempt service.
Amd	WAC 356-06-055	Exempt—Classified service—Movement between.
Amd	WAC 356-18-070	Sick leave—Reporting—Payment.
Amd	WAC 356-18-090	Vacation leave—Accrual.
Amd	WAC 356-26-030	Register designation.
Amd	WAC 356-26-070	Certification—Registers—Order or rank—Exception.
New	WAC 356-30-065	Temporary appointments—Classified service.
Amd	WAC 356-30-080	Temporary ((employment)) appointments—Exempt service.
Amd	WAC 356-30-260	Probationary period—Provisions—Status of employee.
Amd	WAC 356-30-305	Trial service period—Provision.
Amd	WAC 356-30-320	Trial service—Reversion—Status.
New	WAC 356-49-010	Inter-system employment—Purpose.

- New WAC 356-49-020 Application of rules.
 New WAC 356-49-030 Eligibility—Higher Education Personnel Board permanent classified employee—Definition.
 New WAC 356-49-040 Inter-system movement between Higher Education Personnel Board/State Personnel Board jurisdiction;

that the agency will at 10:00 a.m., Thursday, May 10, 1984, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 8, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 84-06-048, 84-06-049 and 84-07-003 filed with the code reviser's office on March 6, 1984, March 6, 1984, and March 8, 1984.

Dated: April 16, 1984

By: Leonard Nord
 Secretary

WSR 84-09-050

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed April 17, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Bellevue Community College, Community College District VIII, intends to adopt, amend, or repeal rules concerning the amendment of permanent rules of chapter 132H-160 WAC, Admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII, WAC 132H-160-180, refund policy;

that the institution will at 1:30 p.m., Tuesday, June 12, 1984, in the Board Room, Bellevue Campus, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 27B.50.140 [28B.50.140].

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 12, 1984.

Dated: April 16, 1984

By: Paul N. Thompson
 Secretary, Board of Trustees

STATEMENT OF PURPOSE

Community College District VIII, chapter 132H-160 WAC.

Description of Purpose: Amending WAC 132H-160-180, Refund policy, of admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII. The proposed amendment is intended to be fair and equitable for students.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: Community College District VIII board of trustees has authorized the registrar to refund fees when a student withdraws from college or a course(s). This rule lists the percentage of refund to which a student is entitled.

Reasons Supporting Proposed Action: The proposed refund policy is intended to be fair and equitable for students, reduce first week turnover in the classrooms, and create a more positive image for Bellevue Community College. The policy will more align Bellevue Community College with like-type community colleges in Washington and should have a positive effect upon state-supported FTE's.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul N. Thompson.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Board of Trustees, Bellevue Community College, public.

Institution Comments or Recommendations, if any: None.

Rule Necessary as Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 56, Resolution 108, filed 3/14/78)

WAC 132H-160-180 REFUND POLICY. Community College District VIII board of trustees has authorized the registrar to refund fees when a student withdraws from college or a course(s). A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. (1) Tuition and related fees are refunded upon withdrawal from college or a course(s) as follows:

- (a) Prior to the first day of the quarter:
 (i) Complete withdrawal from college - ~~((80% refunded))~~ 100% refund
 (ii) Withdrawal from a course(s) (reduction of class load below 10 credits) - ~~((80% refunded))~~ 100% refund
 (b) Cancellation of a course - permission to transfer to another course or full refund upon request.
 (c) Through ~~((first))~~ fourth week of the quarter:
 (i) Complete withdrawal from college - 50% ~~((refunded))~~ refund
 (ii) Withdrawal from a course(s) (reduction of class load below 10 credits) - 50% ~~((refunded))~~ refund
~~((c))~~ (d) After ~~((first))~~ fourth week of the quarter:
 (i) Complete withdrawal from college - no refund
 (ii) Withdrawal from a course(s) (reduction of class load below 10 credits) - no refund
~~((iii))~~ (iii) Cancellation of a course - permission to transfer to another course or full refund upon request
 (d) Deferred payment deposit (the deferred payment is a \$20 tuition deposit paid at the time of registration by students who choose to postpone payment in full until the required due date. See quarterly class schedule)
 (i) 100% refundable prior to the opening day of the quarter, less \$10 service charge)
 (e) Lab fees (includes health service fee)
 (i) Prior to first week of quarter - 100% refund
 (ii) Through ~~((first))~~ the fourth week of the quarter - ~~((80%))~~ 50% refund

- (iii) After the ~~((first))~~ fourth week of the quarter - no refund
 (f) Parking fees
 (i) Prior to the first week of the quarter - 100% refund
 (ii) Through ~~((first))~~ the fourth week of the quarter - ~~((80%))~~ 50% refund
 (iii) After the ~~((first))~~ fourth week of the quarter - no refund
 (g) Insurance fees
 (i) Through the first week of the quarter only - 100% refund
 (ii) After the first week of the quarter - no refund
 (iii) If insurance claim has been filed - no refund
 (h) ~~((Community service/continuing education tuition and fees))~~
 Continuing education classes (state and student supported):
 (i) ~~((Through the first week of the quarter - 80% refund))~~ Prior to the first class session - 100% refund (less a \$5.00 administration fee)
 (ii) ~~((Through))~~ Prior to the second ~~((week of the quarter - 50% refund))~~ class session - 100% refund (less a \$15.00 administration fee)
 (iii) After the second ~~((week of the quarter))~~ class session - no refund
 (i) ~~((Nonresident tuition differential: (That portion of tuition which nonresidents pay in addition to resident tuition)))~~ Continuing education workshops (self-supported)
 (i) ~~((Through the first week of the quarter - 100% refund))~~ Cancellations received up through four working days prior to the first session - 100% refund (less a \$5.00 administration fee)
 (ii) ~~((After the first week of the quarter - no refund))~~ After fourth working day prior to the first session - no refund.

WSR 84-09-051

PROPOSED RULES

THE EVERGREEN STATE COLLEGE

[Filed April 16, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that The Evergreen State College intends to adopt, amend, or repeal rules concerning regular meeting of the board of trustees, WAC 174-104-010;

that the institution will at 1:35 p.m., Wednesday, June 6, 1984, in the Board of Trustees Room #3112, The Evergreen State College Campus, Library Building, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.40.120(11).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 29, 1984.

This notice is connected to and continues the matter in Notice Nos. WSR 83-23-090 and 84-04-017 filed with the code reviser's office on November 22, 1983, and January 24, 1984.

Dated: April 16, 1984

By: Richard N. Schwartz
Acting President

WSR 84-09-052

ADOPTED RULES

DEPARTMENT OF GAME

(Game Commission)

[Order 224—Filed April 16, 1984]

Be it resolved by the State Game Commission, acting at the Thunderbird Inn, 510 Kelso Drive, Kelso, WA,

that it does adopt the annexed rules relating to holding live wildlife in captivity, amending WAC 232-12-064.

This action is taken pursuant to Notice No. WSR 84-05-057 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.16.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Vern E. Ziegler

Chairman, Game Commission

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-064 HOLDING LIVE WILDLIFE IN CAPTIVITY. It is unlawful to take from the wild, hold in captivity, or possess live wild animals, wild birds, or game fish unless such capture, holding or possession is authorized by a license or permit issued by the department, except it is lawful to keep game fish alive on stringers, in live wells or other containers while fishing.

(1) Application for a permit to hold live wild animals, wild birds, or game fish in captivity will be made on a form to be provided by the department.

(2) The director or his designee may issue a permit if, after investigation, the applicant meets the following criteria:

(a) The holding facilities are adequate to prevent the egress of wildlife subject to the application permit.

(b) Operating conditions are clean and humane.

(c) No hazards to state wildlife exist from the holding of wildlife subject to the application permit.

(d) The permit covers the immediate premises and areas described on the permit where wildlife subject to the application will be held.

(e) Existing conditions ensure the continued health and safety of the wildlife subject to the application.

(f) That holding of wildlife subject to the application will not adversely affect the Department's obligation to preserve, protect and perpetuate the state's wildlife.

(3) All wildlife and the area where held must be open to inspection by a wildlife agent at reasonable times.

(4) The holders of a permit to hold live wild animals, wild birds, or game fish in captivity shall make an annual report to the director on a form to be provided by the department.

WSR 84-09-053
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 225—Filed April 16, 1984]

Be it resolved by the State Game Commission, acting at the Thunderbird Inn, 510 Kelso Drive, Kelso, WA, that it does adopt the annexed rules relating to revocation, modification, or suspension of a permit to hold wild animals, wild birds, or game fish in captivity, WAC 232-12-066.

This action is taken pursuant to Notice No. WSR 84-05-058 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.010 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 6, 1984.

By Vern E. Ziegler
 Chairman, Game Commission

NEW SECTION

WAC 232-12-066 REVOCATION, MODIFICATION, OR SUSPENSION OF A PERMIT TO HOLD WILD ANIMALS, WILD BIRDS, OR GAME FISH IN CAPTIVITY. A permit issued hereunder may be revoked, modified or suspended by the director for cause as provided in WAC 232-12-197. Cause shall include, but not be limited to, failure to provide adequate holding facilities and equipment or the failure to provide adequate care, feed or maintenance of wildlife subject to the permit or for inhumane treatment of wildlife.

WSR 84-09-054
ADOPTED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-212, Cause Nos. U-83-51 and U-83-56—Filed April 17, 1984]

In the matter of amending WAC 480-120-088 relating to automatic dialing-announcing devices.

This action was taken pursuant to Notice No. WSR 83-13-204 [83-23-103] filed November 23, 1983, and subsequent notices filed with the code reviser under numbers WSR 84-03-051, 84-05-062, 84-06-057 and 84-06-068. This rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to the foregoing notices, the above matter was scheduled for consideration at 9:00 a.m., Wednesday, April 11, 1984, in the Commission's Hearing Room, Sixth Floor, Highways-Licenses Building, Olympia, Washington, before Chairman Robert W. Bratton and Commissioners Mary D. Hall and A. J. "Bud" Pardini.

Under the terms of the various notices, interested persons were afforded the opportunity to submit written data, views, or arguments to the commission at various times during the pendency of the matter, with the last date specified as April 6, 1984, under Notice No. WSR 84-06-057. Under the terms of the various notices, interested persons were afforded the opportunity to submit data, views, or arguments orally at the various meetings, with the last date specified as April 11, 1984, at 9:00 a.m., in the Commission's Hearing Room, Highways-Licenses Building, Olympia, Washington.

At the April 11, 1984, meeting the commission considered the rule change proposal.

Written comments had been received from: American Telephone and Telegraph Company; Advanced Computer Leads; City of Spokane Police Department; Spokane County Sheriff's Office; Washington Anti-Vivisection Society; Yakima Fire Department; Spokane County Emergency Service Communications System; Snohomish County Fire Chiefs Association; Washington Independent Telephone Association; Attorney General's Division of Public Counsel; Washington Association of Sheriffs and Police Chiefs; Associated Public Safety Communications Officers, Inc.; Pacific Northwest Bell Telephone Company; Harvey L. Cooper; Greater Seattle Chamber of Commerce; Lew's Recording Place; Kathleen Mary Wilson; General Telephone Company of the Northwest; Representative Ken Jacobsen; Fireman's Fund Insurance Companies; Prudential Insurance Company of America; Douglas W. Potter; and Angle Lake/McMicken Fire Department.

Oral presentations were made at the various meetings by: Representative Ken Jacobsen; Louise Kaplan (Rep. Jacobsen's Office); Marianne Holifield (PNB); Phil Crossler and Raymond J. Lee (GTNW); Stephen Klos and Warren Koons (Advanced Computer Leads); John Wurner and John Mansfield (Washington State Association of Sheriffs and Police Chiefs); Jean Averill (Church Council of Greater Seattle); Charles Adams (Assistant Attorney General, Public Counsel's Office); Peter Arth and Mike Woodin (AT&T); Jerrel Yakel (Thurston County Communications Center); A. E. Gervenal (Cowlitz Communications Center); Brenda Hosetter (Kitsap County Communications); Garry Taylor (Olympia Fire Department); Raoul Evans-Ramas (Seattle Fire Department); Frank Strasser (Spokane Sheriff/Police Communications); Randy Tibbs (Seattle Police Department); Tom Miller (Washington

State Fire Code Advisory Committee); Peggy Mainprice (Anti-Vivisection Society); Ted Schultz and Jack Doyle (Washington Independent Telephone Association); and Kathy Buman (Fireman's Fund).

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-088 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-120-088 as amended will permit the inter-connection of computerized automatic dialing and announcing systems to the telephone network with restrictions as to the time and nature of the use. The rule also permits connection of qualified emergency ADAD's to the network upon certain conditions, but prohibits dialing of emergency numbers except those approved by the emergency service, and totally prohibits calls to 911 or police dispatch centers.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-088 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 16th day of April, 1984.

Washington Utilities and Transportation Commission
Robert W. Bratton, Chairman
Mary D. Hall
Commissioner
A. J. "Bud" Pardini
Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-123, Cause No. U-79-01, filed 2/28/79)

WAC 480-120-088 AUTOMATIC DIALING-ANNOUNCING DEVICES. An automatic dialing-announcing device (ADAD) may not be operated while connected to the telephone network, except under the following conditions:

(1) An ADAD may be used pursuant to a prior agreement from the called party that he or she desires to receive such telephone communication; or

(2) An ADAD may be used if the recorded message is preceded by an announcement made by a human operator who:

(a) States the nature and length in minutes of the recorded message; and

(b) Identifies the caller and the individual, business, group, or organization for whom the call is being made and a telephone number to which a return call can be placed; and

(c) Asks the called party whether he or she is willing to listen to the recorded message; and

(d) Disconnects from the called party's line if the called party is unwilling to listen to the recorded message(-); or

(3) An ADAD may be used if the recorded message:

(a) Identifies the individual, business, group, or organization for whom the call is being made, the nature and length of the call, and a telephone number to which a return call may be placed; and

(b) Automatically disconnects the telephone connection within two seconds after the called party hangs up the receiver.

(c) An emergency ADAD may be connected to the telephone network only under the following conditions:

(i) The ADAD contains sensors that will react only to a steady tone of at least four seconds duration, broadcasts only on frequencies allocated by the FCC for emergency services, and is designed to prevent accidental triggering of emergency calls.

(ii) The ADAD provides some audible tone or message that alerts the user that the device has been activated and will automatically dial the preprogrammed emergency number unless manually deactivated within thirty to forty-five seconds.

(iii) The ADAD provides for disconnection within two seconds when the called party performs a predetermined function.

(iv) The ADAD satisfies applicable state safety requirements.

(v) The user registers the instrument with and receives written approval for its use from the emergency services to which an automatic call would be directed, and secures from such services an approved telephone number or numbers to be programmed into the instrument: PROVIDED, That the user shall not program the instrument to dial police or 911 emergency response numbers.

As to any ADAD, provision ((is)) must be made to preclude the dialing of unlisted telephone numbers and the dialing of designated public service emergency telephone numbers as listed in published telephone directories and to preclude the ADAD from dialing any telephone number before 8:30 a.m. or after 9:00 p.m., except where the ADAD is designed to deliver a message in response to an emergency situation, and the user obtains approval from any public emergency service agency or telephone subscriber prior to using the ADAD to dial such agency or subscriber.

Before ((an)) any ADAD, other than an ADAD designed to deliver a message in response to an emergency situation, may be operated while connected to the telephone network, the potential user of such device shall notify the telephone utility in writing of the intended use of the ADAD equipment. The written notice shall contain a statement of the calendar days and clock hours during which the ADAD(s) will be used and include an estimate of the expected traffic volume in terms of message attempts per hour and average length of completed message. In addition, each utility shall maintain records of such ADAD equipment connected to their facilities

and provide the commission with quarterly reports detailing the individual business, group, or organization operating such ADAD, their address and associated telephone number.

The telephone utility shall review the statement of intended use of ADAD equipment to determine whether there is a reasonable probability that use of the equipment will cause overload of the utility's facilities. If the utility finds that a reasonable probability exists that the ADAD operation will overload its network, the utility may refuse to provide connections for the ADAD(s) or provide them subject to conditions necessary to prevent an overload. If, after service has been established, it is determined that the volume of calling originated by the ADAD is degrading the service furnished to others, the utility may suspend or terminate the service after five days' notice to the subscriber. If use of the ADAD creates overloading in a telephone company switching office, the utility may suspend or terminate the service with no prior notice.

The telephone subscriber who uses ADAD equipment shall notify the utility in writing within thirty days of any changes in the ADAD operation which result in either an increase or decrease in traffic volume.

Except for an ADAD designed to deliver a message in response to an emergency situation, no ADAD shall be connected to the network unless the subscriber furnishes the utility with a written certification that the equipment can effectively preclude calls to unlisted telephone numbers, to designated public service emergency numbers, or to any number or series of telephone numbers on a list of telephone subscribers who may be in the future designated by the utility, by regulation or by statute, as subscribers who are not to receive ADAD calls.

The telephone utility ((~~may~~)) shall suspend or terminate the telephone service of any subscriber who uses an ADAD in violation of the provisions of this rule provided that the subscriber is given ((~~five~~)) eight business days' notice or with no prior notice if use of the ADAD creates overloading in a telephone company switching office.

WSR 84-09-055
PROPOSED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
 [Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loan, intends to adopt, amend, or repeal rules concerning a minimum nonrefundable fee of \$5,000 payable with the acquisition application described in RCW 33.24.360. In addition direct costs involving travel and lodging of the supervisor or his staff and legal expense billed directly to the division will be paid by the acquirers;

that the agency will at 2:30 p.m., Thursday, May 24, 1984, in the Supervisor's Office, 217-C General Administration Building, Olympia, 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 33.24.360.

Dated: April 16, 1984
 By: R. H. "Bob" Lewis
 Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

The supervisor has determined the expense incurred by the Division of Savings and Loan Associations in processing and the attendant investigation is borne, pro rata, by all associations and credit unions, whereas such costs would properly be paid by the beneficiaries of the application.

This regulation is drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan Association, 217-C General Administration Building, Olympia, Washington 98504, telephone: (206) 753-5597.

The supervisor and his staff will be responsible for enforcement of this regulation.

NEW SECTION

WAC 419-14-120 ACQUISITION APPLICATION FEE. RCW 33.28.020 requires the supervisor to collect from each association a fee to cover the actual cost of supervision.

To maintain fairness to all associations the acquiring party(ies) will defray the costs involving the supervisor and his staff as follows:

A minimum non-refundable fee of \$5,000 payable with the acquisition application described in RCW 33.24.360. In addition direct costs involving travel and lodging of the supervisor or his staff and legal expense billed directly to the division will be paid by the acquirers.

WSR 84-09-056
PROPOSED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
 [Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loan, intends to adopt, amend, or repeal rules concerning fees for savings and loan associations, amending WAC 419-14-030, 419-14-060 and adding new section WAC 419-14-075;

that the agency will at 2:30 p.m., Thursday, May 24, 1984, in the Supervisor's Office, 217-C General Administration Building, Olympia, 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 33.08.110.

Dated: April 16, 1984
By: R. H. "Bob" Lewis
Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 33.08.110 establishes authority for the supervisor to collect from each savings and loan association a sum adequate to cover investigation costs of a branch application. This regulation establishes the methods of collecting those costs.

This regulation drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504.

The supervisor will be responsible for enforcement of this regulation.

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-030 HOURLY CHARGE FOR EXAMINATIONS. The hourly charge for hours spent by personnel of the division of savings and loan in conducting examinations shall be assessed as follows:

- (1) For division personnel classified as examiner I, \$16.88 per hour;
- (2) For division personnel classified as examiner II, \$21.88 per hour;
- ((and))
- (3) For division personnel classified as examiner III or above, \$24.75 per hour;
- (4) For division personnel classified as examiner IV or above, \$30.00 per hour.

In addition to the hourly examination fee, foreign associations doing business in the state of Washington will defray the costs of travel and per diem paid to division personnel in examinations performed outside the state of Washington.

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-060 BRANCH APPLICATION FEE—DOMESTIC ASSOCIATIONS. The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of an association shall be five hundred dollars. In the event the actual costs of the investigation with respect to a particular application are less than the amount of the fee, such difference between the fee and the actual cost submitted shall be refunded, provided that in no event shall more than three hundred fifty dollars be refunded. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

NEW SECTION

WAC 419-14-075 BRANCH APPLICATION FEE—FOREIGN ASSOCIATIONS. The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of a foreign association in this state shall be two thousand five hundred dollars, nonrefundable. In the event the actual costs of the investigation with respect to a particular application exceed the amount of the fee, such difference between the fee and the actual costs shall be paid by the applicant. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

WSR 84-09-057
EMERGENCY RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Order 84-1—Filed April 18, 1984]

I, R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, do promulgate and adopt at Olympia, Washington, the annexed rules relating to loans made by state chartered savings and loan associations.

I, R. H. "Bob" Lewis, Supervisor, Savings and Loan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is WAC 419-14-070 meets the requirements of RCW 33.12.060(2)(f), as amended by section 25, chapter 3, Laws of 1982, that the supervisor establish by rule the maximum amount of loans which may be made by a state chartered savings and loan association to any one director, officer or employee thereof. Failure to adopt this regulation on an emergency basis would prevent state chartered savings and loan associations from making these types of loans on an equal basis with federally chartered institutions. WAC 419-14-085 meets the statutory requirement of RCW 33.24.010 which requires supervisory approval for loans to one borrower in excess of 2 1/2% of an association's assets on the condition that those loans do not exceed 10% of the association's withdrawable accounts or the association's net worth whichever is the less. The proposed conditions are the same conditions imposed on federal associations. Failure to adopt this rule on an emergency basis would prevent state chartered savings and loan associations from making loans on the same basis as federally chartered associations thereby placing them at a competitive disadvantage vis-a-vis other financial institutions. This rule is being readopted on an emergency basis to provide sufficient time to file a permanent rule since the filing of that rule was delayed due to an administrative oversight.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 33.12.060(2)(f) as to WAC 419-14-070, and RCW 33.24.010 as to WAC 419-14-085, and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 16, 1984.

By R. H. "Bob" Lewis
Supervisor

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-070 LOANS TO DIRECTORS, OFFICERS, OR EMPLOYEES MAXIMUM

AMOUNT. *The total value of loans made or obligations acquired under the authority of RCW 33.12.060 (2)(f) for any director, officer, or employee of an association shall not exceed twenty-five thousand dollars, unless all applicable regulations of the Federal Savings and Loan Insurance Corporation have been complied with, in which case loans not in excess of one hundred thousand dollars total may be made. Loans in amounts larger than one hundred thousand dollars may be made only with the prior written approval of the supervisor has been obtained in accordance with the provisions of this section.*

Requests to the supervisor for permission to exceed the maximum loan limit shall be made at least ten days in advance of the date upon which it is anticipated that funds will be disbursed, if the loan is approved. Such requests must be accompanied by a certified copy of the authorizing resolution, which shall set forth with specificity the reasons that the board of directors believes that exceeding the loan limitation established in this section is in the best interest of the association in each instance. The authorizing resolution shall also set forth the directors' evaluation of the quality of the security for the loan, and the ability of the debtor to repay the loan in accordance with its terms.

Reviser's note: RCW 34.04.058 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.

NEW SECTION

WAC 419-14-085 LOANS TO ONE BORROWER. *RCW 33.24.010 provides that an association may not invest more than two and one-half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. The supervisor hereby gives written approval for any state chartered association to make a loan to any one borrower in an amount which, taken together with all other outstanding loans and obligation to the same borrower, does not exceed either ten percent of the institution's withdrawable accounts, or the association's net worth, whichever is less.*

"One borrower" is defined as (a) any person or entity that is, or that upon the making of a loan will become, obligor on a loan; (b) Nominees of such obligor; (c) all persons trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (d) if such obligor is a trust partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor, and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due unpaid, less repayments and participating interests sold and exclusive of

any loan on the security of such institution's savings accounts or real estate, the title to which has been conveyed to a bona fide purchaser of such real estate.

WSR 84-09-058
ADOPTED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
 [Order 84-1—Filed April 18, 1984]

I, R. H. "Bob" Lewis, Supervisor of Savings and Loan, do promulgate and adopt at Olympia, Washington, the annexed rules relating to loans made by state chartered savings and loan associations.

This action is taken pursuant to Notice No. WSR 84-03-043 filed with the code reviser on January 18, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 33.12.060(2)(f) as to WAC 419-14-070, and RCW 33-24.010 as to WAC 419-14-085, and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 16, 1984.

By R. H. "Bob" Lewis
 Supervisor

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-070 LOANS TO DIRECTORS, OFFICERS, OR EMPLOYEES MAXIMUM AMOUNT. *The total value of loans made or obligations acquired under the authority of RCW 33.12.060 (2)(f) for any director, officer, or employee of an association shall not exceed twenty-five thousand dollars, unless all applicable regulations of the Federal Savings and Loan Insurance Corporation have been complied with, in which case loans not in excess of one hundred thousand dollars total may be made. Loans in amounts larger than one hundred thousand dollars may be made only with the prior written approval of the supervisor has been obtained in accordance with the provisions of this section.*

Requests to the supervisor for permission to exceed the maximum loan limit shall be made at least ten days in advance of the date upon which it is anticipated that funds will be disbursed, if the loan is approved. Such requests must be accompanied by a certified copy of the authorizing resolution, which shall set forth with specificity the reasons that the board of directors believes that exceeding the loan limitation established in this section is in the best interest of the association in each instance. The authorizing resolution shall also set forth the directors' evaluation of the quality of the security for the

loan, and the ability of the debtor to repay the loan in accordance with its terms.

Reviser's note: RCW 34.04.058 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.

NEW SECTION

WAC 419-14-085 LOANS TO ONE BORROWER. RCW 33.24.010 provides that an association may not invest more than two and one-half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. The supervisor hereby gives written approval for any state chartered association to make a loan to any one borrower in an amount which, taken together with all other outstanding loans and obligation to the same borrower, does not exceed either ten percent of the institution's withdrawable accounts, or the association's net worth, whichever is less.

"One borrower" is defined as (a) any person or entity that is, or that upon the making of a loan will become, obligor on a loan; (b) Nominees of such obligor; (c) all persons trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock, and (d) if such obligor is a trust partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning ten percent of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning ten percent or more of the capital stock of such obligor; and the term "total balances of all outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due unpaid, less repayments and participating interests sold and exclusive of any loan on the security of such institution's savings accounts or real estate, the title to which has been conveyed to a bona fide purchaser of such real estate.

WSR 84-09-059
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning establishing tolerances for the chemical ethylene dibromide, WAC 16-228-340;

that the agency will at 1:00 p.m., Thursday, May 24, 1984, in the Large Conference Room, General Administration Building, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984.

The authority under which these rules are proposed is chapters 17.21 and 69.04 RCW.

Dated: April 18, 1984
By: James E. Wommack
Assistant Director

STATEMENT OF PURPOSE

Title: Tolerances for chemical ethylene dibromide.

Description of Purpose: To establish tolerances for ethylene dibromide in certain grain and other foods.

Statutory Authority: Chapters 17.21 and 69.04 RCW.

Summary of Rule: The rule sets tolerances of chemical in certain food stuffs.

Agency Personnel to Contact: Verne Hedlund, Chief, Food Inspection Section, Dairy and Food Division, Department of Agriculture, Olympia, WA, Mailstop: GG-11, Phone: 753-5042.

These rules are proposed by the Department of Agriculture.

Agency Comments: None.

These rules are not necessary as a result of federal law, or federal or state court action.

Small Business Economic Impact: None.

NEW SECTION

WAC 16-228-340 ESTABLISHING TOLERANCES FOR THE CHEMICAL ETHYLENE DIBROMIDE (EDB) As recommended by the Environmental Protection Agency the following tolerances have been established for the chemical ethylene dibromide and shall not exceed these levels in the state of Washington:

- (1) Unprocessed grain and grain-related products for human consumption - not to exceed nine hundred parts per billion;
- (2) Products requiring cooking, i.e., cereals, flour, cake mixes, etc. - not to exceed one hundred fifty parts per billion;
- (3) Ready to eat products, i.e., snack food, bread, etc. - not to exceed thirty parts per billion;
- (4) Citrus fruit and papayas:
 - (a) Whole fruit - not to exceed two hundred fifty parts per billion;
 - (b) Edible pulp of whole fruit - not to exceed thirty parts per billion.

WSR 84-09-060
EMERGENCY RULES
STATE EMPLOYEES
INSURANCE BOARD

[Resolution No. 4-84—Filed April 18, 1984]

Be it resolved by the State Employees Insurance Board, acting at the Department of Transportation, Materials Lab Building, Tumwater, Washington, that it does adopt the annexed rules relating to:

New	WAC 182-08-195	Retroactive employer and employee contributions restricted.
Rep	WAC 182-08-140	New dependents' life coverage after enrollment.
Rep	WAC 182-08-150	Reduction or cancellation of optional insurance coverages.

We, the State Employees Insurance Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is early effective date is needed to implement the changes on a timely basis.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the State Employees Insurance Board as authorized in chapter 41.05 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 13, 1984.

By C. H. Shay
Group Insurance Analyst

NEW SECTION

WAC 182-08-195 RETROACTIVE EMPLOYER AND EMPLOYEE CONTRIBUTIONS RESTRICTED. Withdrawals from the SEIB revolving fund will not be allowed without written approval of the trustee or his designee. Withholding of previously paid employee or employer contribution from transmittals will be similarly restricted.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 182-08-140 NEW DEPENDENTS LIFE COVERAGE AFTER ENROLLMENT.

(2) WAC 182-08-150 REDUCTION OR CANCELLATION OF OPTIONAL INSURANCE COVERAGES.

WSR 84-09-061
PROPOSED RULES
SEATTLE COMMUNITY
COLLEGE DISTRICT
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Seattle Community College District intends to adopt, amend, or repeal rules concerning student publications, WAC 132F-120-060;

that the institution will at 2:00 p.m., Wednesday, May 23, 1984, in the Seattle Community College District Board Room, 300 Elliott Avenue West, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 4, 1984.

The authority under which these rules are proposed is chapters 28B.50 and 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 23, 1984.

Dated: April 16, 1984
By: Donald G. Phelps
Chancellor

STATEMENT OF PURPOSE

Title and Number of Rule Chapters: WAC 132F-120-060 Student publications.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute that Rule is Intended to Implement: Not applicable.

Summary of the Rule: This rule provides guidelines for student publications at Seattle Community College District VI. It includes establishing composition of the in-house board of publications, the body empowered with the regulations set forth within the student publications guidelines.

Reasons Supporting Proposed Action: The proposed changes will update current operating policy. In addition, the proposed changes will update and correct terminology and titles used at the district.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Roy Flores, Dean of Students, North Seattle Community College, 9600 College Way North, Seattle, WA 98103, (206) 634-4439; Charles Mitchell, Dean of Students, Seattle Central Community College, 1701 Broadway, Seattle, WA 98112, (206) 587-6976; and Robert Logue, Dean of Students, South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106, (206) 764-5315.

Name of the Person or Organization Whether Private, Public or Governmental, that is Proposing the Change: Seattle Community College District VI.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not applicable.

AMENDATORY SECTION (Amending Order 37, filed 10/4/78)

~~WAC 132F-120-060 STUDENT PUBLICATIONS. ((†) Student newspapers are published by the designated student governing body for the purpose of promoting free and responsible discussion of campus and community issues. Guidelines for the publication of student newspapers shall be published college regulations and the code of newspaper ethics as adopted by the American Society of Newspaper Editors and state and federal laws regarding libel and obscenity.~~

~~(2) The designated student governing body shall establish a board of publications composed of student, faculty, and administration representatives who shall serve as publishers for all student publications.~~

~~(3) Student newspapers shall be free of censorship and advance approval of copy.~~

~~(4) Its editors shall be free to develop their own editorial policies within the guidelines established by the board of publications.~~

~~(5) The editors of student newspapers shall be protected from arbitrary suspension and removal because of student, faculty, administrative or community disapproval of editorial policy or content.~~

~~(6) The editors shall be subject to removal only upon violation of the code of newspaper ethics as interpreted by the guidelines as adopted by the board of publications or for violations of laws. The decision for removal is subject to review by the campus president:)) (1) A board of publications (the "Board") shall be established, composed of two-thirds students, one-third faculty/staff/administrators who shall have the powers set forth in these regulations, and a non-voting faculty member.~~

~~a. The designated dean coordinates the establishment of the board.~~

b. The faculty, staff, and administration members shall be appointed to the Board by the campus president.

c. The student members shall be appointed by the recognized student government organization on each campus.

d. The chair shall be elected annually by the board of publications from its own membership.

(2) The student newspaper exists for the purposes of providing free and responsible discussion of campus and community issues, and of providing educational experience for the newspaper's staff.

(3) The board of publications on each campus shall develop and adhere to its own organizational policies and procedures. The Board shall further develop written guidelines for the publication of student newspapers consistent with limitations provided in District VI Policies and Procedures, and state and federal laws. Such organizational policies and procedures and newspaper guidelines shall be adopted by the board of publications after review by the designated student governmental organization and the designated dean. Those written documents adopted by the board of publications shall be filed with the student governmental organization, the designated dean, and the student newspaper on each campus.

(4) Student newspapers shall be free of censorship and advance approval of copy by the board, the college administration, the faculty advisor, or any other person or entity.

(5) The editor shall be subject to removal by the Board before the end of his/her term of appointment only for the following grounds:

a. Publishing unprivileged libel or obscenity as defined by the United States Supreme Court, or for publishing material that materially and substantially interferes with or disrupts school work or discipline. Interference and disruption are defined as student rioting; unlawful seizures of property; destruction of property; or widespread boisterous conduct.

b. Work-related misconduct or neglect of duty. The exercise of constitutionally protected rights shall not constitute such work-related misconduct or neglect of duty. Without limitation, none of the following shall constitute such work-related misconduct or neglect of duty: expressions of editorial opinion or policy; the content or manner of presentation of published material; comments or responses to published material; or decisions whether or not to publish material. Work-related misconduct or neglect of duty may include, without limitation, the failure to publish in a timely manner or failure to attain a level of technical quality reasonably expected of a college newspaper.

(6) Failure to renew an editor's term cannot be based on the publication of constitutionally protected expression.

(7) Removal procedure

a. An editor shall have twenty days advance notice of the effective date of his/her removal. The notice of dismissal shall contain a short and plain statement of the matters asserted concerning the removal of the editor, and reference to that portion of (5) which allegedly has been violated.

b. The editor may request in writing within seven days of his/her receipt of the notice of removal that the board convene for a hearing to determine whether he/she has violated (5). The hearing, if requested, must be held not less than seven nor more than 10 days from the date of the request, and the editor shall receive seven days notice of the date of the hearing. Not less than three days before the date of the hearing, both parties shall exchange a list of the documents, witnesses and other evidence to be presented at the hearing, along with a brief statement of the facts to which each witness is expected to testify. The decision of the board shall be rendered within three days of the conclusion of the hearing. The editor may be suspended with pay during pendency of the hearing and issuance of the board's decision.

c. The editor shall be entitled to present arguments, documents, and witnesses on his/her behalf, to confront and cross-examine the witnesses against him/her, to be represented by counsel, and to receive a written report of the results and findings of the hearing.

d. If it is the decision of the Board of Publications that the editor should be removed, the editor may request within seven days of his/her receipt of that decision that the matter be reviewed by the college president. The scope of the review of the college president shall only include questions concerning the adherence by the board of publications to the dismissal procedure. The president's decision to affirm or reverse the board's decision to remove the editor shall be issued in writing within 30 days from the date of the request for his/her review.

e. Service of any notice or request provided for in this section shall be effective the date of delivery, provided that no request for a hearing or appeal shall be deemed untimely if it is properly mailed postmarked within the prescribed time.

f. All hearings shall be held during the course of a regular academic quarter in which the editor is enrolled as a student, subject to the notice provisions provided above.

g. Any deadline provided in this section may be changed or extended by mutual agreement of the editor and the board.

(8) These procedures shall not apply to student newspapers published as an integral part of a course of journalism instruction for which academic credit is provided.

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

WSR 84-09-062
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning near beer, repealing WAC 314-12-160; that the agency will at 9:30 a.m., Wednesday, May 23, 1984, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.08.010(17).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Dated: April 18, 1984
 By: Robert D. Hannah
 Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-160 Near beer (rule 15).

Description of Purpose: To repeal the current board rule relating to near beer. With the repeal of the rule (which is being done this 18th day of April, 1984 by emergency rule) the sale, service, distribution and consumption of malt beverages, containing not more than one-half of one percent of alcohol by volume, will no longer be regulated by the board.

Statutory Rule-Making Authority: RCW 66.08.030 and 66.98.070.

Statutes Implemented by the Rule: RCW 66.08.010(17).

Summary of Rule: The effect of the repeal would be to deregulate near beer. It would terminate any interest or jurisdiction of the board over the distribution, sale, labeling, advertising, service or consumption of such products, except insofar as the provisions of RCW 66.28.010 (tied-house statute) might be applicable.

Reason Supporting Proposed Action: Malt beverages containing one-half of one percent alcohol or less is "near beer." These products have been regulated by the board continuously since approximately 1938. The

present rule provides for unique labeling requirements; special recordkeeping; separation of the product from regular beers in retail premises; and that all trafficking in near beer must be done in conformity with the laws and regulations applicable to the sales of alcoholic beverages. In recent years there has been growing interest in alternatives to alcoholic beverages, i.e. products similar to beer or wine but without the normal alcohol content. The existing liquor code being applicable to these products has been viewed as an impediment to their being marketed within the state. During the last session of the legislature, SSB No. 4758 (chapter 78, Laws of 1984) was passed and subsequently signed into law (March 1, 1984). This measure provided for the exemption from the liquor code of confections and/or food products containing alcohol in the amount of one percent or less of the weight of the total product. It also redefined wine and exempted from the definition of wine that containing less than one-half of one percent alcohol by volume. Through passage of chapter 78, the legislative established a new public policy, i.e. these products are exempt from the liquor code and should not be regulated as alcoholic beverages. SSB No. 4758 contained an emergency clause and became law immediately when signed by the governor. Based on these circumstances, the board on April 18, 1984, repealed WAC 314-12-160 as an emergency matter. During consideration of this bill the existing board rule governing near beer was discussed, and it was stated it would be desirable for the agency to amend the rule to conform with the provisions of statute applying to similar products. Washington is one of only three states regulating near beer in any manner similar to alcoholic beverages. Furthermore, Washington is apparently the only state imposing unique labeling requirements.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Jim Halstrom, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, Washington 98504, Telephone: (206) 753-6282; and Bob Obenland, Chief Enforcement Officer, Capital Plaza Building, Olympia, Washington 98504, Telephone: (206) 753-6270.

Person or Organization Proposing Rule: Although the board has had under recent consideration a proposal by Charles Jacquin et Cie., Inc. and Pabst Brewing Company, the proposal for repeal was proposed by the Washington State Liquor Control Board.

Agency Comments: It no longer appears necessary or prudent to regulate "near beer."

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for existing businesses is estimated to be zero.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-12-160 NEAR BEER.

WSR 84-09-063 EMERGENCY RULES LIQUOR CONTROL BOARD

[Order 143, Resolution No. 152—Filed April 18, 1984]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to near beer, repealing WAC 314-12-160.

We, the Washington State Liquor Control Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is there is a growing interest in alternatives to alcoholic beverages, i.e. products similar to beer or wine, but with very low or no alcoholic content. Existing law and the board's rules with respect to near beer have been an impediment to their being broadly marketed in this state. Chapter 78, Laws of 1984 (SSB 4758) established a new public policy, i.e. these products (low alcohol wine) should not be regulated as alcoholic beverages. The new law was enacted with an emergency clause and became effective on March 1, 1984. In the board's judgment the public interest requires that similar treatment be accorded to products formerly classified or characterized as near beer.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030, 66.98.070 and 34.04.030.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By Robert D. Hannah
Chairman

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-12-160 NEAR BEER.

WSR 84-09-064 PROPOSED RULES GAMBLING COMMISSION

[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Gambling Commission intends to adopt, amend, or repeal rules concerning WAC 230-04-065, 230-04-125, 230-04-193, 230-04-197, 230-04-201, 230-04-290, 230-04-300, 230-04-310, 230-04-320, 230-04-325, 230-04-340, 230-04-350, 230-25-030, 230-25-065, 230-25-200, 230-25-260, 230-30-015, 230-30-016, 230-30-030, 230-30-060, 230-30-103, 230-40-331 and 230-42-010;

that the agency will at 10:00 a.m., Friday, June 8, 1984, in the City Hall, Council Chambers, 8th and Plum, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 9.46.115 and 9.46.070(5), (7), (9), (11), (14) and (19).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 8, 1984.

Dated: April 18, 1984

By: Elwin Hart
Deputy Director

STATEMENT OF PURPOSE

Title: Amendment to WAC 230-04-065 Lesser requirements for applicants for certain classes of licenses to operate bingo, raffles, amusement games and fund raising events; amendment to WAC 230-04-125 Distributor's representative license may be reissued when changing distributors; amendment to WAC 230-04-193 Persons may obtain an annual permit to conduct bingo at agricultural fairs only; amendment to WAC 230-04-197 Permits for raffles on separate premises; amendment to WAC 230-04-201 Fees; amendment to WAC 230-04-290 Loss or destruction of licenses(;) or permits(;~~etc.—Fees~~); amendment to WAC 230-04-300 One annual change of premises allowed for bingo; amendment to WAC 230-04-310 Change of name; amendment to WAC 230-04-320 Change of location; amendment to WAC 230-04-325 Cancellation, change of date or location of fund raising event; amendment to WAC 230-04-340 Transfer of licenses—Conditions; amendment to WAC 230-04-350 Death or incapacity of licensee; amendment to WAC 230-25-030 Fund raising event—~~((Five))~~ Ten thousand dollars annual net receipt maximum; new section WAC 230-25-065 Licensees may join together to conduct a fund raising event; amendment to WAC 230-25-200 Bingo at fund raising event; amendment to WAC 230-25-260 Bona fide member of organization conducting fund raising event; amendment to WAC 230-30-015 Identification and inspection services stamp(s) and substitute flares; amendment to WAC 230-30-016 Replacement of commission identification stamps on pull tab dispensing devices; amendment to WAC 230-30-030 Punch board and pull tab special inspection; amendment to WAC 230-30-060 Punch board restrictions; amendment to WAC 230-30-103 Standards for construction of pull tabs; amendment to WAC 230-40-331 Bona fide nonprofit or charitable organizations—Members only to play social card and dice games—

Exception; and repeal of WAC 230-42-010 Tax on coin operated gambling device.

Description of Purpose: Adopt revised license fee schedule to (1) replace revenue lost by repeal of RCW 9.46.115 (special tax on coin-operated gambling devices), and (2) to increase revenues to meet increased level of authorized expenditures for 1983-85 biennium; consolidate all individual fees into single fee schedule; publish rules to administratively implement other changes made in chapter 9.46 RCW by 1984 legislature; and to adopt more definitive standards for pull tab construction.

Statutory Authority: RCW 9.46.115 and 9.46.070(5), (7), (9), (11), (14) and (19).

Summary of Proposed Rules and Reasons Supporting Action: Amendment to WAC 230-04-065, removes description of license classes now contained in WAC 230-04-201; amendment to WAC 230-04-125, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-193, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-197, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-201, revises license fees to replace revenue lost by repeal of RCW 9.46.115 (special tax on coin-operated gambling devices) and to increase other revenues to meet increased level of authorized expenditures for 1983-85 biennium. Miscellaneous fees also consolidated into single fee schedule from individual rules; amendment to WAC 230-04-290, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-300, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-310, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-320, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-325, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-340, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-04-350, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-25-030, raises annual limit on fund raising event from five to ten thousand dollars pursuant to EHB 1149 passed by 1984 legislature; new section WAC 230-25-065, provides administrative instructions for two or more licensees to conduct joint fund raising events as authorized by EHB 1149 passed by 1984 legislature; amendment to WAC 230-25-200, deletes obsolete references to repealed rules; amendment to WAC 230-25-260, redefines member of nonprofit organization pursuant to EHB 1149 passed by 1984 legislature; amendment to WAC 230-

30-015, redesignates identification stamp as identification and inspection services stamp and increases cost from ten to fifty cents per stamp; amendment to WAC 230-30-016, removes instructions for payment of miscellaneous fees from individual rules for consolidation into WAC 230-04-201; amendment to WAC 230-30-030, clarifies purpose of punch board and pull tab special inspection and establishes fees to cover cost of program; amendment to WAC 230-30-060, prohibits patterns in punchboard manufacture, assembly, or packaging; amendment to WAC 230-30-103, provides improved standards for construction of pull tabs; amendment to WAC 230-40-331, authorizes members of a fraternal club to play social cards and dice in other chapters of the same organization pursuant to SB 4300 passed by 1984 legislature; and repeal of WAC 230-42-010, repeals special tax on coin operated gambling devices pursuant to SB 4286 passed by 1984 legislature.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, and Elwin Hart, Deputy Director, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, 234-0865 scan, 753-0865 comm.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments and new rules. At first public hearing, several licensees opposed WAC 230-04-201 Fees based on amount of fee increase proposed for their particular type of license. Several licensees supported increases as justifiable.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment. License fee increases are required to replace revenues lost by repeal of RCW 9.46.115 (special tax on coin operated gambling devices) and to increase other revenues to level of authorized expenditures for 1983-85 biennium. License fees have not been increased since July 1981.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be minimal economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules. Proposed increases in license fees are based on enforcement costs for a particular class or type of licensee pursuant to chapter 9.46 RCW.

AMENDATORY SECTION (Amending Order 127, filed 3/2/83)

WAC 230-04-065 LESSER REQUIREMENTS FOR APPLICANTS FOR CERTAIN CLASSES OF LICENSES TO OPERATE BINGO, RAFFLES, AMUSEMENT GAMES AND FUND RAISING EVENTS. Notwithstanding the provisions of WAC 230-04-060, the following provisions shall apply to:

(1) Fund raising events. (All classes)

(2) Bingo. (Classes A and B)

((a) Class A - \$500 or less annual net receipts.

(b) Class B - over \$500 through \$5000 annual net receipts.))

(3) Raffles. (Classes C and D)

((a) Class C - \$500 or less annual net receipts.

(b) Class D - over \$500 but not over \$5000 annual net receipts.))

(4) Amusement games. Those amusement games which are conducted under a Class A, B, or C license on the premises of property owned by a corporation sole or ((property owned)) by a public school

(kindergarten through grade 12), college, or university where the annual net receipts of the licensee from the licensed activity do not exceed \$5000 and where the licensed activity is conducted by a bona fide charitable or nonprofit organization.

(5) ((As to)) For the above categories only, the director may prepare a simplified form which all applicants ((for license for the above categories)) shall submit to the office of the commission in Olympia. The information requested on the simplified application form shall be submitted to the commission by the applicant's highest ranking executive officer. At the minimum, each applicant shall provide the following information on or attached to the application:

(a) Copy of a corporate applicant's articles of incorporation and by-laws; a partnership applicant's articles and partnership agreement; copies of any by-laws and other documents which set out the organizational structure and purposes for which a noncorporate organization applicant was formed and operates; or, if the above are not available, an affidavit of the chief officer or responsible person with the organization setting out the purpose for which the organization exists and operates;

(b) Information as to whether or not a tax exemption letter from the United States Internal Revenue Service has been obtained or denied;

(c) The name, address and date of birth of each employee who will participate in the operation of, and of each person who will participate in the management of, the activity for which the license is sought;

(d) The name, address and date of birth of each person who has any interest in the gambling activity for which the license is sought, the building within or premises upon which the activity will occur or the equipment to be used for such gambling activity;

(e) When information filed with the commission becomes inaccurate in any way, the applicant or licensee shall submit full details of any such change and correct any inaccuracy, together with copies of any new required documents with the commission within 30 days following the change.

(6) Refer to WAC 230-20-400 for certain other exemptions subsequent to issuance of license(s). These exemptions and those referred to in WAC 230-08-015, do not apply to fund raising events.

AMENDATORY SECTION (Amending Order 14, filed 3/27/74)

WAC 230-04-125 DISTRIBUTOR'S REPRESENTATIVE LICENSE MAY BE REISSUED WHEN CHANGING DISTRIBUTORS. In the event that a licensed distributor's representative ceases to represent the distributor under whom his license was granted, the license shall be automatically suspended and he shall return it to the commission forthwith: PROVIDED, That if such person is employed to represent a different distributor within the term otherwise remaining under the license, he may apply to the commission to have his license reissued as a representative of that distributor for such remaining term. The fee for this transfer shall be ((ten dollars)) as required by WAC 230-04-201. The distributor which the distributor's representative seeks to represent shall sign the application for transfer acknowledging that the applicant for transfer will be representing the distributor with the distributor's knowledge and consent.

AMENDATORY SECTION (Amending Order 53, filed 5/25/76)

WAC 230-04-193 PERSONS MAY OBTAIN AN ANNUAL PERMIT TO CONDUCT BINGO AT AGRICULTURAL FAIRS ONLY. (1) An operator of bingo games may apply to the commission for a permit approving that operator to conduct bingo games at licensed agricultural fairs only. Such a permit shall be valid only when such games are conducted under an agreement with a fair holding a bingo license from the commission.

(2) It shall not be necessary for a licensed fair to obtain a permit on behalf of an operator under WAC 230-04-191 when the operator possesses a permit including the applicable event and location which has been obtained under this rule. However, the management of each agricultural fair licensee shall not be relieved from full and concurrent responsibility for the fair and lawful operation of bingo conducted under the authority of its license and any violation by any one of the permittees of any of the provisions of chapter 9.46 RCW, or any amendments thereto, or of the rules of the commission, shall be grounds for the suspension or revocation of the license.

(3) Applications for these annual permits shall be submitted by the operator upon the application forms ((developed therefor)) provided by the commission, and accompanied by the required fee. All information

required by the commission or its staff shall be submitted in accordance with the procedures and subject to the same conditions as an application for a license under these rules. A change in the information furnished to the commission shall be made known to the commission in writing by the owner or chief executive officer of the operator within ten days of the change.

(4) Persons holding these permits who have contracted with a licensee to operate bingo shall notify, in writing, the county sheriff of each county, or the chief of police of each city, in which he will operate these games, of the times and locations at which they will be operated not later than ten days prior to operating any such games in that jurisdiction. The employment records of the permittee shall be made available to such local law enforcement officers upon demand.

~~((5) The fee for each annual permit obtained under this section shall be \$100, which shall be tendered together with the application. The fee is not refundable, irrespective of whether or not a permit is granted or later revoked.))~~

AMENDATORY SECTION (Amending Order 9, filed 12/19/73)

WAC 230-04-197 PERMITS FOR RAFFLES ON SEPARATE PREMISES. A person holding Class "C" through Class "F" licenses to conduct raffles may hold drawings connected with such raffles at a location other than the premises for which the license is issued only after obtaining a permit to do so from the commission in advance of conducting each such raffle.

Application for such permit must be made by the licensee no later than thirty days prior to any promotion or sale of tickets connected with the raffle and no such activity shall be undertaken prior to receipt by the licensee of the permit. Application shall be made upon a form provided by the commission and submitted with the fee required for each such permit. The form shall require, among other things, the following:

(a) The name of the applicant-licensee, the number of its license to conduct raffles and the address for which the license is issued;

(b) The address of the premises upon which it will conduct the drawing for the subject raffle and a list of the name and address of each owner of such premises;

(c) Details of any rental or lease arrangements between the applicant-licensee or any of its members and the owner(s) of the premises upon which the drawing is to be held;

(d) The inclusive dates that the raffle will be conducted and the date the drawing will be held;

(e) If the raffle is being held by a subdivision of the licensee, then the name of the subdivision and an explanation of the subdivision's status as a part of the applicant-licensee;

(f) The name and address of each person who will participate in managing the raffle or is responsible for keeping the financial records of the applicant-licensee with respect to the proceeds of the raffle together with a "personal information form" for each such person if one has not been filed with the commission.

~~((A fee of ten dollars shall be included with each application for each raffle, which shall be in addition to the license fee previously paid.))~~

The permit issued by the commission shall be conspicuously posted and displayed upon the premises at all times during the occasion when the drawing is being conducted.

AMENDATORY SECTION (Amending Order 139, filed 12/12/83)

WAC 230-04-201 FEES. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative ~~((actions))~~ and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

LICENSE TYPE	DEFINITION	SEE
1. AMUSEMENT GAMES	(Fee based on annual net receipts)	
Class A	\$500 or less	\$ ((25)) 35
Class B	\$501 - 1,000	((30)) 50
Class C	\$1,001 - 5,000	((50)) 75
Class D	\$5,001 - 15,000	((200)) 250
Class E	over \$15,000	350
2. BINGO	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 50
Class B	\$ 10,001 to 50,000	150
Class C	\$ 50,001 to 100,000	500
Class D	\$ 100,001 to 300,000	800
Class E	\$ 300,001 to 500,000	1,500
Class F	\$ 500,001 to 1,000,000	3,000
Class G	\$1,000,001 to 1,500,000	4,000
Class H	\$1,500,001 to 2,000,000	5,000
Class I	\$2,000,001 to 2,500,000	6,000
Class J	\$2,500,001 to 3,000,000	7,000
Class K	\$3,000,001 to 3,500,000	8,000
3. BINGO GAME MANAGER	Original Renewal	\$ ((+00)) 150 ((50)) 75
4. CARD GAMES		
Class A	General (Fee to play charged)	\$ 500
Class B	Limited card games - to hearts, rummy, pitch, pinochle, coon-can and/or cribbage - (Fee to play charged)	((+00)) 150
Class C	Tournament only - no more than ten consec. days per tournament	((35)) 50
Class D	General (No fee to play charged)	((35)) 50
Class R	Primarily for recreation (WAC 230-04-199)	((+0)) 25
5. CHANGES NAME LOCATION FRE	(See WAC 230-04-310) (See WAC 230-04-320) (Reno Nite date(s)/time(s))	\$ ((+0)) 25 25

		(See WAC 230-04-325)	((20)) 25
LICENSE CLASS DUPLICATE LICENSE REPLACEMENT IDENTIFICATION STAMPS		(See WAC 230-04-260) New class fee less previous fee paid, plus (See WAC 230-04-290)	((+0)) 25 25
		(See WAC 230-30-016)	25
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6.	FUND RAISING EVENT	One event not more than 24 consec. hrs.	\$ ((200)) 300
	Class ((A-1)) A	Not more than two events - 24 consec. hrs. each	300)
	Class ((B-1)) B	One event not more than 72 consec. hrs.	((300)) 500
	Class C	Additional participant in joint event (not lead organization)	150
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7.	PERMITS Class A Class B	Agricultural Fair/Special Property Bingo One location and event only (See WAC 230-04-191) Annual permit for specified different events and locations (See WAC 230-04-193)	((+0)) 25 ((+00)) 150
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8.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	\$ ((+50))
	Class A	Up to \$50,000	\$ 350
	Class B	\$50,001 to 100,000	700
	Class C	\$100,001 to 300,000	1,500
	Class D	over \$300,000	3,000
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9.	RAFFLES Class C Class D Class E Class F	(Fee based on annual net receipts) \$500 or less \$501 - 5,000 \$5,001 - 15,000 Over \$15,000	\$ ((25)) 50 ((75)) 100 ((300)) 400 ((500)) 600
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10.	SEPARATE PREMISES BINGO RAFFLES	Occasion (See WAC 230-04-300) (See WAC 230-04-197)	\$ ((5)) 25 ((+0)) 25
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11.	SPECIAL FEES INVESTIGATION ((FEES)) IDENTIFICATION AND INSPECTION STAMP	((See WAC 230-04-240)) (See WAC 230-04-240) (See WAC 230-30-015 and WAC 230-30-030)	((Varies))

Table 2. (For commercial stimulant/profit seeking organizations)

LICENSE TYPE	DEFINITION	FEE
1. CARD GAMES Class B	(Fee to play charged) limited card games - to hearts, rummy, pitch, pinochle, coon-can and/or cribbage	\$ ((+00)) 150
Class C	Tournament only, no more than ten consec. days per tournament	((+00)) 150
Class D	General (No fee to play charged)	((35)) 75
Class E	General (Fee to play charged)	
E-1	One table only	((250)) 350
E-2	Up to two tables	((500)) 600
E-3	Up to three tables	((750)) 1,000
E-4	Up to four tables	((1,500)) 2,000
E-5	Up to five tables	((2,000)) 3,000
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2. CHANGES NAME LOCATION BUSINESS CLASSIF. LICENSE CLASS DUPLICATE LICENSE	(See WAC 230-04-310) (See WAC 230-04-320) (Same owners - See WAC 230-04-340(3)) (See WAC 230-04-260) New class fee, less previous fee paid, plus (See WAC 230-04-290)	\$ ((+0)) 25 25 ((35)) 50 ((+0)) 25 25

	<u>REPLACEMENT IDENTIFICATION STAMPS</u>	(See WAC 230-30-016)	25
	<u>LICENSE TRANSFERS</u>	(See WAC 230-04-125, WAC 230-04-340 and WAC 230-04-350)	50
3.	DISTRIBUTOR	<u>Original</u> <u>Renewal</u>	\$((+000)) 2,500 1,250
4.	DISTRIBUTOR'S REPRESENTATIVE	<u>Original</u> <u>Renewal</u>	\$ ((+50)) 200 ((75)) 100
((5-))	<u>LICENSE TRANSFERS</u>	(See conditions in WAC 230-04-340 and WAC 230-04-350))	\$—35
((6-))5.	MANUFACTURER	<u>Original</u> <u>Renewal</u>	\$((+250)) 3,000 1,500
((7-))6.	MANUFACTURER'S REPRESENTATIVE	<u>Original</u> <u>Renewal</u>	\$ ((+50)) 200 ((75)) 100
((8-))7.	PERMITS Class A Class B	Agriculture Fair/Special Property Bingo One location and event only (See WAC 230-04-191) Annual permit for specified different events and locations (See WAC 230-04-193)	\$ ((+0)) 25 ((+00)) 150
((9-))8.	PUBLIC CARD ROOM EMPLOYEE	<u>Original</u> <u>Renewal</u>	\$ ((+00)) 150 ((50)) 75
((+0-))9.	PUNCHBOARDS/ PULL TABS Class A Class B Class C Class D	(Fee based on annual gross receipts) <u>Up to \$50,000</u> <u>\$50,001 to 100,000</u> <u>\$100,001 to 300,000</u> <u>over \$300,000</u>	\$((+50)) \$ 350 700 1,500 3,000
((+1-))10.	SPECIAL FEES INVESTIGATION ((FEES)) IDENTIFICATION AND INSPECTION STAMP	((See WAC 230-04-240)) (See WAC 230-04-240) (See WAC 230-30-015 and WAC 230-30-030)	((Varies))
((+2-))11.	SPECIAL LOCATION AMUSEMENT GAMES Class A Class B Class C Class D Class E	(Fee based on annual net receipts) One event per year lasting no longer than 12 consec. days \$25,000 or less \$25,001 - 100,000 \$100,001 - 500,000 Over \$500,000	\$ 500 500 1,500 3,000 5,000

Reviser's note: RCW 34.04.058 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 Order 85, filed 5/25/78)

WAC 230-04-290 **LOSS OR DESTRUCTION OF LICENSES(;) OR PERMITS((-ETC--FEES)).** Upon the loss or destruction of any license or permit granted by the commission to conduct gambling activities in the state of Washington, application for a duplicate copy of the license or permit must be made to the commission upon a form to be supplied by the commission. ((A notarized)) Such application shall include an affidavit signed by the licensee, chief executive officer of a corporation, or by each of the owners of a profit making business which details the circumstances under which the license was lost or destroyed ((and certifies that such license was, in

fact, lost or destroyed, shall accompany such application:)) The fee for replacement of a license shall be ((ten dollars)) as required by WAC 230-04-201.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 5 [29], filed 12/19/73 [1/23/75])

WAC 230-04-300 **ONE ANNUAL CHANGE OF PREMISES ALLOWED FOR BINGO.** A bona fide charitable or ((bona fide)) nonprofit organization, except agricultural fairs, which has obtained an annual license from the commission to conduct bingo games upon a specified premise may, not more often than once during each annual

period for which it is licensed, make written application to the commission for permission to conduct bingo, not to exceed three consecutive days, and not to exceed ~~((twelve))~~ sixteen consecutive hours ~~((per))~~ each day, at a location other than is authorized under its license.

Such application may be by letter, signed by the chief executive officer of the organization. The letter shall set out the name and address of the location upon which the bingo occasion would be conducted, the desired inclusive dates, the names and addresses of all persons who have an interest of any kind in those premises, the amount of rent, if any, that would be paid for the use of the premises, ~~((and))~~ the basis upon which that rent was computed, and a detailed explanation of why the change of location is being requested.

The application shall be made not less than fifteen calendar days prior to the date of the bingo occasion, and shall be accompanied by the required fee.

If the commission approves, the applicant will be notified by mail and provided with a permit for the event by the commission. The permit shall be prominently displayed upon the premises during the event.

~~((The fee of five dollars shall be charged for processing the application, which shall accompany the written application letter and which shall be retained by the commission whether or not the permit is issued:))~~

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

AMENDATORY SECTION (Amending Order 85, filed 5/25/78)

WAC 230-04-310 CHANGE OF NAME. No licensee shall adopt or make a change in his or her given name or a trade or corporate name without notifying the commission at least thirty days prior to the effective date of such change. Each such change shall be made subject to the approval of the commission. The fee for such adoption or change of name shall be ~~((ten dollars))~~ as required by WAC 230-04-201.

AMENDATORY SECTION (Amending Order 60, filed 9/10/76)

WAC 230-04-320 CHANGE OF LOCATION. No change of location of licensed premises shall be made without the written consent of the commission. The fee for such change will be ~~((twenty-five dollars))~~ as required by WAC 230-04-201: PROVIDED, That persons operating amusement games under a special amusement game license issued pursuant to WAC 230-04-190(2) shall pay no fee for adding to or deleting from the list of locations for which that license was issued.

AMENDATORY SECTION (Amending Order 112, filed 9/15/81)

WAC 230-04-325 CANCELLATION, CHANGE OF DATE OR LOCATION OF FUND RAISING EVENT. A cancellation or a change in date and/or location of a fund raising event as defined in RCW 9.46.020 requires:

(1) For cancellation, the licensee shall notify the commission and the appropriate law enforcement agency in advance of the date upon which the event is scheduled.

(2) For change of date or location, the licensee shall:

(a) Give at least ten days written notice to the commission in advance of the new date or location, together with a signed statement from the chief executive officer that the appropriate law enforcement agency has been notified of the change;

(b) Pay a fee ~~((of twenty dollars))~~ as required by WAC 230-04-201 to the commission for each such date or location change.

(3) For a cancellation or change in date and/or location, the permit form authorizing the event for the specific date or location shall be returned to the commission.

AMENDATORY SECTION (Amending Order 136, filed 9/13/83)

WAC 230-04-340 TRANSFER OF LICENSES—CONDITIONS. Transfers of licenses issued by the commission shall be permitted only under the following circumstances and conditions and those set out in WAC 230-04-350, upon approval by the director or the commission. Otherwise, no transfer of any license issued by the commission shall be permitted.

(1) If the licensee is a corporation, except as provided in subsection (2) below, a change in ownership of stock shall not be deemed a transfer of a license: PROVIDED, That any change in the ownership of any stock in such corporation which results in any person or organization

becoming the owner of a substantial interest therein who was not the owner of a substantial interest immediately preceding the transaction, or which involves ten percent or more of any class of stock, shall be reported to the commission, in writing, within ten days of the close of such transaction, together with such information concerning the person or persons receiving such stock as the director may require.

(2) Where a change in the ownership of the stock of any corporate licensee results in any person, together with any members of his or her immediate family, or results in any organization, becoming the owner of a majority of the voting shares of that corporation who or which had not held a substantial interest in the corporation immediately prior to the change in ownership, gambling licenses held by that corporation shall immediately terminate and be void. In such cases a new license must be obtained from the commission prior to the operation of any gambling activity requiring a license.

(3) Licenses issued to other than bona fide charitable or bona fide nonprofit organizations may be transferred to a business entity wholly owned by the same person or persons who owned the business entity to which the license was originally issued, or by their spouses or children under the age of eighteen and residing at the family home or by others possessing less than a substantial interest in the business to which the license transfer is sought, but only when the licensed activity will be conducted on the same premises as that for which the license was issued.

(4) Transfers will not be permitted when any person owning or holding a substantial interest in any of the entities to which transfer is sought is not qualified to hold a gambling license.

The license or licenses of any corporation in which a person holds or acquires a substantial interest will be revoked when such person is not qualified to hold a gambling license.

The fee for transfer of the license under this rule shall be ~~((35))~~ as required by WAC 230-04-201.

AMENDATORY SECTION (Amending Order 68, filed 4/25/77)

WAC 230-04-350 DEATH OR INCAPACITY OF LICENSEE. In the event of the proven incapacity, death, receivership, bankruptcy or assignment for benefit of creditors of any licensee, upon approval of the director or commission the license may be transferred to a court appointed or court confirmed guardian, executor or administrator, receiver, trustee, or assignee for the benefit of creditors, who may continue to operate the activity under the license, subject to the provisions of chapter 9.46 RCW and the commission's rules.

The person to whom a license is transferred hereunder must be otherwise qualified to hold a gambling license.

The license following transfer shall be subject to regular renewal based upon its original expiration date and shall be void upon that person ceasing to hold such a court appointed, or court confirmed, position.

The fee for transfer of the license under this rule shall be ~~((35))~~ as required by WAC 230-04-201.

AMENDATORY SECTION (Amending Order 124, filed 7/9/82)

WAC 230-25-030 FUND RAISING EVENT—~~((FIVE))~~ TEN THOUSAND DOLLARS ANNUAL NET RECEIPT MAXIMUM.

(1) No licensee authorized to conduct one fund raising event for a period of seventy-two consecutive hours once during a calendar year shall conduct such an event in such a manner as to allow the total of all gross wagers and bets received by the licensee, less the amount of money paid or committed by the licensee as winnings, and for the purchase cost of prizes given as winnings, to exceed ~~((five))~~ ten thousand dollars at the conclusion of such fund raising event.

(2) No licensee authorized to conduct a fund raising event on two occasions during a calendar year for not more than twenty-four consecutive hours each shall conduct such event in any manner so as to allow the total of all gross wagers and bets received by the licensee, less the amount of money paid by the licensee as winnings and for the purchase cost of prizes given as winnings to exceed ~~((five))~~ ten thousand dollars either at the end of any twenty-four consecutive hours upon which such event is conducted, or during the calendar year in which such activity is authorized.

(3) The licensee shall develop and post conspicuously and in detail in the area in which the gambling is taking place a scheme for the distribution to the participants of any receipts beyond those permitted to the organization by this rule, and shall offer all participants at the event an equal opportunity to participate in such scheme. The scheme must provide for such distribution to be money, payable to the winner

by a check. The scheme may provide for such distribution to be of more money than is necessary to ensure ~~[(that)]~~ that the licensee will not retain greater receipts than are permitted by law, but, at minimum, must ensure that the limit is not exceeded.

(4) Winners of all prizes shall be determined during the fund raising event. All cash prizes shall be paid by check, and merchandise prizes distributed to the winners not later than 30 calendar days following the conclusion of the event.

NEW SECTION

WAC 230-25-065 LICENSEES MAY JOIN TOGETHER TO CONDUCT A FUND RAISING EVENT. (1) Organizations holding a license to conduct a fund raising event may join together with other organizations holding such a license to jointly conduct a fund raising event providing that the following conditions are met:

(a) Prior approval to do so is received by each licensee from the Commission for that particular fund raising event;

(b) The method by which the income and expenditures will be received, expended, and apportioned among the licensees conducting the fund raising event is disclosed in writing to the Commission, together with the application for the fund raising event;

(c) A lead organization and an event manager are designated in the application, with the lead organization having the responsibility for the central accounting system required by WAC 230-25-070, the activity report to the commission required by WAC 230-08-260, and compliance with WAC 230-25-030(3) regarding the distribution of receipts beyond those permitted in (2) below.

(d) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended in connection with the joint fund raising event;

(e) Each licensee shall prepare a list of all persons from their organization taking part in the management or operation of the fund raising event. Such list shall be available on the premises and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a bona fide member as specified in RCW 9.46.020(15) and WAC 230-25-260.

(2) The amount of income derived from the joint fund raising event will not exceed the event limit of \$10,000. In addition, each participating organization must comply with annual limits imposed by RCW 9.46.020(23) and WAC 230-25-030. The joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the allowable proceeds for the purposes of determining the number of such events an organization may conduct each year.

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-25-200 BINGO AT FUND RAISING EVENT. (1) Bingo games conducted solely at, and as a part of, a licensed fund raising event authorized under RCW 9.46.030(1) shall be treated as conducted solely pursuant to the license to conduct that fund raising event. All income, prizes awarded, and other expenses shall be accounted for, and reported to the commission, as required for fund raising events and need not be reported, or accounted for, as required for bingo games conducted under a bingo license issued by the commission, or under a different statutory authority: PROVIDED, That the provisions of WAC 230-20-100 shall apply to bingo games conducted at such fund raising events.

Income from bingo games conducted at, and as a part of, such a fund raising event shall be applied only against the maximum income permitted for fund raising events and shall not be applied against other maximum income limits imposed by chapter 9.46 RCW or the commission rules.

(2) All of the commission's rules applicable to the conduct of bingo games, whether general or specific, shall apply to the conduct of bingo games at, or as a part of, a fund raising event, except as provided in subsection (1) above and except the following rules which shall not be applicable:

- (a) WAC 230-20-070;
- (b) WAC 230-20-090;
- (c) ~~(WAC 230-20-150;~~
- ~~(d))~~ WAC 230-20-170;
- ~~((e))~~(d) WAC 230-20-190;
- ~~((f))~~(e) WAC 230-20-220;
- ~~((g))~~(f) WAC ~~((230-20-251))~~ 230-04-061.

AMENDATORY SECTION (Amending Order 83, filed 3/16/78)

WAC 230-25-260 BONA FIDE MEMBER OF ORGANIZATION CONDUCTING FUND RAISING EVENT. (1) For the purposes of eligibility to participate in managing or otherwise assisting in the operation of a fund raising event, a person is a bona fide member of a bona fide charitable or bona fide nonprofit organization only when he or she:

~~((+))~~(a) Has become a member prior to the commencement of the fund raising event and such membership was not dependent upon, or in any way related to the payment of consideration to participate in, any gambling activity; and

~~((2))~~(b) Has ~~((+))~~ (i) been admitted upon written application, only after investigation and ballot, with such action being recorded in the official minutes of a regular meeting, or ~~((+))~~ (ii) has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to the subject fund raising event; and

~~((3))~~(c) Has paid reasonable initiation or admission fees for membership, and/or dues, consistent with the nature and purpose of the organization and with the type of membership obtained and is not in arrears in payment of such fees or dues; and

~~((4))~~(d) Has met all other conditions required by the organization for membership and is in all respects a member in good standing at the time of the subject fund raising event.

~~((A person may also be a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her own organization, or to which his or her own organization is auxiliary, to the extent specifically provided for in RCW 9.46.020(15) defining "member," when he or she meets all of the standards set out above respecting his or her own organization.))~~

(2) Member or bona fide member shall include only members of an organization's specific chapter or unit licensed by the commission or otherwise actively conducting the fund raising event: PROVIDED, That

(a) Members of chapters or local units of a state, regional, or national organization may be considered members of the parent organization for the purpose of a fund raising event conducted by the parent organization, if the rules of the parent organization so permit;

(b) Members of a bona fide auxiliary to a principal organization may be considered members of the principal organization for the purpose of a fund raising event conducted by the principal organization. Members of the principal organization may also be considered members of its auxiliary for the purpose of a fund raising event conducted by the auxiliary; and

(c) Members of any chapter or local unit within the jurisdiction of the next higher level of the parent organization, and members of a bona fide auxiliary to that chapter or unit, may assist any other chapter or local unit of that same organization licensed by the commission in the conduct of a fund raising event.

AMENDATORY SECTION (Amending Order 114, filed 10/15/81)

WAC 230-30-015 IDENTIFICATION AND INSPECTION SERVICES STAMP(S) AND SUBSTITUTE FLARES. (1) No punchboard, series of pull tabs or device for the dispensing of pull tabs shall be sold or purchased within this state or knowingly for use within this state or put out for play unless and until a stamp obtained from the commission containing an identifying number, symbol or combination thereof has been permanently and conspicuously affixed thereto. Once placed, such stamp shall not be removed or tampered with by any person.

With respect to punchboards, the stamp shall be placed so the complete number, together with any symbol appearing thereon, is plainly visible.

With respect to series of pull tabs, the stamps shall be placed upon the dispensing device sold together with, and for that specific series or upon a flare furnished by the manufacturer for that series.

(2) A substitute flare may be utilized on punchboards or pull tabs. Substitute flares shall have the Washington state identification stamp number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare. Such flare shall also show the series number assigned to that series by the manufacturer. If a different flare than the flare so stamped is used for display when the series of pull tabs is put out for play, then the manufacturer's flare, with the manufacturer's series number and with the identification stamp obtained from the commission thereon, shall be attached to the

back of the substitute flare in such a manner as to be clearly visible to a person playing the device.

The responsibility for placing the Washington state identification stamp number on the substitute flare shall rest with the licensed operator.

(3) Stamps shall be placed only on items which conform to all requirements of this state's laws and the rules of this commission, and shall not be placed upon items not authorized for use within this state. Stamps shall be placed only upon those pull tab dispensing devices which have been approved by the commission pursuant to WAC 230-30-095.

(4) Identification stamps (~~may~~) shall be obtained only from the commission, by a licensed manufacturer only, for ~~((ten))~~ fifty cents each. Fees obtained from the sale of such stamps shall be used to offset the cost of the stamps and their distribution as well as the punchboard/pull tab special inspection services set forth in WAC 230-30-030. Such stamps shall be placed by the licensed manufacturer only on items which he, himself, sells or furnishes, and shall not be transferred or furnished to any other person unless already placed upon a punchboard, series of pull tabs or pull tab dispensing device.

(5) No person not a licensed manufacturer shall obtain such stamps from any source, nor shall he affix such a stamp to any punchboard, series of pull tabs or pull tab dispensing device, after November 1, 1974.

AMENDATORY SECTION (Amending Order 48, filed 3/23/76)

WAC 230-30-016 REPLACEMENT OF COMMISSION IDENTIFICATION STAMPS ON PULL TAB DISPENSING DEVICES. (1) Notwithstanding any other provisions in these rules, a licensed operator or distributor of pull tab dispensing devices may obtain a commission identification stamp to replace an identification stamp affixed to a pull tab dispensing device that has become unidentifiable due to wear: PROVIDED, That the operator or distributor furnish to the commission:

(a) The invoice from the operator, distributor or manufacturer for the purchase of the dispensing device in question, or

(b) A complete notarized description of the pull tab dispensing device, serial number, manufacturer, and the commission stamp number previously affixed to the device.

(2) The request for replacement of the commission identification stamp shall be submitted on a form provided by the commission. The fee for replacement of the commission identification stamps shall be ~~((ten dollars))~~ as required by WAC 230-04-201.

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-30-030 PUNCH BOARD AND PULL TAB SPECIAL INSPECTION. (1) In addition to any other authority of the commission or its agents to conduct inspections, the commission or its agents, shall have the authority to select any punch board or pull tab series, whether held by an operator (~~or not~~), distributor, or manufacturer and to examine the quality and/or integrity of the punch board or pull tab series in any manner, including punching out or pulling all chances remaining thereon: PROVIDED, That if altered in any manner and no defect, alternation, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the commission for his cost for the punch board or pull tab series, and the device shall become the property of the commission.

(2) Fees to cover the cost of punchboard and pull tab special inspection services shall be combined with identification stamp fees and collected as prescribed in WAC 230-30-015.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-30-060 PUNCH BOARD RESTRICTIONS. No operator shall display, and no manufacturer shall sell or furnish to any person, any punch board:

(1) To which any key to any winning number, or symbol, exists other than a key which is furnished to the operator, which key designates

the color codes for all chances on that board without regard to whether or not such chances are designated winners.

(2) Which has taped sides, corners, or edges.

(3) Wherein the winning punches or approximate location of any winning punches can be determined in advance of punching the punchboard in a manner or by any device, including, but not limited to, any patterns in manufacture, assembly, packaging or by markings. Winning punches shall be distributed and mixed among all other punches in the punchboard. The punchboard shall be manufactured with special care so as to eliminate any pattern as between punchboards, or portions of punchboards, from which the location or approximate location of the winning punches may be determined.

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-30-103 STANDARDS FOR CONSTRUCTION OF PULL TABS. (1) Pull tabs shall be constructed so that it is impossible to determine the concealed number, symbol, or set of symbols, on the pull tab until it has been dispensed to and opened by the players, by any method or device, including but not limited to, the use of a marking, variance of size, variance in paper fiber, or light.

(2) All pull tabs, except banded and latex covered pull tabs, will be constructed using a two or three ply paper stock construction.

(3) The manufacturer shall conspicuously print on the face or cover sheet the series number and the name of the manufacturer or label or trademark identifying the manufacturer. On banded pull tabs, the series number and the name of the manufacturer or label or trademark identifying the manufacturer shall be printed so both are readily visible prior to opening the pull tab.

(4) The cover sheet shall be color coded when individual series numbers are repeated and may show the consumer how to open the pull tab to determine the symbols or numbers. The cover sheet will contain perforated and/or clean-cut openings centered over the symbols or numbers on the back of the face sheet in such a manner as to allow easy opening by the consumer after purchase of the pull tabs, while at the same time, not permitting pull tabs to be opened prematurely in normal handling. Perforation should exist on both horizontal lines of the opening with either perforated or clean-cut on the vertical or elliptical line where the tab must be grasped for opening after bending the edge of ticket down. On latex covered pull tabs, either the face or back of the pull tab shall be color coded when individual series numbers are repeated and may show the consumer how to remove the latex to determine the symbols or numbers. On banded pull tabs, the paper stock shall be color coded when individual series numbers are repeated.

(5) Pull tabs will be glued or sealed so that it is impossible to determine the covered or concealed numbers, symbol or set of symbols on the pull tab until it has been dispensed to and opened by the player.

(6) Thickness. All pull tabs within a single pull tab series shall be of the same thickness, plus or minus .003 inches.

(7) Length and width.

(a) Vendable pull tabs. Defined as pull tabs that are sold out of mechanical pull tab dispensing devices approved for use in this state by the commission.

(i) Single opening and double sided tabs shall be 1 7/8 inches x 1 inch, plus or minus 1/8 inch.

(ii) Multiple opening tabs shall be 3 3/4 inches x 1 7/8 inches, plus or minus 1/2 inch.

(b) Nonvendable pull tabs. Defined as pull tabs that cannot be sold out of pull tab dispensing devices approved for use in this state by the commission. Nonvendable pull tabs may be dispensed from fishbowls, receptacles, packing boxes or spindles.

(c) Manufacturers may construct nonvendable pull tabs in any size provided the pull tab complies with all other rules of the commission.

(d) All pull tabs within a single pull tab series shall be uniform in length or width and may not vary by more than 1/32 inch, provided that in no case shall winning pull tabs be identifiable by visible variation in dimension.

(8) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights or any other method.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-40-331 BONA FIDE NONPROFIT OR CHARITABLE ORGANIZATIONS—MEMBERS ONLY TO PLAY SOCIAL CARD AND DICE GAMES—EXCEPTION. No bona fide charitable or nonprofit organization shall permit any person other than its members and members of a chapter or unit organized under the same state, regional, or national charter or constitution to play social card games or social dice games on its premises: PROVIDED, That such organizations, when licensed to allow a social card room on its premises may permit no more than twenty-five percent of the persons playing in the licensed card room at any one time to be guests of members.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-42-010 TAX ON COIN OPERATED GAMBLING DEVICE.

WSR 84-09-065
PROPOSED RULES
CORRECTIONS STANDARDS BOARD
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning strip search and body cavity search regulations, amending WAC 289-02-020, 289-16-100 and 289-16-200;

that the agency will at 9:00 a.m. or later, Friday, June 1, 1984, in the Ginni Stevens Hearing Room, Snohomish County Administration Building, 3000 Rockefeller, Everett, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.48.050.

The specific statute these rules are intended to implement is RCW 10.79.060 – 10.79.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1984.

Dated: April 18, 1984
By: Robert W. Cote
Executive Secretary

STATEMENT OF PURPOSE

Title: Amendments to WAC 289-02-020, 289-16-100 and 289-16-200, Strip search and body cavity search regulations.

Description of Purpose: Regular strip- and body-cavity searches.

Statutory Authority: RCW 70.48.050.

Specific Statute Rule is Intended to Implement: RCW 10.79.060 – 10.79.110.

Summary of Rule: Define strip- and body-cavity searches, specify when they may be conducted and specify how they are to be conducted to preserve privacy and dignity.

Reasons Supporting Proposed Action: This regulation is necessary to implement RCW 10.79.060 – 10.79.110, chapter 42, Laws of 1983 1st ex. sess.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: This rule was proposed by the Local Jail Committee of the Corrections Standards Board.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: This regulation is necessary to implement RCW 10.79.060 – 10.79.110, chapter 42, Laws of 1983 1st ex. sess.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: N/A.

AMENDATORY SECTION (Amending Order 5, filed 11/28/79)

WAC 289-02-020 DEFINITIONS. The following words and phrases shall have the meaning indicated whenever used in this title unless a different meaning is specifically indicated.

(1) "Clear floor space" means floor area which is unobstructed by any permanent fixture.

(2) "Contraband" means any substance or item not specifically permitted by a jail administration.

(3) "Commission" or "state jail commission" refers to the commission established pursuant to RCW 70.48.030.

(4) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed and used for housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(5) "Day room" means a multipurpose area separate and distinct from a sleeping area, but adjacent thereto, designed primarily for prisoner leisure time activity exclusive of physical exercise activity.

(6) "Detention facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(7) "Dormitory" means a secured sleeping and living area occupied by more than one prisoner.

(8) "Governing unit" means the city and/or county or any combination of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(9) "Holding facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(10) "Jail" means any holding, detention, or correctional facility as defined herein, or any farm, camp, or work release facility established and operated in conjunction with a jail.

(11) "Living area" includes single cells, dormitories, and day room area.

(12) "Major urban" refers to a county or combination of counties which contains a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

(13) "Medium urban" refers to a county or combination of counties which contains a city having a population equal to or greater than ten

thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

(14) "Public records" include any writing or recording which contains information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or returned by any state or local agency regardless of its physical form or characteristics.

(15) "Rural" refers to a county or combination of counties which does not contain a city having a population of more than ten thousand based on the 1978 projections of the office of financial management.

(16) "Single cell" means a secured sleeping area occupied by only one prisoner, and which is physically and visually separated from other prisoner sleeping areas on three of its four sides.

(17) "Communicable disease" means micro-organisms that are easily transferable from one body to another creating a condition which must be reported to the health department.

(18) "Body cavity search" means the touching or probing of a person's body cavity, whether or not there is actual penetration of the body cavity.

(19) "Body cavity" means the stomach or rectal cavity of a person and the vagina of a female person.

(20) "Strip search" means having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitals, buttocks, anus, or undergarments of a person or breasts of a female person.

(21) "Pat search" means an inspection of a fully-clothed person, using the hands.

AMENDATORY SECTION (Amending Order 13, filed 3/24/81)

WAC 289-16-100 ADMISSIONS. (HOLDING FACILITIES.) (1) Authorized confinement. No prisoner shall be confined without proper legal authority.

(2) Telephone. Each prisoner, within a reasonable period of time after completion of booking, shall be advised of his right to, and be allowed to complete, at least two local or collect calls to persons of his choice who may be able to come to his assistance. If the prisoner chooses not to place the calls allowed, this information shall be noted on the booking form: PROVIDED, That appropriate protection of access to an attorney shall be maintained for prisoners without funds.

(3) Language problems. Reasonable provisions for communication with non-English speaking, handicapped and illiterate prisoners shall be provided.

(4) Booking process. The booking process shall be completed promptly unless extenuating circumstances necessitate delay.

(5) Search/examination, when allowed.

(a) The department of corrections or chief law enforcement officer shall establish and maintain written policies and procedures regarding pat searches, strip searches, and body cavity searches, which shall be consistent with this section.

(b) Each prisoner shall be searched for contraband in such a manner as responsible staff determines is necessary to protect the safety of prisoners, staff, and institutional security. ((Such search shall be conducted in a professional manner which protects the prisoner's dignity to the extent possible.))

(c) No strip search shall be conducted except pursuant to the written policies and procedures required by subsection (5)(a) of this section.

(d) A person eligible for bail, personal recognizance release, or immediate release on any other basis shall not be strip searched until an opportunity for immediate release has been given. Jail policies regarding strip searches may require strip searches of all persons admitted to general population or a living unit within the facility.

(e) No body cavity search shall be conducted except pursuant to a valid search warrant. No search warrant for a body cavity search shall be sought without prior authorization of the ranking shift supervisor, pursuant to the written policies and procedures required by subsection (5)(a) of this section. Before any body cavity search is authorized or conducted, a thorough pat-down search, a thorough electronic metal-detector search, and a thorough clothing search, where appropriate, must be used to search for and seize any evidence of a crime, contraband, fruits of crime, things otherwise criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed. No body cavity search shall be authorized or conducted unless these other methods do not satisfy the safety, security, or evidentiary concerns of the law enforcement agency.

((Strip search. Only an authorized person of the same sex as that of the prisoner shall conduct a strip search. Such search shall be conducted in a private area.)) Search procedures, general. The following provisions shall apply to all strip searches and body cavity searches:

(a) Strip searches and body cavity searches shall be conducted in a professional manner which protects the prisoner's dignity to the extent possible.

(b) A strip search or body cavity search, as well as presearch undressing or postsearch dressing shall occur at a location made private from the observation of persons not physically conducting the search. A strip search or body cavity search shall be performed or observed only by persons of the same sex as the person being searched, except for licensed medical professionals as required by subsection (7)(a) of this section, as permitted by subsection (7)(c) of this section or when necessary to assure the safety of the prisoner or any person conducting the search.

(c) No person may be present or observe during a strip search or body cavity search unless the person is necessary to conduct the search or to ensure the safety of those persons conducting the search except as provided in subsection (7)(c) of this section.

(d) When a strip search or a body cavity search of a prisoner is conducted, it should include a visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries; "health tags"; and body vermin. Less complete searches should include the same checks to the extent possible. WAC 289-16-100(6)(d) ADVISORY.

(e) Persons conducting a strip search or body cavity search shall not touch the person being searched except as reasonably necessary to effectuate the search of the person.

(7) Body cavity searches. The following additional provisions shall apply to body cavity searches:

(a) A body cavity search may be conducted only pursuant to subsection (5)(e) of this section. Any body cavity search shall be performed under sanitary conditions and conducted by a physician, registered nurse, or registered physician's assistant, licensed to practice in this state, who is trained in the proper medical process and the potential health problems associated with a body cavity search.

(b) When a body cavity search is conducted by a licensed medical professional of the opposite sex, an observer of the same sex as the prisoner should be present. WAC 289-16-100(7)(b) ADVISORY.

(c) Nothing in this section prohibits a person upon whom a body cavity search is to be performed from having a readily available person of his or her choosing present at the time the search is conducted. However, the person chosen shall not be a person being held in custody by a law enforcement agency, a person under the age of eighteen, or a person obviously under the influence of alcohol or drugs.

(d) The officer requesting the body cavity search shall prepare and sign a report, which shall include:

- (i) A copy of the warrant and any supporting documents required;
- (ii) The name and sex of all persons conducting or observing the search;
- (iii) The time, date, place, and description of the search; and
- (iv) A statement of the results of the search and a list of any items removed from the person as a result of the search.

The report shall be retained as part of the agency's records.

(8) All physical markings and "health tag" identification should be recorded and made available to the appropriate jail employees and medical professionals responsible for care of prisoner. WAC 289-16-100(8) ADVISORY.

(9) Particularly when force has been used during arrest, all visible injuries should be photographed. WAC 289-16-100(9) ADVISORY.

((7)) (10) Body vermin. Any person with body vermin shall be treated appropriately.

((8)) (11) Medical complaints. Complaints of illness or injury expressed or detected during booking shall be acted upon promptly by the staff person on duty and the prisoner shall be provided medical treatment as necessary.

((9)) (12) Communicable diseases. Prisoners suspected of having a communicable disease detrimental to the health of the other prisoners shall be segregated.

((10)) (13) Prisoner property. At the time of booking, if the prisoner's personal property is taken from him, the authorized jail staff shall record and store such items, and issue the prisoner a receipt.

((11)) (14) Bedding and personal care items. At a reasonable time after completion of booking, each prisoner shall be issued clean bedding, as well as such personal care items as required under WAC 289-20-180.

~~((12))~~ (15) Writing paper. Upon prisoner request, a reasonable supply of writing material shall be furnished.

AMENDATORY SECTION (Amending Order 10, filed 3/18/81)

WAC 289-16-200 ADMISSIONS. (DETENTION AND CORRECTIONAL FACILITIES.) (1) General.

(a) The receiving officer shall determine that the arrest and confinement of each prisoner is being accomplished by a duly authorized officer, and a copy of all documents that purport to legally authorize the confinement shall become part of the prisoner's jail record.

(b) If only one jail facility officer is on duty, the delivery officer shall remain until the prisoner is locked into the confinement area.

(c) The information required by the commission shall be recorded for each prisoner booked into the facility.

(d) Each prisoner, after completion of booking, shall be advised of his right to, and be allowed to complete, at least two local or collect calls to persons of his choice who may be able to come to his assistance. If the prisoner chooses not to place the calls allowed, this information shall be noted on the booking form.

(e) Reasonable provisions for communicating with non-English speaking, handicapped and illiterate prisoners shall be provided concerning the booking process, rules of the facility, privileges and other information pertinent to his rights and well-being while confined.

(f) The booking process shall be completed promptly unless the physical or mental condition of the prisoner necessitates delay.

(2) Search/examination, when allowed.

(a) The department of corrections or chief law enforcement officer shall establish and maintain written policies and procedures regarding pat searches, strip searches and body cavity searches, which shall be consistent with this section.

(b) Each prisoner shall be searched for contraband in such a manner as responsible staff determine is necessary to protect the safety of prisoners, staff, and institutional security. ~~((Such search should be conducted in a private area and in a professional manner which protects the prisoner's dignity to the extent possible.~~

~~(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the prisoner.)~~

(c) No strip search shall be conducted except pursuant to the written policies and procedures required by subsection (2)(a) of this section.

(d) A person eligible for bail, personal recognizance release, or immediate release on any other basis shall not be strip searched until an opportunity for immediate release has been given. Jail policies regarding strip searches may require strip searches of all persons admitted to general population or a living unit within the facility.

(e) No body cavity search shall be conducted except pursuant to a valid search warrant. No search warrant for a body cavity search shall be sought without prior authorization of the ranking shift supervisor, pursuant to the written policies and procedures required by subsection (2)(a) of this section. Before any body cavity search is authorized or conducted, a thorough pat-down search, a thorough electronic metal-detector search, and a thorough clothing search, where appropriate, must be used to search for and seize any evidence of a crime, contraband, fruits of crime, things otherwise criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed. No body cavity search shall be authorized or conducted unless these other methods do not satisfy the safety, security, or evidentiary concerns of the law enforcement agency.

(3) Search procedures, general. The following provisions shall apply to all strip searches and body cavity searches:

(a) Strip searches and body cavity searches shall be conducted in a professional manner which protects the prisoner's dignity to the extent possible.

(b) A strip search or body cavity search, as well as presearch undressing or postsearch dressing shall occur at a location made private from the observation of persons not physically conducting the search. A strip search or body cavity search shall be performed or observed only by persons of the same sex as the person being searched, except for licensed medical professionals as required by subsection (4)(a) of this section, as permitted by subsection (4)(c) of this section or when necessary to assure the safety of the prisoner or any person conducting the search.

(c) No person may be present or observe during a strip search or body cavity search unless the person is necessary to conduct the search or to ensure the safety of those persons conducting the search except as provided in subsection (4)(c) of this section.

(d) When a strip search or a body cavity search of a prisoner is conducted, it should include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars and injuries; "health tags;" and body vermin. Less complete searches should include the same checks to the extent possible. WAC 289-16-200 ~~((2)(e))~~(3)(d) ADVISORY.

(e) Persons conducting a strip search or body cavity search shall not touch the person being searched except as reasonably necessary to effectuate the search of the person.

(4) Body cavity searches. The following additional provisions shall apply to body cavity searches:

(a) A body cavity search may be conducted only pursuant to subsection (2)(e) of this section. Any body cavity search shall be performed under sanitary conditions and conducted by a physician, registered nurse, or registered physician's assistant, licensed to practice in this state, who is trained in the proper medical process and the potential health problems associated with a body cavity search.

(b) When a body cavity search is conducted by a licensed medical professional of the opposite sex, an observer of the same sex as the prisoner should be present. WAC 289-16-200(4)(b) ADVISORY.

(c) Nothing in this section prohibits a person upon whom a body cavity search is to be performed from having a readily available person of his or her choosing present at the time the search is conducted. However, the person chosen shall not be a person being held in custody by a law enforcement agency, a person under eighteen years of age, or a person obviously under the influence of alcohol or drugs.

(d) The officer requesting the body cavity search shall prepare and sign a report, which shall include:

- (i) A copy of the warrant and any supporting documents required;
- (ii) The name and sex of all persons conducting or observing the search;
- (iii) The time, date, place, and description of the search; and
- (iv) A statement of the results of the search and a list of any items removed from the person as a result of the search.

The report shall be retained as part of the agency's records. ~~((f))~~ (5) All physical markings and "health tag" identifications shall be recorded and made available to the appropriate jail employees and the medical professionals responsible for care of the prisoner under chapter 289-20 WAC.

~~((e))~~ (6) Particularly when force has been used during arrest, all visible injuries should be photographed. WAC 289-16-200 ~~((2)(e))~~(6) ADVISORY.

~~((f))~~ (7) Body vermin. Any person with body vermin shall be treated appropriately in accordance with chapter 289-20 WAC.

~~((g))~~ (8) Medical complaints. Complaints of illness or injury expressed or observed during booking shall be checked promptly in accordance with the medical procedure established under WAC 289-20-220.

~~((h))~~ (9) Communicable diseases. A prisoner suspected of having a communicable disease as defined in WAC 289-02-020(17) shall be isolated without delay. Arrangements shall be made for his immediate transfer to a facility equipped to handle the suspected disease, unless the admitting facility can safely and effectively segregate and maintain the medically prescribed treatment.

~~((i))~~ (10) Personal property. The admitting officer shall record and store the prisoner's personal property and issue the prisoner a witnessed receipt.

~~((j))~~ (11) Prisoner weight. Each prisoner's weight should be measured and recorded upon admission. WAC 289-16-200 ~~((f))~~(11) ADVISORY.

~~((k))~~ (12) Photographs and fingerprints.

(a) Front and side-view identification photographs of each prisoner should stipulate the arresting agency or the booking agency and the date of arrest or the date of the photograph. WAC 289-16-200 ~~((f))~~(12)(a) ADVISORY.

(b) Copies of fingerprints shall be forwarded to the proper state and federal authorities.

~~((l))~~ (13) Issuances.

(a) Each jail should establish its own policy on prisoners' use of personal clothing or jail uniforms. WAC 289-16-200 ~~((f))~~(13)(a) ADVISORY.

(b) At a reasonable time after the completion of booking, each prisoner shall be issued clean bedding, as well as such personal care items as required under WAC 289-20-280.

(c) Upon prisoner request, a reasonable supply of writing material shall be furnished.

WSR 84-09-066

PROPOSED RULES

CORRECTIONS STANDARDS BOARD

[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning use of force, amending WAC 289-15-130 and 289-15-230;

that the agency will at 9:00 a.m. or later, Friday, June 1, 1984, in the Ginni Stevens Hearing Room, Snohomish County Administration Building, 3000 Rockefeller, Everett, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.48.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1984.

Dated: April 18, 1984

By: Robert W. Cote

Executive Secretary

STATEMENT OF PURPOSE

Title: Amendments to WAC 289-15-130 and 289-15-230, Use of force.

Description of Purpose: Establish policies on use of force.

Statutory Authority: RCW 70.48.050.

Specific Statute Rule is Intended to Implement: None.

Summary of Rule: Establish criteria for use of deadly force in jails, define choke holds and carotid sleeper holds as deadly force, establish reporting requirements and require immediate medical attention when neck holds used.

Reasons Supporting Proposed Action: To conform deadly force policy to existing law and limit possible abuse in the use of neck holds on prisoners.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: This rule was proposed by the Local Jail Committee of the Corrections Standards Board.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: N/A.

AMENDATORY SECTION (Amending Order 13, filed 3/24/81)

WAC 289-15-130 USE OF FORCE. (HOLDING FACILITIES.) (1) The department of corrections or chief law enforcement officer shall establish and maintain written policies and procedures regarding the use of force and the use of deadly force, which shall be consistent with this section.

(2) Only lawful and reasonable force to the person of a prisoner shall be used.

~~((2) A record of the use of such force shall be made.))~~

(3) Deadly force shall not be used on a prisoner unless the person applying the deadly force reasonably believes that the prisoner poses an immediate threat of death or grievous physical injury to an officer or employee of a jail or any other person, or to prevent the escape of a prisoner arrested for a felony, and the officer reasonably believes that other reasonable and available alternatives would be ineffective.

(4) A written report on the use of force or deadly force shall be made. In the case of deadly force a written report shall be made by each staff member involved or observing the use of such deadly force. The report(s) on the use of deadly force shall be reviewed by the chief law enforcement officer or department of corrections or his designee who shall, if appropriate, investigate the incident further and make a determination whether appropriate, justified or reasonable force was used. Said determination shall be made a matter of record.

(5) The "carotid sleeper hold" means any hold or restraint specifically designed to inhibit blood flow through the carotid arteries of the neck without inhibiting breathing by compression of the airway in the neck and without compression of the larynx or trachea. The carotid sleeper hold shall be considered to be deadly force.

(6) The "choke hold" means any hold or restraint specifically designed to inhibit breathing by compression of the airway in the neck. The choke hold shall be considered to be deadly force.

(7) The carotid sleeper hold generally presents less danger of causing serious injury or death than the choke hold and therefore is generally preferred over the choke hold in situations where such holds are appropriate. Nevertheless use of the choke hold may be necessary and/or unavoidable in certain circumstances.

(8) No neck hold shall be used, except by persons specifically oriented in the use of the carotid sleeper hold, its dangers and in the dangers of the choke hold, by someone specifically trained in the use and dangers of neck holds, with refresher training on at least an annual basis.

(9) Medical attention shall be administered to the prisoner by a qualified medical professional as soon as possible after the use of the carotid sleeper hold or the choke hold.

AMENDATORY SECTION (Amending Order 10, filed 3/18/81)

WAC 289-15-230 USE OF FORCE. (DETENTION AND CORRECTIONAL FACILITY.) (1) The department of corrections or chief law enforcement officer shall establish and maintain written policies and procedures regarding the use of force and the use of deadly force, which shall be consistent with this section.

(2) Only lawful and reasonable force to the person of a prisoner shall be used. ((A record of the use of such force shall be made.))

(3) Deadly force shall not be used on a prisoner unless the person applying the deadly force reasonably believes that the prisoner poses an immediate threat of death or grievous physical injury to an officer or employee of a jail or any other person, or to prevent the escape of a prisoner arrested for a felony, and that the officer reasonably believes that other reasonable and available alternatives would be ineffective.

(4) A written report on the use of such force or deadly force shall be made. In the case of deadly force a written report shall be made by each staff member involved or observing the use of such deadly force. The report(s) shall be reviewed by the chief law enforcement officer or department of corrections or his designee who shall, if appropriate, investigate the incident further and make a determination whether appropriate, justified or reasonable force was used. Said determination shall be made a matter of record.

(5) The "carotid sleeper hold" means any hold or restraint specifically designed to inhibit blood flow through the carotid arteries of the neck without inhibiting breathing by compression of the airway in the neck and without compression of the larynx or trachea. The carotid sleeper hold shall be considered to be deadly force.

(6) The "choke hold" means any hold or restraint specifically designed to inhibit breathing by compression of the airway in the neck. The choke hold shall be considered to be deadly force.

(7) The carotid sleeper hold generally presents less danger of causing serious injury or death than the choke hold and therefore is generally preferred over the choke hold in situations where such holds are appropriate. Nevertheless use of the choke hold may be necessary and/or unavoidable in certain circumstances.

(8) No neck hold shall be used, except by persons specifically oriented in the use of the carotid sleeper hold, its dangers and in the dangers of the choke hold, by someone specifically trained in the use and

dangers of neck holds, with refresher training on at least an annual basis.

(9) Medical attention shall be administered to the prisoner by a qualified medical professional as soon as possible after the use of the carotid sleeper hold or the choke hold.

WSR 84-09-067
PROPOSED RULES
CORRECTIONS STANDARDS BOARD
 [Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning maximum capacities, amending WAC 289-15-225;

that the agency will at 9:00 a.m. or later, Friday, June 1, 1984, in the Ginni Stevens Hearing Room, Snohomish County Administration Building, 3000 Rockefeller, Everett, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.48.050(1)(a) and 70.48.070.

The specific statute these rules are intended to implement is RCW 70.48.050(1)(a) and 70.48.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1984.

Dated: April 18, 1984
 By: Robert W. Cote
 Executive Secretary

STATEMENT OF PURPOSE

Title: Maximum capacities.

Description of Purpose: The purpose of WAC 289-15-225, which was originally adopted by the State Jail Commission on May 14, 1983, is to incorporate within the custodial care standards specific maximum jail capacity figures for purposes of applying the crowding standard set forth in WAC 289-15-220. The purpose of these amendments is to change several of those capacities.

Statutory Authority: RCW 70.48.050(1)(a) and 70.48.070.

Summary of Rule: These amendments change the capacity figures for Kitsap, Okanogan, Skagit, Stevens, Whitman and Yakima counties.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Amendments are proposed by the Corrections Standards Board.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: None.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 34, filed 10/5/83)

WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities	Correctional Facilities
Auburn (22)	Benton County (((33))) (109)
Bremerton (23)	Chelan County (((50))) (117)
Forks (11)	Clallam County (102)
Issaquah (6)	Clark County (141)
Olympia (temporary) (19)	Cowlitz County (91)
Richland (23)	Ferry County (22)
	Franklin County (76)
	Grant County (54)
	Grays Harbor County (54)
	Island County (29)
	Jefferson County (18)
	Kent (20)
	King County (1038)
	Kitsap County (((101))) (77)
	<u>Kitsap County Work Release (42)</u>
	Kititas County (45)
	Klickitat County (36)
	Lewis County (62)
	Lincoln County (8)
	Mason County (34)
	Okanogan County (((52))) (67)
	Pacific County (14)
	Pend Oreille County (18)
	Pierce County (359)
	Skagit County (((36))) (83)
	Skamania County (17)
	Snohomish County (116)
	Snohomish County Work Release (60)
	Stevens County (22)
	Spokane County (352)
	Thurston County (94)
	Walla Walla County (44)
	Whatcom County (82)
	Whitman County (((21))) (34)
	Yakima County (((25))) (274)

WSR 84-09-068
PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD
 [Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 251-04-050 Higher Education Personnel Board, to conform to change made to RCW 28B-16.060 in 1981 which removed the time requirements for senate confirmation of board member appointments.
- Amd WAC 251-09-040 Shift differential, to establish a common rate of 50¢ per hour as shift differential for employees assigned to shifts between 5:00 p.m. and 7:00 a.m.
- Amd WAC 251-22-090 Vacation leave—Cash payment, to remove the prohibition on cash payment for accrued vacation leave for nonmembers of PERS Plan I, and to clarify that no cash payment may be made for leave in excess of 30 days which has been accrued under WAC 251-22-080(2).
- Rep WAC 251-22-091 Vacation leave—Separation, to delete requirement that nonmembers of PERS Plan I must be permitted to use accrued

- vacation leave before separation from employment.
- Amd WAC 251-10-140 Immediate dismissal, to remove reference to use of vacation leave provided in WAC 251-22-091.
- Amd WAC 251-22-200 Leave of absence without pay, to delete reference to WAC 251-18-380(2) which was repealed in June 1983;

that the agency will at 9:00 a.m., Friday, May 25, 1984, in the Board Room, Wenatchee Valley College, Wenatchee, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is chapter 28B.16 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 25, 1984.

Dated: April 18, 1984

By: Dennis Carlson
for John Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on April 18, 1984, and is filed pursuant to RCW 34.04.025.

Rules Affected: WAC 251-04-050 Higher Education Personnel Board.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To describe the functions and responsibilities of the board as established in chapter 28B.16 RCW.

Summary of Proposed Changes: Housekeeping in nature to conform to change made to RCW 28B.16.060 in 1981 which removed the time requirements for senate confirmation of board member appointments.

Agency Person Responsible for Rule: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations regarding the proposals.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-09-040 Shift differential.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: To establish the conditions and rate for payment of shift differential.

Summary of Proposed Change: To establish a common rate of 50¢ per hour as shift differential for employees assigned to shifts between 5:00 p.m. and 7:00 a.m.

Agency Person Responsible for Rule: Same as above.

Organization Proposing Change: Washington Federation of State Employees.

The agency makes no additional comments/recommendations.

The change is not the result of federal law or state court action.

Rules Affected: WAC 251-22-090 Vacation leave—Cash payment; 251-22-091 Vacation leave—Separation; and 251-10-140 Immediate dismissal.

Substitute House Bill No. 843, signed by the governor on March 15, 1984, revised the conditions under which cash payment may be made for accrued vacation leave. The proposed changes result from that legislation and reflect guidance received from the agency's assistant attorney general as to the modification required. Because the legislation was effective upon signing by the governor, the board plans to consider these proposals on an emergency basis at its April 20, 1984, meeting with permanent adoption to occur at the May 25, 1984, meeting.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: WAC 251-22-090, to establish the conditions under which cash payment may be made for accrued vacation leave; WAC 251-22-091, to establish conditions for use and cash payment of accrued vacation leave upon separation from state service; and WAC 251-10-140, to establish conditions under which an institution may immediately dismiss an employee.

Summary of Proposed Changes: WAC 251-22-090, to remove the prohibition on cash payment for accrued vacation leave for nonmembers of PERS Plan I, and to clarify that no cash payment may be made for leave in excess of 30 days which has been accrued under WAC 251-22-080(2); WAC 251-22-091, to delete requirement that nonmembers of PERS Plan I must be permitted to use accrued vacation leave before separation from employment; and WAC 251-10-140, to remove reference to use of vacation leave provided in WAC 251-22-091.

Agency Person Responsible for Rule: Same as above.

Organization Proposing Change: Higher Education Personnel Board.

The agency makes no additional comments/recommendations.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-22-200 Leave of absence without pay.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rule: To establish conditions under which leave of absence without pay may be allowed.

Summary of Proposed Changes: Housekeeping in nature to delete reference to WAC 251-18-380(2) which was repealed in June 1983.

Agency Person Responsible for Rule: Same as above.

Organization Proposing Change: Higher Education Personnel Board.

The agency makes no additional comments/recommendations.

The change is not the result of federal law or state court action.

AMENDATORY SECTION (Amending Order 98, filed 7/22/82, effective 9/1/82)

WAC 251-04-050 HIGHER EDUCATION PERSONNEL BOARD. (1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. ~~((No member appointed when the legislature was not in session shall continue to be a member of the board after the thirtieth day of the next legislative session unless his/her appointment shall have been approved by the senate.))~~ Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board shall be paid fifty dollars for each day in which he/she has actually attended a meeting of the board officially held. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions and reemployment from layoff, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six to twelve months and rejections therein depending on the job requirements of the class; transfers; sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment; determination of appropriate bargaining units within any institution or related board: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees; certification and decertification of exclusive bargaining representatives; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of

employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position; allocation and reallocation of positions within the classification plans; adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC; training programs including in-service, promotional, and supervisory; increment or merit increases within the series of steps for each pay grade; and veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives. This section shall expire June 30, 1985. This section shall not apply to management employees after June 30, 1984.

AMENDATORY SECTION (Amending Order 62, filed 8/30/77, effective 10/1/77)

WAC 251-09-040 SHIFT DIFFERENTIAL. (1) Shift differential for employees assigned to ~~((an afternoon))~~ a shift in which ~~((the))~~ a majority of time worked ~~((:))~~ daily or weekly ~~((:))~~ is between 5:00 p.m. and ~~((12:00-midnight))~~ shall be:

~~((a))~~ \$-18 per hour or \$31.00 per month;

~~((b))~~ Registered nurses — \$-24 per hour or \$42.00 per month.

~~((2))~~ Shift differential for employees assigned to a night shift in which the majority of time worked, daily or weekly, is between 12:00 midnight and 7:00 a.m. shall be:

~~((a))~~ \$-22 per hour or \$38.00 per month;

~~((b))~~ Registered nurses — \$-22 per hour or \$38.00 per month)) 7:00 a.m. shall be \$.50 per hour.

~~((3))~~ (2) Shift differential shall be paid for the entire daily or weekly shift which qualifies under subsection (1) ~~((or (2) above))~~ of this section. Shift differential may also be computed and paid at the above monthly rate for employees permanently assigned to a qualifying afternoon or night shift.

~~((4))~~ (3) An employee assigned to a shift that qualifies for shift differential pay shall receive the shift differential for authorized periods of paid leave.

~~((5))~~ (4) When an employee is regularly assigned to an afternoon or evening shift that qualifies for shift differential, he/she shall continue to receive the shift differential during temporary assignment, not to exceed five working days, to a shift that does not qualify for shift differential.

~~((6))~~ (5) Shift differential shall not apply to police officers where salaries are correlated with a rotating shift in accordance with local prevailing rate practice.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-090 VACATION LEAVE—CASH PAYMENT. Classified employees who ~~((are members of public employees retirement system Plan I))~~ have completed six continuous months of employment and who separate from service by resignation, layoff, dismissal, retirement or death are entitled to a lump sum cash payment for all unused vacation leave ~~((when they separate from service by resignation, layoff, dismissal, retirement or death. Compensation for unused vacation leave))~~ except that accrued under WAC 251-22-080(2). In the case of voluntary resignation, an employee may be required to provide fifteen calendar days' notice to qualify for such lump sum cash payment. Excess vacation leave accumulated as prescribed in WAC 251-22-080(2) must be taken as vacation leave or be lost as provided in WAC 251-22-080(2). Vacation leave payable under WAC 251-22-080 and this section shall be computed and paid as prescribed by the office of financial management.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-22-091 VACATION LEAVE—SEPARATION.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-10-140 IMMEDIATE DISMISSAL. When the appointing authority determines that a permanent employee is to be dismissed for cause as provided in WAC 251-10-110 and the circumstances are such that retention of the employee in an active duty status may result in damage to state property or may be injurious to the employee, fellow workers, or the client public, the employee may be dismissed immediately. The employee must be notified in writing as provided in WAC 251-10-120, but the fifteen calendar days notice requirement does not apply. The notification must state the cause for the dismissal and in addition the necessity for the immediacy of the action. ~~((Provisions must be made to permit affected employees to use all accumulated vacation leave as provided in WAC 251-22-091.))~~

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY.

(1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Maternity leave;
- (c) Educational leave;
- (d) Leave for government service in the public interest;
- (e) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 251-22-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month ~~((except as provided in WAC 251-18-380(2))).~~

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

WSR 84-09-069**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning combining warehouse stations and contemporary storage of grain, WAC 16-224-010 and 16-224-030.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 25, 1984.

The authority under which these rules are proposed is chapter 22.09 RCW.

This notice is connected to and continues the matter in Notice No. WSR 84-06-058 filed with the code reviser's office on March 7, 1984.

Dated: April 18, 1984
By: Michael V. Schwisow
Deputy Director

WSR 84-09-070
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning funeral expense, amending chapter 388-42 WAC;

that the agency will at 10:00 a.m., Wednesday, May 9, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 16, 1984.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is RCW 74.08.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 9, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by April 25, 1984. The meeting site is in a location which is barrier free.

This notice is connected to and continues the matter in Notice Nos. WSR 83-24-066, 84-03-053 and 84-06-039 filed with the code reviser's office on December 7, 1983, January 18, 1984, and March 2, 1984.

Dated: April 18, 1984
By: David A. Hogan, Director
Division of Administration and Personnel

WSR 84-09-071
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2093—Filed April 18, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Notification of suspension or termination or reduction of grant—Dispensation of advance notice, amending WAC 388-33-385.

This action is taken pursuant to Notice No. WSR 84-06-038 filed with the code reviser on March 2, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-385 NOTIFICATION OF SUSPENSION OR TERMINATION OR REDUCTION OF GRANT—DISPENSATION OF ADVANCE NOTICE. Advance notice of action to terminate, suspend, or reduce assistance is not required when:

(1) The local office has factual information of the death of the recipient or of the AFDC or refugee assistance payee when there is no other relative available to serve as payee.

(2) A recipient has been admitted or committed to an institution (~~which makes~~) making the recipient ineligible.

(3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.

(4) The recipient's whereabouts are unknown and departmental mail directed to him or her has been returned by the post office indicating no known forwarding address.

(5) A recipient has been accepted for assistance in another state (~~or has moved to a different local office area if verified by the local office previously authorizing assistance~~).

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he or she no longer wishes assistance (~~or~~

~~that gives information which requires termination, suspension or reduction of assistance~~). The local office shall immediately send adequate notice to confirm the verbal or written request for termination.

~~((a) The local office shall have reasonable assurance that the recipient understands the consequences of his supplying such information.~~

~~(b) The local office shall immediately send adequate notice to confirm verbal information reported by a recipient for eligibility purposes.)~~

(9) The local office receives a clear statement from the recipient giving information requiring termination, suspension, or reduction of assistance. The recipient must indicate in writing that he or she understands the consequence of supplying such information. Adequate notice is required stating the adverse action.

WSR 84-09-072
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2094—Filed April 18, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to loss, theft, or destruction of warrant payable to recipient, amending WAC 388-33-576.

This action is taken pursuant to Notice No. WSR 84-06-028 filed with the code reviser on February 29, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1637, filed 4/15/81)

WAC 388-33-576 LOSS, THEFT, OR DESTRUCTION OF WARRANT PAYABLE TO RECIPIENT. (1) The legal authority for issuing a duplicate warrant is found in RCW 43.08.064 and 43.08.066.

(2) A recipient payee reporting to the CSO (~~that~~) he or she has not received his or her warrant or (~~that~~) his or her unendorsed warrant has been lost, stolen, or destroyed is given full consideration. The CSO shall (~~have~~) require the recipient payee to complete an affidavit or affidavits attesting to the reported facts.

(3) The CSO shall secure all facts surrounding the nonreceipt or loss reported in subsection (2) of this section, ~~((assess the reported facts and make a judgment as to the validity of the report,))~~ determine a course of appropriate action, ~~((and))~~ inform the recipient, and record the details of the report and the decision in the financial record.

(4) ~~((In cases where the facts surrounding the nonreceipt or loss are clear and the CSO is satisfied a loss has occurred a replacement warrant shall be issued))~~ After a "prompt report" of the loss, theft, destruction, or nondelivery of an unendorsed warrant, the CSO shall "promptly replace" the warrant.

(5) ~~((In cases where the facts surrounding the nonreceipt or loss are not clear and question remains as to the validity of the nonreceipt or loss, a request for replacement is made directly to the disbursements section. Replacement will be made only after further investigation is completed and validity of the nonreceipt or loss is verified))~~ "Prompt report" of loss, theft, destruction, or nondelivery of a warrant shall constitute completion and submittal of appropriate written forms within sixty days of the date the warrant was due the recipient.

(6) ~~((A report which indicates a warrant is lost in the mail system will be held in abeyance for ten working days from the mailing date of the warrant to allow the warrant to be delivered or returned to the CSO. If the recipient has an emergent situation, the ten-day period may be waived by the CSO administrator))~~ "Prompt replacement" of a lost, stolen, nondelivered, or destroyed warrant shall be authorization of replacement on or before the tenth of the month in which the warrant was due or within five working days of the prompt report of loss, theft, nondelivery, or destruction, whichever is later.

(7) Replacement must be requested directly from disbursements when a loss or nonreceipt is reported to the CSO sixty days or more after the mailing date of the warrant; and, the department may inquire into the circumstances of the loss or nondelivery prior to authorization of a replacement warrant. In the event such inquiry results in a determination not to replace the reported warrant, the recipient shall be sent written notification which notice shall include a statement of the determination, the reason or reasons for the decision, and a statement of the recipient's right to request a fair hearing appealing the decision.

(8) An unendorsed warrant which is lost, stolen, or destroyed shall be replaced in full. Restrictively or specially endorsed warrants shall be deemed to be unendorsed warrants for the purposes of this subsection. If a warrant which had been reported as lost, stolen, destroyed, or nondelivered is found, delivered, or restored to the recipient prior to the issuance of a replacement, the department is not required to issue a duplicate warrant.

(9) ~~((An endorsed warrant which is lost, stolen or destroyed shall be considered under the rules in WAC 388-33-577 for lost, stolen or destroyed proceeds from the warrant))~~ When a recipient reports nondelivery of a public assistance warrant within six months of a prior

report of nondelivery, the department shall promptly replace, verify the address, and:

(a) If there has been a change of address since the previous report or change of circumstances to better ensure receipt of public assistance warrants (e.g., a locked mailbox, post office box), the department shall continue to send warrants to the recipient's address;

(b) If there is no change in address or assurance of delivery, public assistance (including the replacement warrant) shall be redirected to the local office for pickup by the recipient for a period of six months, provided that this redirection may be waived if it is determined there is hardship or other good cause.

(10) When a recipient reports loss, theft, or destruction of an unendorsed, public assistance warrant within six months of a prior report of loss, theft, or destruction, or when a recipient who has picked up his or her public assistance warrant at the community service office pursuant to the redirect procedure in subsection (9)(b) of this section, then promptly reports such unendorsed warrant as lost, stolen, or destroyed, the community service office shall promptly replace the warrant but have the right to inquire into the circumstances and the ability of the recipient to manage public assistance funds.

(11) The state and ((economic and social)) community service offices shall take appropriate action to protect the state from loss if the original unendorsed warrant is redeemed by the state treasurer.

WSR 84-09-073

ADOPTED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 2095—Filed April 18, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards of assistance for the supplemental security income (SSI) program, amending WAC 388-29-295.

This action is taken pursuant to Notice No. WSR 84-06-027 filed with the code reviser on February 29, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2008, filed 08/19/83)

WAC 388-29-295 STANDARDS OF ASSISTANCE FOR THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM. (1) Standards of SSI assistance paid to eligible individuals and couples by SSA are:

	Federal SSI Standard	State Supplement
Area I		
Living alone		
Individuals	\$(342.60) <u>304.30</u>	\$ 38.30
	352.30	314.00
Couples		
Both eligible	((492.80 - 456.40))	36.40
	508.40	472.00
With essential person	((492.80 - 456.80 - 36.00))	37.40
	508.40	471.00
With ineligible spouse	((492.80 - 304.30 - 188.50))	194.40
	508.40	314.00
Area II		
Living alone		
Individuals	((322.15 - 304.30))	17.85
	331.85	314.00
Couples		
Both eligible	((462.85 - 456.40))	6.45
	478.45	472.00
With essential person	((462.85 - 456.80 - 6.05))	7.45
	478.45	471.00
With ineligible spouse	((462.85 - 304.30 - 158.55))	164.45
	478.45	314.00
Shared Living		
Individuals	((215.55 - 202.87))	12.68
	222.02	209.34
Couples		
Both eligible	((320.17 - 304.27))	15.90
	330.57	314.67
With essential person	((320.17 - 304.54 - 15.63))	16.57
	330.57	314.00
With ineligible spouse	((320.17 - 202.87 - 117.30))	121.23
	330.57	209.34

(2) These standards are effective (~~July 1, 1983~~) January 1, 1984.

WSR 84-09-074
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2096—Filed April 18, 1984]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to mandatory monthly reporting, amending WAC 388-24-044.

This action is taken pursuant to Notice No. WSR 84-06-026 filed with the code reviser on February 29, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1993, filed 8/5/83)

WAC 388-24-044 MANDATORY MONTHLY REPORTING. (1) As a condition of continuing eligibility for AFDC and RA, certain recipients must return to the department a completed monthly status report (MSR) by the fifth day of the month following the month for which the MSR describes the household circumstances. Recipients who must report monthly are those ((with)) whose certification and computation of grant form indicates:

- (a) Income budgeted from the grant,
- (b) Deprivation or reduction in earnings occurring within ((the last)) twelve months preceding the month of application for assistance,
- (c) A fraud overpayment deduction,
- (d) ((An eighteen year old in school,
- (e)) WIN exemption due to ((remoteness or)) illness,
- ((ff)) (e) An individual sixteen ((or seventeen)) through eighteen years of age ((in school)),
- ((gt)) (f) An individual without a Social Security Number,
- ((ht)) (g) Shelter costs over eighty percent of the payment standard.

(2) Failure to return a completed MSR by the fifth day of the month shall result in termination except as provided in subsection (3) of this section.

(3) If the recipient furnishes the completed report to the department within ten days from the date of a termination notice pursuant to subsections (1) and (2) of this section, the department shall:

- (a) Accept the replacement form; and

(b) Reinstate assistance if the information on the replacement form indicates the recipient is still eligible.

(4) If the information on the replacement form indicates the recipient is ineligible or eligible for an amount less than the prior month's payment, the department must notify the recipient according to chapter 388-33 WAC.

WSR 84-09-075

**NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE**
[Memorandum—April 17, 1984]

Please substitute the regular meeting date for June 1984 as follows: From June 18, 1984, to June 4, 1984.
The meeting time and place remain the same.

WSR 84-09-076

**NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE**
[Memorandum—April 18, 1984]

You are hereby notified that the board of trustees of Whatcom Community College, District Number Twenty-One, will hold its regular meeting at the following time and place: May 8, 1984, 2:00 p.m., Room 1, Neighborhood Facility, Lummi Community College, 2522 Kwina Road, Bellingham, WA 98226.

WSR 84-09-077

**WITHDRAWAL OF PROPOSED RULES
LIQUOR CONTROL BOARD**
[Filed April 18, 1984]

The board's notice of intention to adopt, amend, or repeal rules dated March 21, 1984, and bearing Notice No. WSR 84-07-052 is hereby withdrawn.

Robert D. Hannah
Chairman

WSR 84-09-078

**EMERGENCY RULES
DEPARTMENT OF FISHERIES**
[Order 84-28—Filed April 18, 1984]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity

to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of adult herring are not present.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-49-02000Q SEASONS—HERRING.
Effective immediately until further notice it is unlawful to take or fish for herring, candle fish, anchovy, or pilchard taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A or 21B.

WSR 84-09-079

**PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

- Amd WAC 388-28-530 Net cash income—Board, room rental, board and room.
- Amd ch. 388-29 WAC Standards—Eligibility;

that the agency will at 10:00 a.m., Wednesday, May 23, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services

Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by May 9, 1984. The meeting site is in a location which is barrier free.

Dated: April 18, 1984
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending chapters 388-28 and 388-29 WAC.
The Purpose of the Rule Changes: To update need standard, payment standards, payment maximums, and update deductible expenses for operating a rooming and boarding home.

The Reason These Rules are Necessary: The increases are required by state law.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Changes: Increase the standards for recipients of AFDC, GA, SSI, refugee assistance and CEAP and to increase the deductible expenses for recipients operating a rooming and boarding home.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Steven Asher, Community Services Program Manager II, Division of Income Assistance, Mailstop: OB 31C, Telephone: 234-3696.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

The department has reviewed the Regulatory Fairness Act and determined no economic impact statement is necessary.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-28-530 NET CASH INCOME—BOARD, ROOM RENTAL, BOARD AND ROOM. (1) The net income from operating a rooming, boarding, or boarding and rooming home shall be computed as follows effective ~~((July 1, 1983))~~ July 1, 1984.

- (a) Boarder - The board payment received minus \$((75)) 76.
- (b) Roomer - The room rental received minus \$((7-25)) 7.50.
- (c) Boarder and roomer - The board and room payment received minus \$((82-25)) 83.50.

(2) If a recipient is engaged in the management and operation of a rooming, boarding, or boarding and rooming home, the net income as computed in accordance with subsection (1) of this section is considered earned income to that recipient.

AMENDATORY SECTION (Amending Order 1961, filed 5/9/83)

WAC 388-29-080 MONTHLY COST OF BASIC REQUIREMENTS—MAXIMUMS—PERSON IN OWN HOME—PERSON IN MEDICAL INSTITUTION. (1) The standards for basic requirements in WAC 388-29-100 apply to a person in his or her own home. The standards in WAC 388-29-150 through 388-29-230 are additional requirements for persons with circumstances as specified.

(2) Individuals in an AFDC or continuing GA assistance unit shall be provided the basic requirements.

(3) Basic requirements for a person in his or her own home are food, clothing, personal maintenance and necessary incidentals, shelter, household maintenance, and energy. The monthly payment ~~((levels))~~ standard and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit.

(4) When a person is in a medical institution, basic requirements of food, shelter, and household maintenance are not computed in the grant but are paid as a medical care cost.

(5) The monetary allowance for the basic requirements, as determined by the standards in WAC 388-29-100, shall be reduced to the amounts in WAC 388-29-110 when maximum amounts are in effect.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-100 MONTHLY STANDARDS—AFDC AND CONTINUING GENERAL ASSISTANCE. (1) Effective ~~((July 1, 1982))~~ July 1, 1984, the state-wide monthly need standards ~~((for food, clothing, personal maintenance, and necessary incidentals, household maintenance, shelter, and transportation))~~ for those owning (including life estate), buying, or renting an apartment or house are:

(a) Recipients in Household	((State)) Need Standard
1	\$ ((465)) 491
2	((588)) 621
3	((728)) 768
4	((856)) 904
5	((986)) 1,008
6	((1,119)) 1,182
7	((1,293)) 1,365
8	((1,430)) 1,511
9	((1,571)) 1,659
10 or more	((1,707)) 1,803

(b) Household with supplied shelter.
The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	((All Counties)) Need Standard
1	\$ ((176)) 181
2	((255)) 263
3	((338)) 348
4	((421)) 433
5	((504)) 518
6	((586)) 603
7	((669)) 688
8	((752)) 773
9	((835)) 858
10 or more	((918)) 943

(2) Effective ~~((July 1, 1983))~~ July 1, 1984, the state-wide monthly payment ~~((levels))~~ standard reflecting ~~((63-6))~~ a rateable reduction of 37.9 percent of the need standards shall be:

(a) Recipients in Household	((State)) Payment ((levels)) Standard
1	\$ ((295)) 304
2	((374)) 385
3	((462)) 476
4	((544)) 561
5	((627)) 646
6	((710)) 731
7	((822)) 847
8	((909)) 936
9	((998)) 1,028
10 or more	((1,084)) 1,117

(b) Household with supplied shelter.
The monthly payment ~~((levels))~~ standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

Recipients in Household	((All Counties)) Payment Standard
1	\$ ((176)) 181
2	((255)) 263
3	((338)) 348
4	((421)) 433

Recipients in Household	((All Counties)) Payment Standard
5	((504)) 518
6	((586)) 603
7	((669)) 688
8	((752)) 773
9	((835)) 858
10 or more	((918)) 943

(3) In computing the grant amount, nonexempt income and resources available to meet need shall be deducted from the monthly payment ((~~levels~~)) standard specified in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-110 MAXIMUMS TO MONTHLY STANDARDS. (1) Grants to families of eight or more shall not exceed the following maximums. In computing the grant amount, nonexempt income and resources available to meet need shall be deducted from the monthly payment ((~~levels~~)) standard specified in WAC 388-29-100.

Maximums	Number ((of recipients)) in household	(\$((909 909 909)) 936
	8 ((9 10)) or more	

(2) This rule is effective ((~~July 1, 1983~~)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-112 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—STANDARDS OF ASSISTANCE. The state-wide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the payment level. Following are payment maximums:

(1) Number in household

	((One-month)) Maximum((s)) Grant
1	\$ ((295)) 304
2	((374)) 385
3	((462)) 476
4	((544)) 561
5	((627)) 646
6	((710)) 731
7	((822)) 847
8	((909)) 909
9	909
10) or more	((909)) 936

(2) The following are payment maximums for individual emergent need items payable under consolidated emergency assistance program (CEAP).

	1	2	3	4	5	6	7	8 (or more)
Food	((156)) 198	245	288	333	376	435	482	511
Shelter	((180)) 228	281	331	382	433	501	555	571
((Basic)) Clothing	22	27	34	((39-45-51)) 40	46	52	60	((66)) 67
Minor Medical	((55)) 69	82	102	123	142	161	178	194
Utilities	((40)) 50	63	74	85	97	110	123	134
Household Maint.	((30)) 38	47	55	63	72	83	92	101

Job-related ((~~clothing and~~)) transportation - as needed not to exceed the grant maximum. Transportation of a child to home - as needed not to exceed the grant maximum.

(3) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-125 COST STANDARDS FOR REQUIREMENTS—PERSONS IN MEDICAL INSTITUTION. (1) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person eligible for AFDC, Supplemental Security Income, or the "H" medical care program who is in a skilled nursing home, a public nursing home, a general or tuberculosis hospital, or an intermediate care facility shall be ((~~thirty-three~~)) thirty-five dollars and fifty-five cents.

(2) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person eligible for continuing general assistance who is in an institution specified in subsection (1) of this section shall be ((~~thirty-four~~)) thirty-five dollars and fifty-five cents.

(3) These standards are effective ((~~July 1, 1983~~)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-130 COST STANDARDS FOR REQUIREMENTS—PERSON IN CONGREGATE CARE FACILITY. (1) The cost standard for congregate care shall be the rate established by the department for payment to specific congregate care facilities.

(2) Regular rates

(a) 1-15 beds, existing facilities	\$19.09/day
(b) 1-15 beds, new facilities	16.80/day
(c) 16 or more beds	16.80/day
(3) Mental health	
(a) 1-15 beds	\$21.99/day
(b) 16 or more beds	19.70/day
(c) New small facilities	19.70/day
(4) Intensive alcohol treatment	
(a) Board and room	\$16.80/day
(b) Treatment, 1-15 beds	28.42/day
(c) Treatment, 16 or more beds	21.31/day
(5) Long-term inpatient alcohol treatment	\$19.70/day
(6) Alcohol recovery house	
(a) 1-15 beds	\$24.65/day
(b) 16 or more beds	19.70/day
(7) Residential drug treatment	
(a) 1-15 beds	\$21.75/day
(b) 16 or more beds	16.80/day
(8) COPEs add-ons	
(a) Three hours	\$ 3.61/day
(b) Four hours	4.41/day
(c) Five hours	5.20/day

(9) Congregate care facility residents receiving SSI or GA-U benefits are entitled to the earned and unearned income exemptions applicable to those programs. Any remaining nonexempt income shall be applied first toward the monthly cost standard for clothing, personal maintenance, and necessary incidentals, and then toward the cost of care. SSI grant deductions for overpayments shall first reduce the money available for clothing, personal maintenance, and necessary incidentals, and then reduce the money available to meet the cost of CCF care. The department shall not pay the difference toward cost of care caused by the SSI reduction.

((~~33~~)) (10) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person in a congregate care facility shall be ((~~thirty-four~~)) thirty-five dollars and fifty-five cents.

((~~47~~)) (11) These standards are effective ((~~July 1, 1983~~)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-135 COST STANDARDS FOR REQUIREMENTS—MATERNITY HOME CARE. (1) The payment standard for a recipient of AFDC residing in a maternity home shall be five hundred ((~~fifty-four~~)) seventy-one dollars and ((~~sixty-five~~)) thirty cents per month, ((~~which includes forty-one~~)) including forty-two dollars and ((~~sixty-five~~)) ninety cents for clothing and personal incidentals.

(2) The standard for maternity home care for an unmarried child eligible for foster care payment shall be the rate established in the agreement between the department and the maternity home agency.

(3) These standards are effective ((~~July 1, 1983~~)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-145 MONTHLY STANDARDS FOR BASIC REQUIREMENTS—AFDC—CHILD IN NEED OF SPECIALIZED EDUCATION OR TRAINING. (1) A child attending school under temporary absence provisions according to WAC 388-24-125(3)(b) is eligible for clothing, personal maintenance, and necessary incidentals only. The monthly standard shall be ((thirty-four)) thirty-five dollars and fifty-five cents. The child shall not be included as a member of the household in computing the requirements for the household.

(2) These standards are effective ((July 1, 1983)) July 1, 1984.

NEW SECTION

WAC 388-29-146 MONTHLY STANDARDS FOR BASIC REQUIREMENTS—FOSTER CARE. (1) The monthly standard for foster care children under twelve is thirty-nine dollars and five cents.

(2) The monthly standard for foster care children twelve and over is forty-two dollars and ninety cents.

(3) Those standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-160 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIC CIRCUMSTANCES—RESTAURANT MEALS. (1) Restaurant meals shall be an additional requirement only when:

(a) The individual is physically or mentally unable to prepare any of his or her meals, and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for an individual.

(2) The monthly additional requirement for restaurant meals shall be ((ninety-six)) one hundred sixty-two dollars and ((ten)) fifty cents, or five dollars and ((twenty)) thirty-five cents per day.

(3) These standards are effective ((July 1, 1983)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-200 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIED CIRCUMSTANCES—FOOD FOR GUIDE DOG. (1) The cost of food for a guide dog shall be an additional requirement when an applicant for SSI or an assistance grant has a guide dog assigned to him or her by an accredited guide dog organization. The ((cost)) monthly standard for food for a guide dog shall be thirty-one dollars and ((ninety)) eighty-five cents.

(2) These standards are effective ((July 1, 1983)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-220 STANDARDS FOR ADDITIONAL REQUIREMENTS UNDER SPECIFIED CIRCUMSTANCES—LAUNDRY. (1) Laundry is an additional requirement when:

(a) The applicant or recipient is physically unable to do his or her laundry, and

(b) He or she has no one able to perform this service for him or her.

(2) The monthly cost standard for laundry shall be eight dollars and ((fifty-five)) eighty cents.

(3) These standards are effective ((July 1, 1983)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-260 REQUIREMENTS OF PERSON IN BOARDING HOME—CONTINUING GENERAL ASSISTANCE. (1) The monthly standard for board and room shall be two hundred ((twelve)) eighteen dollars and ((thirty-five)) fifty cents ((per-month)) or seven dollars and twenty cents per day.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals shall be ((thirty-four)) thirty-five dollars and fifty-five cents.

(3) These standards are effective ((July 1, 1983)) July 1, 1984.

AMENDATORY SECTION (Amending Order 2008, filed 8/19/83)

WAC 388-29-280 ADULT FAMILY HOME CARE—COST STANDARDS. (1) The ((cost)) basic monthly standard for adult family home care shall be ((the rate established by the department for payment to the adult family home sponsor)) three hundred fifty-four dollars and fifty-five cents.

(2) The monthly ((cost)) standard for clothing and personal maintenance and necessary incidentals for a person in an adult family home shall be ((thirty-four)) thirty-five dollars and fifty-five cents.

(3) These standards are effective ((July 1, 1983)) July 1, 1984.

Activities of Daily Living Add-Ons

(a) 1-3	activities.....	\$36.58
(b) 4-7	activities.....	\$54.85
(c) 8-12	activities.....	\$79.23
(4) Health-related services,		
maximum of nine.....each.....		\$24.38
(5) Respite care.....		\$11.57.

WSR 84-09-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning fees, amending chapter 440-44 WAC;

that the agency will at 2:00 p.m., Wednesday, May 23, 1984, in the General Administration Building Auditorium, 11th and Columbia, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1984 [1984].

The authority under which these rules are proposed is RCW 43.20A.055.

The specific statute these rules are intended to implement is RCW 43.20A.055.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1984.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by May 9, 1984. The meeting site is in a location which is barrier free.

Dated: April 17, 1984
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025. Amending WAC 440-44-040, 440-44-045, 440-44-048, 440-44-050, 440-44-057, 440-44-065 and 440-44-070.

The Purpose of the Rule Changes: To update the license fees based on the annual cost study.

The Reason the Changes are Necessary: To generate revenue to cover the costs incurred in issuing the licenses.

Statutory Authority: Section 2, chapter 201, Laws of 1982.

Summary of Rule Changes: Adjust medical facilities and boarding homes licensing fees and to add license fees for hospice and home health agencies; adjust large on-site sewage disposal system project fees and add fee for alternative treatment systems; add fees for coordinated water system and abbreviated water system plans; adjust radiation machine facility registration fees (x-ray); adjust radio-active materials license fees; adjust shellfish program certification fees; adjust swimming pool projects, public and semi-public plan review fees and add review fees for spas and recreational pools. Add a prorated fee for multiple pools within the same facility. Add a fee for pool projects built without written approval; and adjust certificate of need review fees.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Dick Jones, Program Fiscal Manager, Division of Health, Mailstop: ET-22, Phone 753-3934.

Rule Change Proposed by: John A. Beare, M.D., M.P.H., Director, Division of Health, DSHS.

These rules changes are not necessary as a result of a federal law, a federal court decision or a state court decision.

The fees established by these regulations are assessed based on the dollar value of the application being reviewed. Since the fees are determined by the dollar value of the project rather than the size of the organization making the application, there is not a disproportionate impact between small and large businesses. In addition, it is anticipated that review activity will be minimal to nonexistent for those businesses with less than 50 employees.

AMENDATORY SECTION (Amending Order 2037, filed 10/6/83)

WAC 440-44-030 HEALTH FACILITY CERTIFICATE OF NEED REVIEW FEES. (1) An application for a certificate of need under chapter 248-19 WAC shall be accompanied by payment of a fee consisting of the following:

(a) An application processing fee in the amount of five hundred dollars which shall not be refundable, and

(b) A review fee, based on the total capital expenditure associated with the undertaking or project, as follows:

Proposed Capital Expenditure	Review Fee
\$ 0 to \$	((3,499))
	69,999
((3,500 to	4,999
5,000 to	9,999
10,000 to	14,999
15,000 to	19,999
20,000 to	24,999
25,000 to	29,999
30,000 to	34,999
35,000 to	39,999
40,000 to	54,999
55,000 to	69,999
70,000 to	84,999
	((1,065))
	1,670
85,000 to	99,999
	((1,230))
	1,930

Proposed Capital Expenditure	Review Fee
100,000 to 129,999	((1,410))
	2,215
130,000 to 159,999	((1,610))
	2,525
160,000 to 204,999	((1,830))
	2,875
205,000 to 249,999	((2,075))
	3,255
250,000 to 399,999	((2,345))
	3,680
400,000 to 549,999	((2,640))
	4,145
550,000 to 699,999	((2,965))
	4,655
700,000 to 849,999	((3,320))
	5,210
850,000 to 999,999	((3,715))
	5,830
1,000,000 to 1,299,999	((4,150))
	6,515
1,300,000 to 1,599,999	((4,625))
	7,260
1,600,000 to 1,999,999	((5,150))
	8,085
2,000,000 to 2,499,999	((5,725))
	8,990
2,500,000 to 2,999,999	((6,355))
	9,975
3,000,000 to 3,999,999	((7,045))
	11,060
4,000,000 to 4,999,999	((7,805))
	12,255
5,000,000 to 7,499,999	((8,645))
	13,570
7,500,000 to 9,999,999	((9,565))
	15,015
10,000,000 to 14,999,999	((10,605))
	16,650
15,000,000 to 19,999,999	((12,269))
	19,260
20,000,000 to 29,999,999	((13,085))
	20,545
30,000,000 to 39,999,999	((14,565))
	22,865
40,000,000 to 49,999,999	((16,105))
	25,285
50,000,000 to 64,999,999	((17,845))
	28,015
65,000,000 to 79,999,999	((19,785))
	31,060
80,000,000 to 99,999,999	((21,965))
	34,485
100,000,000 and over	((24,385))
	38,285

(2) A request for an amendment to a certificate of need application shall be accepted by the department only when accompanied by a non-refundable processing fee of two hundred fifty dollars.

(a) When an amendment results in a capital expenditure exceeding the capital expenditure corresponding to the review fee paid at the time the application was first submitted to the department, the amendment shall be accompanied by payment of an additional fee representing the difference between the review fee paid when the application was first submitted and the review fee applicable to the increased capital expenditure.

(b) When an amendment results in a capital expenditure less than the capital expenditure corresponding to the review fee paid at the time the application was first submitted to the department, the department shall refund the difference to the applicant.

(3) When an application for an amended or extended certificate of need is submitted to the department subsequent to the issuance of a certificate of need, in accordance with the provisions of WAC 248-19-450 or 248-19-460, such application shall be accompanied by payment of a nonrefundable processing fee in the amount of five hundred dollars

and, if the amendment represents an increase in the capital expenditure associated with the project, a review fee representing the difference between the review fee paid when the application was first submitted and the review fee applicable to the increased capital expenditure associated with the application for amendment.

(4) When an application is returned to an applicant in accordance with the provisions of WAC 248-19-280 (2)(b) or (e), any review fees paid by the applicant shall be refunded, in full, by the department.

(5) Each notice of intent to acquire a health care facility submitted to the department under the provisions of WAC 248-19-230(2) shall include a nonrefundable processing fee of one hundred dollars.

(6) Each notice of intent to acquire major medical equipment submitted to the department under the provisions of WAC 248-19-403 shall include a nonrefundable processing fee of one hundred dollars.

(7) Each request for an exemption from certificate of need review submitted to the department under the provisions of WAC 248-19-405 (which pertains to health maintenance organizations) shall include a nonrefundable processing fee of one hundred dollars.

(8) Each request for an exemption from certificate of need review submitted to the department under the provisions of RCW 70.38.105(4)(d) (which pertains to certain capital expenditure projects which do not substantially affect patient changes) shall include a nonrefundable processing fee of one hundred dollars.

AMENDATORY SECTION (Amending Order 1965, filed 6/1/83)

WAC 440-44-040 MEDICAL FACILITIES AND BOARDING HOMES LICENSING FEES. (1) Hospitals: The annual fee shall be ~~((fourteen))~~ sixteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospital. The licensed bed capacity of a hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four hour assigned patient rooms including neonatal intensive care bassinet spaces. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirements of chapter 248-18 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the hospital certifies to the department the hospital currently possesses the required movable equipment. The licensed bed capacity shall exclude all normal ~~((and intensive care))~~ infant bassinets. The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a hospital shall not exceed the hospital's licensed bed capacity.

(2) Private psychiatric hospitals: The annual fee shall be ~~((sixteen))~~ twenty-seven dollars for each bed space within the licensed bed capacity of the private psychiatric hospital. The licensed bed capacity of a private psychiatric hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirement of chapter 248-22 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the private psychiatric hospital certifies to the department the private psychiatric hospital currently possesses the required movable equipment.

The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each private psychiatric hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a private psychiatric hospital shall not exceed the private psychiatric hospital's licensed bed capacity.

(3) Alcoholism hospitals: The annual fee shall be ~~((nine))~~ sixteen dollars for each bed space within the licensed bed capacity of the alcoholism hospital. The licensed bed capacity of an alcoholism hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism hospital shall not exceed the alcoholism hospital's licensed bed capacity.

(4) Alcoholism treatment facilities: The annual fee shall be eleven dollars and fifty cents for each bed space within the licensed bed capacity of the alcoholism treatment facility. The licensed bed capacity of an alcoholism treatment facility shall include all bed spaces in

rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism treatment facility shall not exceed the alcoholism treatment facility's licensed bed capacity.

(5) Boarding homes: The annual fee shall be eight dollars times the licensed resident capacity of the boarding home. The licensed resident capacity is the capacity determined by the boarding home and approved by the department. The licensed resident capacity shall be consistent with the physical plant and movable equipment requirements of chapter 248-16 WAC for resident sleeping rooms. The number of residents in a boarding home shall not exceed the licensed resident capacity of the boarding home. The term "resident" as used herein is defined in WAC 248-16-001.

(6) Residential treatment facilities for psychiatrically impaired children and youth: The annual fee shall be forty-seven dollars for each bed space within the licensed bed capacity of the residential treatment facility for psychiatrically impaired children and youth. The licensed bed capacity of a residential treatment facility for psychiatrically impaired children and youth shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-23 WAC for client sleeping rooms. The number of beds set up in a residential treatment facility for psychiatrically impaired children and youth shall not exceed the residential treatment facility for psychiatrically impaired children and youth licensed bed capacity.

(7) ~~((Nonhospital))~~ Abortion facilities: The annual fee for licensing and certification of facilities for induction of termination of pregnancy in the second trimester shall be ~~((four hundred sixty-five))~~ five hundred dollars.

(8) Child birth centers: The annual fee shall be three hundred ninety dollars: PROVIDED, That no fee shall be required of charitable, non-profit or government-operated institutions (as required by RCW 18.46.030).

(9) Residential treatment and rehabilitation facilities for psychiatrically impaired adults: The annual fee shall be ~~((twenty-three))~~ thirty dollars ~~((and fifty cents))~~ for each bed space within the licensed bed capacity of the residential treatment and rehabilitation facility for psychiatrically impaired adults. The licensed bed capacity of a residential treatment and rehabilitation facility for psychiatrically impaired adults shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-25 WAC for client sleeping rooms. The number of beds set up in a residential treatment and rehabilitation facility for psychiatrically impaired adults shall not exceed the residential treatment and rehabilitation facility for psychiatrically impaired adults licensed bed capacity.

(10) Hospice care centers: Each application for a license shall be accompanied by a license fee of fifteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospice care center. The licensed bed capacity shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-21 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in a hospice care center shall not exceed the hospice care center's licensed bed capacity.

(11) Hospice agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be two hundred fifty dollars.

(12) Home health agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be two hundred fifty dollars.

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-045 LARGE ON-SITE SEWAGE DISPOSAL SYSTEM PROJECTS AND ALTERNATIVE TREATMENT SYSTEMS REVIEW FEES. (1) The fee for review of a new system preliminary engineering report shall be ~~((three))~~ nine hundred dollars.

(2) The fee for review of new system plans and specifications shall be ~~((five))~~ six hundred dollars.

(3) The fee for review of repair or replacement of an existing system shall be ~~((one))~~ three hundred ~~((fifty))~~ dollars for the engineering report and ~~((two))~~ three hundred ~~((fifty))~~ dollars for plans and specifications.

(4) The base fee for review of proprietary alternative treatment devices shall be three hundred dollars. Review time beyond eight hours shall be charged at the rate of thirty dollars per hour in addition to the base fee.

AMENDATORY SECTION (Amending Order 1980, filed 6/30/83)

WAC 440-44-048 WATER SYSTEM PROJECT REVIEW AND APPROVAL FEES. (1) The review and approval fees for planning, engineering, and construction documents required under chapters 248-54 and 248-56 WAC shall be as follows:

(a) Water system plans

PROJECT TYPE	CLASS 4	CLASS 2 & 3	CLASS 1	
			100 TO 999 SERVICES	1,000 OR MORE SERVICES
Water System Plan	No Plan Required	No Plan Required	500.00	1,000.00
<u>Coordinated Water System Plan</u>	<u>Lead agency will be assessed a fee equal to 2% (two percent) of actual total cost of planning project</u>			
<u>Abbreviated Water System Plan</u>	<u>No Fee</u>	<u>No Fee</u>	<u>100.00</u>	<u>Not Applicable</u>
Water System Plan letter update or coordinated water system plan or water system planning questionnaire	No Fee	No Fee	No Fee	No Fee

(b) Project engineering reports

PROJECT TYPE	CLASS 4	CLASS 2 & 3	CLASS 1	
			100 TO 999 SERVICES	1,000 OR MORE SERVICES
All types of filtration or other complex treatment processes	250.00	500.00	1,000.00	1,500.00
Chemical addition for corrosion control, or Fe and Mn control	No Report Required	No Report Required	300.00	500.00
Disinfection or fluoridation when no other process is involved	No Report Required	No Report Required	100.00	200.00
Complete water system which requires a detailed report to show how it will meet standards and regulations and operate properly	No Report Required	No Report Required	400.00	700.00
Major system modifications such as source, storage, or transmission, which change the system enough to require a detailed report to show how it will meet the regulations	100.00	200.00	300.00	500.00

(c) Project plans and specifications

PROJECT TYPE	CLASS 4	CLASS 2 & 3	CLASS 1	
			100 TO 999 SERVICES	1,000 OR MORE SERVICES
All types of filtration or other complex treatment processes	250.00	500.00	1,000.00	1,500.00
Chemical addition for corrosion control or Fe and Mn control or disinfection or fluoridation when no other treatment process is involved	100.00	150.00	300.00	400.00

PROJECT TYPE	CLASS 1			
	CLASS 4	CLASS 2 & 3	100 TO 999 SERVICES	1,000 OR MORE SERVICES
Complete water system which has not and will not be constructed prior to approval	200.00	400.00	600.00	800.00
New source of supply for an existing water system	150.00	200.00	300.00	400.00
Standard plans and specifications for water line installation, or booster pump station, or storage reservoir, or transmission/distribution water lines	100.00	150.00	200.00	300.00
Well-site approval including the site inspection and hydro-geologic information review	100.00	100.00	100.00	100.00

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

(a) The basic fee covers services through the second review letter. If additional services or submittals are required for an approval to be made, an additional twenty-five percent of the original fee will be assessed for each subsequent service or review.

(b) Fees for approval of as-built plans and specifications for water system projects which were constructed without written approval, shall be twice the amount shown in subsection (1)(c) of this section.

AMENDATORY SECTION (Amending Order 1965, filed 6/1/83)

WAC 440-44-050 RADIATION MACHINE FACILITY REGISTRATION FEES. The following biennial fees are required at the time of application or renewal:

(1) For dentists, veterinarians, and podiatrists: ~~((Forty))~~ Fifty dollars plus ~~((eleven))~~ twenty dollars per tube, not to exceed ~~((two))~~ three hundred ~~((sixty))~~ fifty dollars.

(2) For industrial, research, or other nonhealing arts: ~~((Forty))~~ Fifty dollars plus ~~((eleven))~~ twenty dollars per tube, not to exceed ~~((two))~~ three hundred ~~((sixty))~~ fifty dollars.

(3) For all others: One hundred ten dollars plus ~~((sixty-five))~~ ninety-five dollars per tube, not to exceed ~~((nine hundred fifty-five))~~ one thousand four hundred sixty dollars.

AMENDATORY SECTION (Amending Order 1965 [2050], filed 6/1/83 [11/30/83])

WAC 440-44-057 LICENSE FEES FOR RADIOACTIVE MATERIALS. (1) The fee for each radioactive materials license is the single highest fee category (~~((license))~~) which describes activities subject to the conditions of the license. When multiple licenses are required by the department, each license is subject to the applicable license fee. Multiple licenses may be required by the department based upon physical separation of operations, organizational separations within a licensee's operation, or possession of special nuclear material. Whenever the actual cost to the department for servicing an individual licensee exceeds two hundred percent of the annual fee or two thousand dollars in excess of the annual fee whichever is less, the department may bill the licensee for the amount in excess provided the total annual charge to the licensee shall not exceed ninety thousand dollars.

(2) FEE CATEGORIES.

(a) For operation of a radioactive waste treatment facility: Annual fee of ~~((eleven))~~ thirteen thousand ~~((five hundred))~~ dollars.

(b) For operation of a nuclear pharmacy: Annual fee of two thousand ~~((six))~~ three hundred dollars.

(c) For operation of a mobile nuclear medicine program: Annual fee of ~~((two))~~ three thousand ~~((six hundred))~~ dollars.

(d) For operation of a nuclear laundry, fixed base: Annual fee of five thousand seven hundred dollars.

~~((e)) For operation of a nuclear laundry, portable operation: Annual fee of five thousand dollars.~~

~~((f)) For manufacture and distribution of radioactive products or devices containing radioactive material: Annual fee of ((two)) three thousand ((six hundred)) dollars.~~

~~((g)) ((j)) For licenses authorizing decontamination services or waste brokerage: Annual fee of two thousand ((two)) five hundred dollars.~~

~~((h)) ((g)) For licenses authorizing equipment servicing involving incidental use of calibration sources, for maintenance of equipment~~

containing radioactive material, or possession of sealed sources for the purpose of sales demonstration only: Annual fee of ~~((two))~~ four hundred ~~((twenty-five))~~ fifty dollars.

~~((h)) ((h)) For licenses authorizing health physics services, leak testing, or calibration services: Annual fee of ((four)) five hundred ((thirty-five)) seventy-five dollars.~~

~~((i)) ((i)) For civil defense licenses: Annual fee of ((one)) five hundred seventy-five dollars.~~

~~((k)) ((j)) For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than or equal to 1 curie: Annual fee of ten thousand ((four)) three hundred dollars.~~

~~((h)) ((k)) For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than 1 curie: Annual fee of two thousand ((six)) three hundred dollars.~~

~~((m)) ((l)) For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie: Annual fee of one thousand ((four)) two hundred dollars.~~

~~((n)) ((m)) For medical licenses authorizing one or more of Groups ((H-V)) II-V, as defined in WAC 402-22-200 Schedule A((:~~

~~((i)) For licenses authorizing Group H and HH) (diagnostic nuclear medicine): Annual fee of one thousand six hundred dollars.~~

~~((ii)) For licenses authorizing Group IV and V ((i)) and unlimited medical therapy): (Annual fee of eight hundred dollars.~~

~~((iii)) For licenses authorizing Group H or HH and Group IV or V:)) Annual fee of ((two)) one thousand eight hundred dollars.~~

~~((iv)) ((n)) For licenses authorizing Group VI (unlimited brachytherapy): Annual fee of ((six)) three hundred ((twenty-five)) fifty dollars.~~

(o) For licenses authorizing brachytherapy or teletherapy: Annual fee of ~~((six hundred twenty-five))~~ one thousand dollars.

(p) For licenses authorizing medical or veterinarian possession of greater than 200 millicuries total possession of radioactive material: Annual fee of one thousand ~~((four))~~ six hundred dollars.

(q) For licenses authorizing medical or veterinarian possession of greater than 30 millicuries but less than or equal to 200 millicuries total possession of radioactive material: Annual fee of ~~((one thousand six))~~ four hundred fifty dollars.

(r) For licenses authorizing medical or veterinarian possession of less than or equal to 30 millicuries total possession of radioactive material: Annual fee of ~~((two))~~ three hundred fifty dollars.

(s) For licenses authorizing Group I as defined in WAC 402-22-200 Schedule A or in vitro uses of radioactive materials: Annual fee of ~~((one))~~ three hundred fifty dollars.

(t) For licenses authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding: Annual fee of ~~((one))~~ two hundred fifty dollars.

(u) For licenses authorizing radiographic exposure devices: Annual fee consisting of one thousand (~~five hundred~~) fifty dollars for ~~((the first))~~ one licensed exposure device (~~((plus four hundred fifty dollars for each additional exposure device))~~), two thousand one hundred dollars for two devices, and three thousand one hundred fifty dollars for three or more devices.

(v) For licenses authorizing well-logging activities including the use of radioactive tracers: Annual fee of one thousand (~~(fifty))~~ two hundred dollars.

(w) For licenses authorizing well-logging activities not including the use of tracers: Annual fee of (~~(one thousand fifty))~~ five hundred dollars.

(x) For licenses authorizing possession of unsealed sources in the following amounts:

(i) Greater than or equal to 1 millicurie of I-125 or I-131 or greater than or equal to 100 millicuries of H-3 or C-14 or greater than or equal to 10 millicuries of any single isotope: Annual fee of one thousand (~~(fifty))~~ six hundred dollars.

(ii) Greater than 0.1 millicurie but less than 1 millicurie of I-125 or I-131 or greater than 10 millicuries but less than 100 millicuries of H-3 or C-14 or greater than 1 millicurie but less than 10 millicuries of any other single isotope: Annual fee of (~~(five))~~ seven hundred seventy-five dollars.

(iii) Less than or equal to 0.1 millicurie of I-125 or I-131 or less than or equal to 10 millicuries of H-3 or C-14 or less than or equal to 1 millicurie of any other single isotope: Annual fee of (~~(one))~~ four hundred fifty dollars.

(y) For licenses authorizing possession of portable sealed sources (excluding radiographic exposure devices) ~~(in the following groups:~~

~~(i) Authorized possession of)) but including portable moisture/density gauges ((Annual fee of two hundred dollars for the first licensed gauge plus fifty dollars for each additional gauge to a maximum of five hundred dollars:~~

~~(ii) Authorized possession of any)), other portable sealed source, including special nuclear material which is transported from the facility as a condition of use ((Annual fee of five hundred dollars:~~

~~(iii) Authorized possession of)) and any portable sealed source which is restricted to use at the licensee's facility only and does not enter intra-state transport as a condition of use): Annual fee of (~~(two))~~ four hundred fifty dollars.~~

(z) For licenses authorizing possession of any nonportable sealed source, including special nuclear material but excluding radioactive material used in a gas chromatograph: Annual fee of (~~(two hundred dollars for the first licensed gauge plus fifty dollars for each additional gauge to a maximum of six hundred))~~ five hundred twenty-five dollars.

(aa) For licenses authorizing possession of gas chromatograph units containing radioactive material: Annual fee of (~~(one))~~ two hundred fifty dollars.

(bb) For licenses authorizing maximum possession of any nonportable sealed source greater than 100 curies: Annual fee of one thousand (~~(fifty))~~ two hundred dollars.

(cc) For licenses authorizing possession of greater than 1 gram of unsealed special nuclear material or greater than 500 kilograms of source material: Annual fee of (~~(two))~~ three thousand (~~(six hundred))~~ dollars.

(dd) For licenses authorizing possession of less than or equal to 1 gram of unsealed special nuclear material or less than or equal to 500 kilograms of source material: Annual fee of three hundred fifty dollars.

(ee) For in vitro registrants (requiring filing of form RHF-15): Annual fee of fifty dollars.

(ff) For depleted uranium registrants (requiring filing of form RHF-20): Annual fee of fifty dollars.

(3) For reciprocal recognition of out-of-state licenses: Fee equal to fifty percent of the fee that would be charged for an in-state license as described in subsection (2) of this section based upon the actual amount of radioactive material or number of devices requested to be brought into the state. Payment of fee authorizes possession and use in the state of Washington for up to one hundred eighty days of the twelve-month period following payment of the fee.

(4) It is the intent of the department to require all radioactive materials licensees who have not yet paid fees for their licenses to begin doing so on January 1, 1984. The following mechanism will be employed to accomplish this intent. A licensee who has not paid for a license shall remit by January 1, 1984, a prorated amount of the license fee for the period between January 1, 1984 and the annual anniversary of the expiration date of the license. Thereafter, thirty days prior to the annual anniversary date, each licensee shall remit the full annual

fee for the license as specified in subsection (2) of this section. The annual anniversary is the month and day of the expiration date of the existing radioactive materials license.

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

AMENDATORY SECTION (Amending Order 1991, filed 7/14/83)

WAC 440-44-065 SHELLFISH PROGRAM CERTIFICATION FEES. (1) Annual certificate fees shall be:

Type of Operation	Annual Fee
Reshipper	\$ ((75)) <u>80</u>
Repacker	\$ ((200)) <u>215</u>
Shellstock Shipper	
0 - 10 Acres	\$ ((75)) <u>80</u>
11 - 49 Acres	\$ ((100)) <u>110</u>
50 - 99 Acres	\$ ((125)) <u>135</u>
100 + Acres	\$ ((175)) <u>190</u>
Shucker-Packer	
1 - 5 Shuckers	\$ ((125)) <u>135</u>
6 - 10 Shuckers	\$ ((150)) <u>165</u>
11 - 15 Shuckers	\$ ((175)) <u>190</u>
16 + Shuckers	\$ ((200)) <u>215</u>

(2) Type of operations are defined as follows:

(a) "Reshipper" shall mean shippers transshipping shucked stock in original containers, or shellstock from certified shellfish shippers to other dealers or to final consumers. (Reshippers are not authorized to shuck or repack shellfish.)

(b) "Repacker" shall mean shippers, other than the original shucker, packing shucked shellfish into containers for delivery to the consumer. A repacker may shuck shellfish or act as a shellstock shipper if the repacker has the necessary facilities.

(c) "Shellstock shipper" shall mean shippers growing, harvesting, buying, or selling shellstock. Shellstock shippers are not authorized to shuck shellfish or to repack shucked shellfish.

(d) "Shucker-packer" shall mean shippers shucking and packing shellfish. A shucker-packer may act as a shellstock dealer.

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-070 ((SWIMMING POOL PROJECTS)) NEW PUBLIC AND SEMIPUBLIC ((PLAN)) SWIMMING POOL AND RELATED WATER PROJECTS REVIEW FEES. (1) The fee for review of plans for new public swimming pools with a volume equal to or greater than one hundred twenty-five thousand gallons at overflow shall be five hundred dollars.

(2) The fee for review of plans for new public swimming pools with a volume of less than one hundred twenty-five thousand gallons at overflow shall be three hundred dollars.

(3) The fee for review of plans for new semipublic pools shall be one hundred fifty dollars.

(4) The fee for review of plans for all spa pool facilities utilizing a pool volume greater than five thousand gallons shall be one hundred fifty dollars.

(5) The fee for review of plans for all spa pool facilities utilizing a pool volume of less than five thousand gallons shall be one hundred dollars.

(6) The fee for review of plans for water recreation attractions (slide pools, wave pools, flumes, etc.) shall be five hundred dollars.

(7) The fee for review of plans for wading pools and spray pools shall be one hundred dollars.

(8) If plans for two or more pools are being reviewed which are utilized in the same facility, the regular fee shall apply for the primary

pool. The second pool shall be assessed at the rate of one hundred dollars. Each additional pool shall be assessed at a fee of fifty dollars.

(9) The fee for review of plans for repair or modification of existing pools ((in accordance with subsection (1), (2), or (3) of this section)) shall be one-half of the fee for ((review of)) comparable new projects.

(10) The fee for review of plans for pool projects which were build without written approval shall be twice the amount shown for new facilities.

WSR 84-09-081
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Washington Department of Ecology SEPA procedures, adopting chapter 173-802 WAC and Department of Ecology "SEPA" guidelines, repealing chapter 173-801 WAC;

that the agency will at 2:00 p.m., Thursday, June 7, 1984, in the Department of Ecology's Headquarters Office, St. Martin's Campus, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.21C.120 and WAC 197-11-904.

The specific statute these rules are intended to implement is chapter 43.21C RCW, the State Environmental Policy Act.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 5, 1984.

Dated: April 18, 1984

By: Donald W. Moos
Director

STATEMENT OF PURPOSE

Title: Department of Ecology SEPA procedures.

Description of Purpose: Replace existing chapter 173-801 WAC with chapter 173-802 WAC.

Statutory Authority: RCW 43.21C.120.

Summary of Rule: Establishes procedures for designating SEPA responsible official, responding to a request for early notice (mitigated DNS), preparing an EIS, and meeting public notice requirements. Establishes policies and procedures for conditioning or denying permits or other approvals based on information in SEPA documents. Adopts by reference other procedures and criteria in chapter 197-11 WAC, SEPA rules.

Reasons Supporting Proposed Action: By October 1, 1984, the department is required to adopt procedures consistent with chapter 197-11 WAC, which was adopted January 1984 and went into effect April 4, 1984.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janet R. Rhodes, 459-6026, and Greg Sorlie, 459-6237, Department of Ecology, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: The impacts are the same as those discussed in the SBEIS for chapter 197-11 WAC, which is shown below.

Chapter 197-11 WAC, State Environmental Policy Act (SEPA).

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry be reviewed and altered, if necessary, to minimize their impact on small businesses.

Chapter 197-11 WAC implements chapter 117, Laws of 1983. Many requirements of businesses are statutory requirements and therefore cannot be deleted from the implementing regulation. This statement will only be concerned with requirements set forth in the proposed regulation which are not specifically required by the statute.

Many industries could be impacted by chapter 197-11 WAC. Any business proposing any activity which effects the environment is potentially subject to SEPA compliance. However, records of past SEPA activity are not coded by industry and are scattered in some 1500-2000 agencies, including state agencies, cities, counties, and special service districts.

This statement does not attempt to identify the impacts of SEPA by industry or by size of firm, but examines costs to proponents based on the degree of impact to the environment.

During the last five years (1978 through 1982), the Department of Ecology received an average of 300 draft environmental impact statements (EIS) and 3665 final declarations of nonsignificance per year. These averages will be used to estimate total cost of this regulation. Because the cost of compliance with this regulation is governed by degree of environmental impact, not size of firm, it is impossible to compare the economic impact of small firms versus large firms. However, larger and/or more complex projects generally are more likely to result in greater impact on the environment and also more likely to be undertaken by large firms.

Costs are outlined below for four cases:

Case 1

When compliance requires that an EIS be prepared, (when probable adverse environmental impacts are significant), the cost of preparing the EIS may be absorbed by the agency requiring the EIS or passed on to the applicant. The EIS requirement is statutory. The statute also states that the public must be involved; but does not specify how that involvement shall occur. The proposed regulation specifies involvement as (1) public notice in a newspaper of general circulation, (2) posting of the property, and (3) public hearing (in some cases).

Current cost of one public notice varies from paper to paper in a range from \$40 to \$350. When an EIS is involved, two to three public notices are required, resulting in costs of \$80 to \$1,050. Posting costs are estimated at \$100 to \$300, assuming a \$50 to \$100 range per posting. Public hearings cost involves room rental. Agencies may adopt, by regulation, other public notice alternatives, which may result in less cost to the applicant. If local agencies do not adopt specific public notice requirements, the requirements, as set forth in this regulation, will prevail.

Case 2

There are four criteria which determine compliance under Case 2. They are: When more than one agency requires a permit or approval; when the project involves demolition of a building which, if under construction, would require SEPA compliance; when the action is grading or excavation; or when it involves a mitigated declaration of nonsignificance (DNS).

Case 2 actions require a 15-day comment period and one public notice estimated at a cost range of \$40 to \$350. Agencies may adopt other forms of public notice, which may result in less cost.

Case 3

Case 3 actions require a DNS but no public notice.

Case 4

Case 4 actions are exempted from SEPA compliance.

General

Some local agencies charge a filing fee when an applicant submits an environmental checklist. These charges appear to range from \$10 to \$270 per checklist and would be added to costs outlined in cases 1 through 3.

Based on a September 1978 study entitled "Green Goals and Greenbacks, A Comparative Study of State Level Environmental Impact Statement Programs and Their Associated Costs," by S. L. Hart and G. A. Enk of The Institute on Man and Science, 80 percent of all actions are exempted from SEPA compliance (Case 4), 1 percent require preparation of an EIS (Case 1), and the other 19 percent require preparation of a DNS (cases 2 and 3). Historical data to segregate SEPA impact by size of firm and by industry is available. However, the process would require several man-months to individually inspect and code files of 1500-2000 state and local agencies. This outlining of cost ranges of SEPA compliance should serve to satisfy the intent of the Regulatory Fairness Act.

NEW SECTION

WAC 173-802-010 AUTHORITY. These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and Chapter 197-11 WAC (SEPA rules).

NEW SECTION

WAC 173-802-020 ADOPTION BY REFERENCE. The department of ecology adopts the following sections or subsections of Chapter 197-11 WAC by reference.

197-11-040 Definitions.

197-11-050 Lead agency.
 197-11-055 Timing of the SEPA process.
 197-11-060 Content of environmental review.
 197-11-070 Limitations on action during SEPA process.
 197-11-080 Incomplete or unavailable information.
 197-11-090 Supporting documents.
 197-11-100 Information required of applicants.
 197-11-300 Purpose of this part.
 197-11-305 Categorical exemptions.
 197-11-310 Threshold determination required.
 197-11-315 Environmental checklist.
 197-11-330 Threshold determination process.
 197-11-335 Additional information.
 197-11-340 Determination of nonsignificance (DNS).
 197-11-360 Determination of significance (DS)/initiation of scoping.
 197-11-390 Effect of threshold determination.
 197-11-400 Purpose of EIS.
 197-11-402 General requirements.
 197-11-405 EIS types.
 197-11-406 EIS timing.
 197-11-408 Scoping.
 197-11-410 Expanded scoping. (Optional)
 197-11-425 Style and size.
 197-11-430 Format.
 197-11-435 Cover letter or memo.
 197-11-440 EIS contents.
 197-11-442 Contents of EIS on nonproject proposals.
 197-11-443 EIS contents when prior nonproject EIS.
 197-11-444 Elements of the environment.
 197-11-448 Relationship of EIS to other considerations.
 197-11-450 Cost-benefit analysis.
 197-11-455 Issuance of DEIS.
 197-11-460 Issuance of FEIS.
 197-11-500 Purpose of this Part.
 197-11-502 Inviting comment.
 197-11-504 Availability and cost of environmental documents.
 197-11-508 SEPA Register.
 197-11-535 Public hearings and meetings.
 197-11-545 Effect of no comment.
 197-11-550 Specificity of comments.
 197-11-560 FEIS response to comments.
 197-11-570 Consulted agency costs to assist lead agency.
 197-11-600 When to use existing environmental documents.
 197-11-610 Use of NEPA documents.
 197-11-620 Supplemental environmental impact statement—Procedures
 197-11-625 Addenda—Procedures.
 197-11-630 Adoption—Procedures.
 197-11-635 Incorporation by reference—Procedures.
 197-11-640 Combining documents.
 197-11-650 Purpose of this Part.
 197-11-655 Implementation.
 197-11-660 Substantive authority and mitigation.
 197-11-680 Appeals.
 197-11-700 Definitions.
 197-11-702 Act.
 197-11-704 Action.
 197-11-706 Addendum.
 197-11-708 Adoption.
 197-11-710 Affected tribe.
 197-11-712 Affecting.
 197-11-714 Agency.
 197-11-716 Applicant.
 197-11-718 Built environment.
 197-11-720 Categorical exemption.
 197-11-722 Consolidated appeal.
 197-11-724 Consulted agency.
 197-11-726 Cost-benefit analysis.
 197-11-728 County/city.
 197-11-730 Decisionmaker.
 197-11-732 Department.
 197-11-734 Determination of nonsignificance (DNS).
 197-11-736 Determination of significance (DS).
 197-11-738 EIS.
 197-11-740 Environment.
 197-11-742 Environmental checklist.
 197-11-744 Environmental document.
 197-11-746 Environmental review.
 197-11-748 Environmentally sensitive area.
 197-11-750 Expanded scoping.
 197-11-752 Impacts.
 197-11-754 Incorporation by reference.
 197-11-756 Lands covered by water.
 197-11-758 Lead agency.
 197-11-760 License.
 197-11-762 Local agency.
 197-11-764 Major action.
 197-11-766 Mitigated DNS.
 197-11-768 Mitigation.
 197-11-770 Natural environment.

- 197-11-772 NEPA.
- 197-11-774 Nonproject.
- 197-11-776 Phased review.
- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
- 197-11-784 Proposal.
- 197-11-786 Reasonable alternative.
- 197-11-788 Responsible official.
- 197-11-790 SEPA.
- 197-11-792 Scope.
- 197-11-793 Scoping.
- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.
- 197-11-800 Categorical exemptions.
- 197-11-810 Exemptions and nonexemptions applicable to specific state agencies.
- 197-11-855 Department of ecology.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.
- 197-11-900 Purpose of this Part.
- 197-11-908 Environmentally sensitive areas.
- 197-11-912 Procedures on consulted agencies.
- 197-11-916 Application to ongoing actions.
- 197-11-917 Relationship to chapter 197-10 WAC.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-943 Assumption of lead agency status.
- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

NEW SECTION

WAC 173-802-030 **PURPOSE.** This chapter implements the statewide rules in chapter 197-11 WAC as they apply to the department of ecology.

NEW SECTION

WAC 173-802-040 **ADDITIONAL DEFINITIONS.** In addition to the definitions contained in WAC 197-11-700 through WAC 197-11-799, the following terms shall have the listed meanings:

- (1) "Office" means one of the five offices in the department of ecology supervised by an assistant director.
- (2) "Region" means any one of the four regional offices of the department.
- (3) "Program" means any one of the department's headquarters sections or divisions that administers a program, such as water quality, water resources, shorelands, and hazardous waste.

NEW SECTION

WAC 173-802-050 **DESIGNATION OF RESPONSIBLE OFFICIAL.** Within the department of ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be a supervisor of a regional office branch or a division supervisor, unless more than one division or regional office branch is involved in a proposal; if so, the responsible official shall be the next higher supervisor common to all involved divisions. When two or more offices are involved, or an office and a division supervised by a special assistant are involved, the deputy director shall designate the responsible official.

NEW SECTION

WAC 173-802-060 **ADDITIONAL TIMING CONSIDERATIONS.** (1) Department staff receiving a permit application will determine whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the staff person should ask the applicant to complete an environmental checklist. A checklist is not needed if the department and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application. The applicant should also complete an environmental checklist if the staff person is unsure whether the proposal is exempt.

(3) Department staff receiving a completed permit application and environmental checklist should determine whether WDOE or another agency is SEPA lead agency (see WAC 197-11-050 and 197-11-922 through 197-11-940) within five working days. If WDOE is not the lead agency, the staff person shall send the completed environmental checklist, a copy of the permit application, to the lead agency, and an explanation of the determination to the identified lead agency.

(4) When the department has prepared a draft regulation, the draft EIS or determination of nonsignificance (DNS) shall accompany the draft regulation to the Ecological Commission for their review.

(5) If the only nonexempt action is department approval of detailed project plans and specifications, an applicant may request that the department complete SEPA compliance before the applicant submits the detailed plans and specifications. If the applicant asks for early environmental review, the department shall complete such review at the final engineering report stage, but not earlier.

(6) Whenever possible, the department shall coordinate the comment periods for environmental documents and the planning documents and/or regulations for which they were written, circulating both documents together.

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

NEW SECTION

WAC 173-802-070 **THRESHOLD DETERMINATION PROCESS—ADDITIONAL CONSIDERATIONS.** When reviewing a completed environmental checklist to make the threshold determination, the responsible official or his designee will:

- (1) Independently evaluate the responses of the applicant and note comments, concerns, corrections, or new information in the right margin of the checklist.
- (2) Conduct the initial review of the checklist and any supporting documents without requiring additional information from the applicant.

NEW SECTION

WAC 173-802-080 **MITIGATED DNS.** (1) An applicant may ask the department whether issuance of a DS is likely for a proposal. This request for early notice must:

- (a) Be written;
- (b) follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
- (c) precede the department's actual threshold determination for the proposal.
- (2) The responsible official or his designee shall respond to the request within 10 working days of receipt of the letter; the response shall:
 - (a) be written;
 - (b) state whether the department is considering issuance of a DS;
 - (c) indicate the general or specific area(s) of concern that led the department to consider a DS; and
 - (d) state that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The department shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the department will make its threshold determination based on the changed or clarified proposal.

(a) If the department's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the department shall issue a determination of nonsignificance and circulate the DNS for comments as in WAC 197-11-350(2).

(b) If the department indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the department shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The department may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the department shall issue a DNS and circulate it for review under WAC 197-11-350(2).

(6) When an applicant changes or clarifies the proposal, the clarifications or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s), the department may require the applicant to submit a new checklist.

(7) The department may change or clarify features of its own proposals before making the threshold determination.

(8) The department's written response under (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the department to consider the clarifications or changes in its threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes, including enforcement of the permit or other approval. Unless the department's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

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

NEW SECTION

WAC 173-802-090 EIS PREPARATION. (1) Preparation of draft and final EISs and SEISs is the responsibility of the environmental review section. Before the department issues an EIS, the responsible official shall be satisfied that it complies with these rules and Chapter 197-11 WAC.

(2) The department normally will prepare its own draft and final EISs. It may require an applicant to provide information that the department does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under these rules.

(3) If the department would be unable to prepare a draft and/or final EIS due to its commitments or other constraints or when a local agency transfers lead agency status to the department under WAC 197-11-940, the department may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:

(a) The department retains a mutually agreed upon and independent outside party to prepare the document;

(b) The applicant and the department agree upon a method of funding in which the applicant will bear the expense of the EIS preparation, but the consultant will work directly for the department.

(c) The outside party will prepare the document under the supervision of the environmental review section and the responsible official.

(d) Normally, the department will print and distribute the documents.

(4) Whenever someone other than the department prepares a draft or final EIS, the department shall:

(a) Direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by any agency or person.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.

(d) Allow the person preparing the EIS access to department records relating to the EIS (under Chapter 42.17 RCW—Public Disclosure and Public Records Law).

NEW SECTION

WAC 173-802-100 PUBLIC NOTICE REQUIREMENTS. (1) The department shall give public notice when issuing a DNS under WAC 197-11-350(2), a scoping notice under WAC 173-802-090, or a draft EIS under WAC 197-11-455.

(2) Whenever possible, the department shall integrate the public notice required under this section with existing notice procedures for the department's permit or approval required for the proposal.

(a) When more than one permit or approval required from the department has public notice requirements, the notice procedures that would reach the widest audience should be used, if possible.

(b) If the public notice requirements for the permit or approval must be completed at a specific time in the permitting process and that timing does not coincide with the timing requirements for SEPA public notice, the department must use one or more public notice methods in (4) of this section.

(c) If there are no public notice requirements for any of the permits/approvals required for a proposal, the department must use one or more public notice methods in (4) of this section.

(3) The department may require an applicant to perform the public notice requirement at his or her expense.

(4) The department shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Mailing to persons or groups who have expressed interest in the proposal, that type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals.

NEW SECTION

WAC 173-802-110 POLICIES AND PROCEDURES FOR CONDITIONING OR DENYING PERMITS OR OTHER APPROVALS. (1)(a) The overriding policy of the department of ecology is to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department of ecology shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(d) The department shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.

(2)(a) When the environmental document for a proposal shows it will cause significant adverse impacts that the proponent does not plan to mitigate, the responsible official shall consider whether:

(i) the environmental document identified mitigation measures that are reasonable and capable of being accomplished;

- (ii) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and
 - (iii) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.
- (b) The responsible official may:
- (i) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in (1) of this section.
 - (ii) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in (1) of this section
 - (c) The procedures in WAC 197-11-660 must also be followed when conditioning or denying permits or other approvals.

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

NEW SECTION

WAC 173-802-120 ENVIRONMENTALLY SENSITIVE AREAS. (1) In determining whether a proposal is exempt from SEPA, the department shall respect "environmentally sensitive area" designations made by local governments under WAC 197-11-908.

(2) The department shall maintain files of the maps and SEPA procedures that cities/counties must send to the department under WAC 197-11-908. The department shall allow the public, groups, and agencies to review these SEPA procedures and maps during normal business hours.

NEW SECTION

WAC 173-802-130 THRESHOLD LEVELS ADOPTED BY CITIES/COUNTIES. (1) In determining whether a proposal is exempt from SEPA, the department shall respect the threshold levels adopted by cities/counties under WAC 197-11-800(1).

(2) The department shall maintain files of the SEPA procedures that cities/counties must send to the department under WAC 197-11-800(1)(c). The department shall allow the public, groups, and agencies access to these SEPA procedures during normal business hours.

NEW SECTION

WAC 173-802-140 RESPONSIBILITIES OF INDIVIDUALS AND WORK UNITS WITHIN THE DEPARTMENT. (1) The environmental review section of the department shall be responsible for the following:

- (a) Coordinating agency activities to comply with SEPA, encouraging consistency in SEPA compliance among all regions and programs.
 - (b) Providing information and guidance on SEPA and the SEPA rules to department staff, agencies, groups, and citizens.
 - (c) Receiving all SEPA documents sent to the department for review and comment, distributing documents and coordinating review with appropriate regions and programs, preparing the department's response, ensuring a timely response, and requesting extensions to the comment period of an EIS, when needed.
 - (d) Preparing and publishing the SEPA Register weekly as required under WAC 197-11-508.
 - (e) Maintaining the department's files for EISs, DNSs, scoping notices, and notices of action sent to the department under SEPA and the SEPA rules.
 - (f) Maintaining files for the city/county SEPA procedures designating environmentally sensitive areas and flexible thresholds and making the information available to department staff and the public.
 - (g) Writing and/or coordinating EIS preparation, including scoping and the scoping notice, making sure to work with appropriate regions and programs.
 - (h) Preparing for, coordinating, and presenting annual SEPA workshops and publishing an annual SEPA handbook.
 - (i) Publishing and distributing the SEPA rules and amending the SEPA rules, as necessary.
 - (j) Responding to petitions for changes in exemptions from SEPA.
 - (k) Responding to petitions to resolve lead agency disputes.
 - (l) Fulfilling the department's other general responsibilities under SEPA and the SEPA rules.
- (2) Regional offices and programs of the department shall be responsible for the following:

(a) Determining whether their decision on a permit or other approval, program, policy, plan, or regulation is an "action" under SEPA and, if so, whether it is exempt from SEPA's requirements (the first department official contacted may make these determinations).

(b) Determining whether WDOE or another agency is SEPA lead agency, contacting the environmental review section if there is a question about which agency is the lead agency.

(c) Making the threshold determination (made by the responsible official, see WAC 173-802-050).

(i) Issuing a determination of nonsignificance, if appropriate (issued by responsible official) and ensuring compliance with the public notice requirements of WAC 173-802-110; or

(ii) Contacting the environmental review section if a determination of significance is appropriate.

(d) Reviewing SEPA documents and submitting comments to the environmental review section in a timely fashion, recognizing that SEPA and the SEPA rules impose strict time limits on commenting.

(e) Working with the environmental review section on preparation of EISs.

(f) Ensuring that permit decisions are consistent with the final EIS and DNS.

NEW SECTION

WAC 173-802-150 COORDINATION ON COMBINED DEPARTMENT—FEDERAL ACTION. When the department is considering an action which also involves federal actions, it shall attempt to coordinate the two governmental processes so that only one environmental impact statement need be prepared for that proposal.

NEW SECTION

WAC 173-802-190 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

REPEALER

The following chapter of the Washington Administrative Code is hereby repealed:

- WAC 173-801-010 Authority.
- WAC 173-801-020 Adoption by reference.
- WAC 173-801-030 Purpose.
- WAC 173-801-040 Effect of SEPA.
- WAC 173-801-045 Integration of SEPA procedures with other departmental operations.
- WAC 173-801-050 Designation of responsible official.
- WAC 173-801-060 Timing.
- WAC 173-801-070 Summary of information which may be required of a private applicant.
- WAC 173-801-080 Sensitive areas.
- WAC 173-801-090 Individuals making SEPA-related determinations.
- WAC 173-801-100 Threshold determination appeal procedures.
- WAC 173-801-110 Statute of limitation.
- WAC 173-801-120 Coordination on combined DOE-federal action.
- WAC 173-801-130 Severability.

Reviser's note: Errors of punctuation or spelling in the above repealer occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 84-09-082
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Optometry)**

[Order PL 465—Filed April 18, 1984]

Be it resolved by the Washington State Optometry Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 308-53-030	Temporary permit recommendation policy.
Amd	WAC 308-53-085	Grading examinations.
Amd	WAC 308-53-120	Courses presumed to qualify for credit.
Rep	WAC 308-53-190	Exemption of retired doctors of optometry from continuing education requirement.

This action is taken pursuant to Notice No. WSR 84-05-069 filed with the code reviser on February 22, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.54.070(5) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 9, 1984.

By R. T. Graham, OD
Chairman, Board of Optometry

AMENDATORY SECTION (Amending Order PL 281, filed 1/17/78)

~~WAC 308-53-030 TEMPORARY PERMIT RECOMMENDATION POLICY. To protect the public, the board ((generally will)) recommends to the director ((issuance of a temporary permit pursuant to RCW 18-53.030 only when the temporary permittee will practice in conjunction with a currently licensed doctor of optometry. If an applicant for a temporary permit is particularly well qualified—for example, by a considerable length of practice in a state with optometry licensing standards equivalent to Washington's—the board may recommend that the director issue him a temporary permit without such restriction)) that temporary permits not be issued under the director's discretion pursuant to RCW 18.53.030. However, if a temporary permit is issued the board recommends that the applicant must be under the direct and immediate supervision of a currently licensed optometrist who is at all times on the same premises.~~

AMENDATORY SECTION (Amending Order PL 433, filed 5/3/83)

WAC 308-53-085 GRADING EXAMINATIONS. To successfully pass the examination an applicant must obtain the following:

- (1) Pass the practical examination section with at least a seventy-five percent (75%) average score; and
- (2) Pass the practical oral interview and case history section with at least a seventy-five percent (75%) score; and
- (3) Obtain a total overall average score of at least seventy-five percent (75%).

AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

WAC 308-53-120 COURSES PRESUMED TO QUALIFY FOR CREDIT. Courses offered by the organizations listed in this section will be presumed to qualify as continuing education courses without specific prior approval of the boards, but the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy. Organizations for the purposes of this section shall include:

- (1) The American Optometric Association.
- (2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).
- (3) The Washington Optometric Association.
- (4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.
- (5) The state optometry board.
- (6) The optometry licensing authority of any other state.
- (7) The American Academy of Optometry.
- (8) The Optometric Extension Program.
- (9) The College of Optometrists and Visual Development.
- (10) The National Eye Research Foundation.
- (11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.
- (12) The Commission on Continuing Optometric Education of the American Optometric Association, category one (1) courses.

Reviser's note: RCW 34.04.058 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.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 308-53-190 EXEMPTION OF RETIRED DOCTORS OF OPTOMETRY FROM CONTINUING EDUCATION REQUIREMENT.

WSR 84-09-083

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning dangerous waste regulations, amending chapter 173-303 WAC: recycling standards – WAC 173-303-016, 173-303-017, 173-303-120, 173-303-500, 173-303-505, 173-303-510, 173-303-515, and 17-303-520; designation and exemptions – WAC 173-303-070 and 173-303-072; EP toxicity characteristics – WAC 173-303-090; carcinogenic wastes – WAC 173-303-103 and

173-303-104; test methods - WAC 173-303-110; generator waste accumulation - WAC 173-303-200; transporter identification numbers - WAC 173-303-240; special storage time limits - WAC 173-303-395; closure performance - WAC 173-303-610; special treatment demonstration permits - WAC 173-303-809; procedures for decision making - WAC 173-303-840; and petitions for designation changes - WAC 173-303-910.

Public hearings on the proposed amendments to Washington's dangerous waste regulation, chapter 173-303 WAC, are scheduled as follows: 7:00 p.m., June 5, 1984, Port of Seattle, Commissioner's Chamber, 2201 Alaskan Way South, Pier 66, Seattle, WA, and at 7:00 p.m., June 6, 1984, Spokane County Health Department, Auditorium, West 1101 College, Spokane, WA.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 26, 1984.

The authority under which these rules are proposed is chapter 70.105 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 11, 1984.

Dated: April 17, 1984

By: Donald W. Moos
Director

STATEMENT OF PURPOSE

Title: Chapter 173-303 WAC, Dangerous waste regulation.

Statutory Authority: Chapter 70.105 RCW (chapter 65, Laws of 1983 ex. sess.)

Summary of Rule: The proposed laws amend chapter 173-303 WAC in the following areas.

Recycling standards: WAC 173-303-016, 173-303-017, 173-303-120, 173-303-500, 173-303-505, 173-303-510, 173-303-515 and 173-303-520. Certain recycling requirements when originally proposed were later determined to be incorrect for certain EPA regulated hazardous wastes. Reproposal of these sections will assure equivalency with EPA's recycling standards.

Designation and exemptions: WAC 173-303-070 and 173-303-072. The procedures for designating and exempting certain wastes listed by EPA were deemed to not be equivalent with federal procedures. Reproposal of these sections will provide for consideration of additional, EPA factors when deciding whether or not some listed wastes should be designated or exempted.

EP toxicity characteristics: WAC 173-303-090. This reproposal will change the EP (extraction procedure) characteristic for one of the metals from chromium (VI) to chromium. The test will detect total chromium, and a new procedure has been provided in WAC 173-303-072 for exempting wastes which, although picked up by the test, can be shown to contain essentially no Chromium VI.

Carcinogenic wastes: WAC 173-303-103 and 173-303-104. The reproposal adds new concentrations and an extremely hazardous designation for certain carcinogenic wastes.

Test methods: WAC 173-303-110. New test method for corrosivity of solids has been developed and is proposed for adoption by reference in this reproposal.

Generator waste accumulation: WAC 173-303-200. This section is being reproposed to use one national ID#, and intrastate transporters to use one statewide ID#, regardless of the number of terminals.

Special storage time limits: WAC 173-303-395. This section is being reproposed to limit the amount of time that dangerous waste may be stored in surface impoundments or waste piles.

Closure performance: WAC 173-303-610. When a final status facility is closed, the closure plan often calls for removal or decontamination of dangerous wastes, residue, soils and equipment. This reproposal will specify what levels of removal or decontamination must be met.

Special treatment demonstration permits: WAC 173-303-809. This is a new proposal to allow certain new treatment processes to obtain a demonstration permit, rather than a full final status permit, to show the effectiveness of the new treatment process.

Procedures for decision making: WAC 173-303-840. This section was not part of the original set of proposed amendments. Proposal at this time is to assure equivalency with EPA standards, and to provide adequate opportunity for public review and comment when the department is preparing permits for dangerous waste management facilities.

Petitions for designation changes: WAC 173-303-910. This reproposal would allow certain waste designations to be changed. These are from extremely hazardous to dangerous; and from toxic to only corrosive under special circumstances.

Reasons Supporting Proposed Action: The proposal amends the existing rules so that they will be essentially equivalent to the federal hazardous waste regulations.

Agency Personnel Responsible for Drafting: Ross Potter, Department of Ecology, Mailstop PV-11, Telephone 459-6301; and Implementation: Tom Cook, Department of Ecology, Mailstop PV-11, Telephone 459-6303.

Person or Organization Proposing Rule: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: Necessary under RCRA for state to obtain final authorization.

Small Business Economic Impact Statement: Chapter 173-303 WAC, Dangerous waste regulations.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry be reviewed and altered to minimize their impact on small businesses.

Proposed revisions to chapter 173-303 WAC fit into five general categories. Their impact is discussed in those categories:

Technical Amendments: These are clarifying only and have no impact on business.

Moderate Risk Standards: These changes will result in cost savings particularly to small businesses. They involve easing management standards for low and moderate risk wastes. These fall into two categories: High

volumes of low-risk waste, associated with both large and small firms; and small quantities of dangerous risk associated with small businesses. Industries most likely to be impacted are pulp and paper and metal producers.

Recycling Standards: Changes proposed in recycling standards will reduce costs to industry by exempting certain types of recycling which are subject to the regulation in its current form.

Land Disposal and Groundwater Monitoring Standards: Changes call for increased monitoring, more complex operations, and changed methods of waste burial. These changes will increase costs to industry, however, WDOE is required by statute (RCW 70.105.130(1)) to implement the changes. The statute designates WDOE as the state agency for implementing the Federal Resource Conservation and Recovery Act. These changes are required for WDOE to assume that delegation.

Permit Requirements: Changes to permit requirements are technical and clarifying amendments to make compliance easier on the applicants (industry). They should serve to make compliance less costly.

In summary, changes proposed to chapter 173-303 WAC are technical, required by statute or reduce cost to industry. This statement serves to satisfy the intentions of the Regulatory Fairness Act, chapter 19.85 RCW.

NEW SECTION

WAC 173-303-016 IDENTIFYING SOLID WASTE. (1) The purpose of this section is to identify those materials, garbage, refuse, sludges, byproducts, and discarded commodities that are and are not solid wastes. Subsection (2) of this section applies to all materials, substances or wastes which meet the definition of solid waste (WAC 173-303-040(82)), but do not meet the definition of sludge (WAC 173-303-040(81)), and are not designated under 40 CFR Part 261 Subpart D. Subsection (3) of this section applies to all materials, substances or wastes which meet the definition of solid waste, and which are either sludges or listed in WAC 173-303-081 or 173-303-082.

(2) Any substance which meets the definition for solid waste in WAC 173-303-040(82) and which is not specifically exempted by (a) of this subsection is solid waste for the purpose of this chapter.

(a) Except as provided in (b) of this subsection, the following materials are not solid waste:

(i) Materials used or reused as ingredients in industrial processes to make a product, provided that distinct components of the material are not recovered as separate end products;

(ii) Materials used or reused as substitutes for raw materials in processes using raw materials as the principal feedstocks;

(iii) Materials used or reused in particular functions or applications as substitutes for commercial products; and

(iv) Materials used or reused within the original process from which they were generated (i.e., "closed loop" use or reuse).

(b) Any material listed in (a) of this subsection, is a solid waste if the department determines, on a case-by-case basis, that:

(i) It is being accumulated without sufficient amounts being used or reused, (as this activity is described in WAC 173-303-121);

(ii) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment;

(iii) It is being used or reused in a manner which constitutes disposal and results in the material being directly placed in or released to the environment; or

(iv) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such solid waste will be listed in this subsection.

(c) Any substance that is a solid waste and that is not exempted elsewhere in this regulation is subject to all generator, transporter, and facility requirements of this chapter.

(d) Certain solid wastes are excluded from the requirements of this chapter. They are listed in WAC 173-303-071.

(e) Recycling processes involving solid waste are subject to the requirements of WAC 173-303-017.

(3) Any material, substance, or waste which meets the definition of solid waste (WAC 173-303-040(82)), and which is either a sludge (WAC 173-303-040(81)) or is designated under 40 CFR Part 261 Subpart D, is subject to all generator, transporter, and facility requirements of this chapter. If such solid waste is designated but is being recycled, it is subject to the recycling requirements of WAC 173-303-120(2). Certain solid wastes, listed in WAC 173-303-071, are excluded from the requirements of this chapter.

NEW SECTION

WAC 173-303-017 RECYCLING PROCESSES INVOLVING SOLID WASTE. (1) This section is applicable only to processes which legitimately and beneficially recycle a substance, material, or waste identified as a solid waste in accordance with WAC 173-303-016(2). Certain recycling processes, as specified in this section, are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the requirements of this chapter including, but not limited to, the designation requirements of WAC 173-303-070 through 173-303-103 and, if designated as dangerous waste, the recycling requirements of WAC 173-303-120.

(2) Except as provided in subsection (3) of this section, the recycling processes listed in this subsection and the generation, transport, accumulation and storage prior to these recycling processes are exempt from the requirements of this chapter, except that this exemption does not apply to the use of piles or surface impoundments for the recycling processes listed in this subsection or for accumulation or storage in piles or surface impoundments prior to these recycling processes. The recycling processes are:

(a) Reclamation by the person who generates the solid waste, and reclamation by another person who subsequently uses the materials reclaimed from a solid waste in his own operation (except that if such operation involves only the sale or resale of the reclaimed materials, then the process is not exempt). This exemption does not apply to the reclamation of spent lead-acid batteries;

(b) Recovery of precious metals from solid waste. For the purposes of this exemption, precious metals are gold, silver, iridium, palladium, platinum, rhodium, ruthenium, or any combination of these;

(c) Recycling of used oil or reclamation of oils generated from the cleaning of tanks used only for oil storage, except that this exemption does not apply to oil mixed with any dangerous waste, unless such dangerous waste is only designated by the characteristics described in WAC 173-303-090;

(d) Regeneration of used batteries by a battery manufacturer (e.g., addition of new electrolyte, replacement of defective cells, etc.);

(e) Burning for energy recovery in an industrial furnace or a boiler (as defined in WAC 173-303-040(43) and (8)) by the person who generates the solid waste to be burned, except that this exemption does not apply to the accumulation, storage, or treatment of the solid waste prior to burning, nor to the use of a solid waste to produce a fuel; and

(f) Reclamation performed pursuant to batch tolling agreements. For the purposes of this exemption, a batch tolling agreement is a contractual arrangement, between a reclaimer and a person producing a solid waste, which contains the following conditions:

(i)(A) The person generating the solid waste retains ownership of it; or

(B) In cases where the person generating the solid waste only rents or leases, but does not buy, materials reclaimed from the solid waste, the reclaimer retains ownership;

(ii) Within a period of two hundred seventy days after the date on which the quantity of solid waste first exceeds four hundred pounds, the solid waste is transferred to the reclaimer, reclamation is conducted, and the reclaimed portion is returned to the user;

(iii) The solid waste is not commingled with any other person's solid waste or material prior to or during reclamation, except that commingling is allowed if such commingling involves only solid wastes or materials that have, or prior to becoming solid wastes had, the same chemical names or similar product specifications. For example, Stoddard solvent from several persons may be commingled, whereas waste acetone from one person and waste toluene from another person may not be commingled;

(iv) The reclaimer is paid according to the amount of the reclaimed portion returned to the user; and

(v) The reclaimer is paid more as the amount of the reclaimed portion returned to the user increases.

The person generating the solid waste must maintain and, at any reasonable place and time, provide to the department records that establish the date(s) on which his solid waste was first generated and which show that he meets the above batch-tolling conditions.

(3) Any recycling process listed in subsection (2) of this section is not exempt if the department determines, on a case-by-case basis, that:

(a) The solid waste used in the recycling process is being accumulated without sufficient amounts being recycled (as this activity is described in WAC 173-303-121);

(b) The solid waste used in the recycling process, or the recycling process itself, poses a threat to public health or the environment; or

(c) The recycling process constitutes disposal and results in directly releasing the solid waste to the environment.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-070 DESIGNATION OF DANGEROUS WASTE. (1) Purpose. This section describes the procedures for determining whether or not a solid waste is ~~((a dangerous waste))~~ DW or ~~((an extremely hazardous waste))~~ EHW.

(2) Applicability. The procedures in this section are applicable to any person who ~~((is required by))~~ generates a solid waste that is not exempted or excluded by this chapter ~~((173-303 WAC to determine whether or not his solid waste is designated as dangerous or extremely hazardous, or who desires an exemption for a designated dangerous waste))~~. This section does not apply to those persons who handle wastes that are excluded by WAC 173-303-071 or are exempted by the department. Any person who must determine whether or not his solid waste is designated ~~((under chapter 173-303 WAC))~~ shall perform such designation in the following general manner:

(a) List designation. He shall determine whether or not his waste is designated by the dangerous waste lists, ~~((which include))~~ WAC 173-303-080 through 173-303-084, ~~((or))~~ and, if not, shall then also determine whether or not his waste is designated by the dangerous waste characteristics, WAC 173-303-090; or

(b) ~~((In lieu of subsection (2)(a), above))~~ Criteria designation. Except as provided otherwise in subsection (3)(c) of this section, in lieu of (a) of this subsection, he shall determine whether or not his waste is designated by the dangerous waste criteria, ~~((which include))~~ WAC 173-303-100 through 173-303-103.

Any person who wishes to seek an exemption for a waste which has been designated ~~((dangerous or extremely hazardous))~~ DW or EHW shall comply with the requirements of ~~((subsection (6), below))~~ WAC 173-303-072.

(3) Designation procedures. To determine whether or not his waste is designated, a person must ~~((check))~~ use certain sections of this ~~((regulation. These sections are))~~ chapter in the manner set forth in ~~((subsection (3))~~(a) and (b)~~((, and the manner of their use is described))~~ of this subsection. Any person who determines by these procedures that his waste is designated ~~((as dangerous or extremely hazardous))~~ DW or EHW shall be subject to all applicable requirements of chapter 173-303 WAC. The dangerous waste designation procedures are also illustrated in WAC 173-303-9901, flowchart for designating dangerous wastes, and WAC 173-303-9902, narrative for designating dangerous wastes.

(a) List designation. Except as provided in ~~((subsection (3)(b), below))~~ (b) of this subsection, a person shall check his waste against the following sections, and in the following order:

- (i) First, discarded chemical products, WAC 173-303-081;
- (ii) Second, dangerous waste sources, WAC 173-303-082;
- (iii) Third, infectious dangerous wastes, WAC 173-303-083;
- (iv) Fourth, dangerous waste mixtures, WAC 173-303-084; and
- (v) Last, dangerous waste characteristics, WAC 173-303-090.

A person shall check each section, in the order set forth, until he determines that his waste is designated. Once his waste is designated, he need not determine any other designations for his waste, except as required by subsection (5)~~((, below))~~ of this section. If one section results in his waste being both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for EP toxicity), the waste must be designated EHW. If he has checked his waste against each section and his waste is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

(b) ~~((In lieu of subsection (3)(a), above,))~~ Criteria designation. Except as provided otherwise in (c) of this subsection, in lieu of (a) of this subsection (list designation) a person shall check his waste against the following sections, and in the following order:

- (i) First, toxic dangerous wastes, WAC 173-303-101;
- (ii) Second, persistent dangerous wastes, WAC 173-303-102;
- (iii) Third, carcinogenic dangerous wastes, WAC 173-303-103; and
- (iv) Last, dangerous waste characteristics, WAC 173-303-090.

A person shall check each section, in the order set forth, until he determines that his waste is designated. If he determines that his waste is designated ~~((as a dangerous waste-))~~ DW~~((,))~~, then he must assure that it is not also ~~((an extremely hazardous waste-))~~ EHW~~((,))~~ by checking it against the remaining sections. If he determines that his waste is designated ~~((as an))~~ EHW, then he need not check it against any remaining sections. If designation results in his waste being both EHW and DW (e.g., a waste might be EHW for toxicity and DW for persistence), the waste must be designated EHW. If he has checked his waste against all of the sections and it is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

(c) Designating certain listed wastes by the criteria. Any person who has chosen to designate his waste according to the procedures specified in (b) of this subsection (criteria designation) must, if his waste is listed in WAC 173-303-081 or 173-303-082, comply with the following requirements:

(i) If his waste is designated by the procedures of (b) of this subsection, then his waste will still be designated as a listed waste also, and will be subject to all requirements of this chapter applicable to listed dangerous wastes; and

(ii) If his waste is not designated by the procedures of (b) of this subsection, then:

(A) The person must notify the department of his determination under (b) of this subsection (criteria designation), and request a notice from the department indicating that it agrees with his decision that the waste should not be designated;

(B) Until the department issues a notice of agreement to the person, he must handle his waste in accordance with all requirements of this chapter applicable to listed dangerous wastes;

(C) The department will review the person's request and decide whether or not it agrees with the person's decision that his waste should not be designated. In deciding whether or not to agree, the department will consider:

(I) The person's determination under (b) of this subsection (criteria designation); and

(II) In addition, the factors specified under WAC 173-303-072(4). The department will request, and the person shall provide, any information it deems necessary to make an accurate decision to agree or disagree. Failure by the person to provide all requested information will form a basis for the department to not issue a notice of agreement; and

(D) If the department agrees that the person's waste should not be designated, then it will issue a notice of agreement to the person and his waste will not be designated a dangerous waste for the purposes of this chapter. If instead the department decides that the person's waste should be designated a dangerous waste, then the department will notify the person of its decision and the person's waste will be designated a listed dangerous waste. For the purposes of this chapter, the person's waste will then be subject to all requirements applicable to listed dangerous wastes.

(4) Criteria designation required. Notwithstanding any other provisions of this chapter, the department may ~~((order))~~ require any person to determine whether or not his waste is designated under the dangerous waste criteria, ~~((as set forth in))~~ WAC 173-303-100 through 173-303-103, if the department has reason to believe that his waste would be designated ~~((dangerous or extremely hazardous))~~ DW or EHW by the dangerous waste criteria, or if the department has reason to believe that his waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW by the criteria). If a person, pursuant to an order issued under subsection (4), determines that his waste is a dangerous waste or that its designation must be changed, then he shall be subject to the applicable requirements of this chapter 173-303 WAC. The department shall base its order on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be ~~((dangerous or extremely hazardous))~~ DW or EHW;

(b) Evidence that the person's waste is very similar to another person's already designated ~~((dangerous waste-))~~ DW or EHW;

(c) Evidence that the person's waste has historically been a ~~((dangerous waste-))~~ DW or EHW; or

(d) Evidence or information about a person's manufacturing materials or processes which indicate that his wastes may be ~~((dangerous or extremely hazardous))~~ DW or EHW.

(5) Special knowledge. If a generator has designated his waste under the dangerous waste lists, ~~((as set forth in))~~ WAC 173-303-080 through 173-303-084, and has knowledge that his waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that his waste also meets any of the dangerous waste criteria ~~((set forth in))~~, WAC 173-303-100 through 173-303-103, or both, then he shall also designate his waste in accordance with those dangerous waste characteristics, ~~((a))~~ or criteria, or both.

(6) ~~((Waste exemption. A generator whose waste has been designated as a dangerous or extremely hazardous waste under the dangerous waste lists or the dangerous waste characteristics may, at any time, check his waste against the dangerous waste criteria, WAC 173-303-100, for the purposes of exempting or changing the designation of his waste. The generator shall then submit a petition to the department in accordance with WAC 173-303-910, petitions, including all relevant data. The department shall, by order, issue a final determination regarding the designation or exemption of the waste.~~

~~((7))~~ Dangerous waste numbers. When a ~~((generator))~~ person is reporting ~~((e.g., exception reports, annual reports, etc.))~~ or keeping records on a dangerous waste, he shall use all the dangerous waste numbers ~~((DW#s))~~ which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria ~~((e.g.,))~~. For example, if his waste is ignitable and contains extremely hazardous concentrations of halogenated hydrocarbons, he shall use the ~~((DW#s))~~ dangerous waste numbers of D001 and WP01~~((?))~~. This shall not be construed as requiring ~~((the generator))~~ a person to designate his waste beyond those designation requirements set forth in ~~((WAC 173-303-070))~~ subsections (2), (3), (4), and 5~~((-above))~~ of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to identify the amount of a dangerous waste that, when generated, causes such waste to be subject to the requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to certain requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating more than one kind of dangerous waste identified by this chapter. In such cases, the generator must consider the aggregate quantity of his wastes when determining whether or not his waste amounts exceed the specific quantity exclusion limits (QEL). Waste quantities must be aggregated for all wastes with common QEL'S. For example, if a person generates 300 pounds of an ignitable waste and 300 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (600 pounds) exceeds their common QEL of 400 pounds. On the other hand, if a person generates one pound of an EHW discarded chemical product and 300 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 400 pounds, respective QEL'S). Additional guidance on aggregating waste quantities is available from the department.

(8) Small quantity generators. A person is a small quantity generator and is subject to the requirements of this subsection if his waste is listed in WAC 173-303-9903 or 173-303-9904 or exhibits one or more of the characteristics described under WAC 173-303-090(5), (6), (7) and (8), and the quantity of waste that he generates (or the aggregated quantity if he generates more than one kind of waste) does not exceed the quantity exclusion limit for such waste (or wastes). If a person generates any dangerous wastes that exceed the QEL, then all dangerous waste generated by that person is subject to the requirements of this chapter, and such person cannot be a small quantity generator until after all dangerous waste on-site at the time the QEL was exceeded have been removed, treated, or disposed. For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 400 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter. A small quantity generator who generates or accumulates waste in excess of the quantity exclusion limit and becomes subject to the full requirements of this chapter cannot again be a small quantity generator until after all dangerous waste on-site at the time he became fully regulated have been removed,

treated, or disposed. A small quantity generator will not be subject to the requirements of this chapter if he:

(a) Complies with subsections (1), (2), (3), and (4) of this section; and

(b) Either treats or disposes of his dangerous waste in an on-site facility, or ensures delivery to an off-site facility, either of which is:

(i) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(ii) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(iii) Permitted to manage municipal or industrial solid waste in accordance with chapter 70.95 RCW and chapter 173-301 WAC, or in accordance with another state's solid waste laws if the waste is sent out of state; or

(iv) A facility that beneficially uses or reuses, or legitimately recycles or reclaims his dangerous waste, or that treats his waste prior to such recycling activities.

NEW SECTION

WAC 173-303-072 PROCEDURES AND BASES FOR EXEMPTING AND EXCLUDING WASTES. (1) Purpose and applicability.

(a) The purpose of this section is to describe the procedures that will be followed by generators and the department when wastes are considered for exemption or exclusion from the requirements of this chapter. Any person(s) whose waste is exempted or excluded will not be subject to the requirements of this chapter unless the department revokes the exemption or exclusion.

(b) Any person seeking a waste exemption must submit a petition to the department according to the procedures of WAC 173-303-910(3). A petition for exemption will be assessed against the applicable bases for exemption described in subsections (3), (4), and (5) of this section.

(c) Any persons seeking to categorically exclude a class of wastes must submit a petition to the department according to the procedures of WAC 173-303-910(4). A petition for exclusion will be assessed against the applicable bases for exclusion described in subsection (5) of this section.

(2) Department procedures. When considering, granting, or denying a petition for exemption or exclusion, the department shall follow the appropriate procedures described in WAC 173-303-910(1).

(3) Bases for exempting wastes. To successfully petition the department to exempt a waste, the petitioner must demonstrate to the satisfaction of the department that:

(a) He has been able to accurately describe the variability or uniformity of his waste over time, and has been able to obtain demonstration samples which are representative of his waste's variability or uniformity; and, either

(b) The representative demonstration samples of his waste are not designated DW or EHW by the dangerous waste criteria, WAC 173-303-100 through 173-303-103; or

(c) It can be shown, from information developed by the petitioner through consultation with the department, that his waste does not otherwise pose a threat to public health or the environment, except that this basis for exemption is not applicable to wastes which exhibit any of the characteristics specified in WAC 173-303-090.

(4) Additional bases for exempting listed wastes. In addition to the demonstrations required by subsections (3) (a) and (b) of this section, for wastes listed in WAC 173-303-081 or 173-303-082 the petitioner must also demonstrate to the satisfaction of the department that his waste is not capable of posing a substantial present or potential threat to public health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The following factors will be considered by the department when assessing such a demonstration:

(a) Whether or not the listed waste contains the constituent or constituents which caused it to be listed. (For the purposes of this subsection, the constituents referred to will include any of the dangerous waste constituents listed in WAC 173-303-9905);

(b) The nature of the threat posed by the waste constituent(s);

(c) The concentration of the constituent(s) in the waste;

(d) The potential of the constituent(s) or any degradation product of the constituent(s) to migrate from the waste into the environment under the types of improper management considered in (h) of this subsection;

(e) The persistence of the constituent(s) or any degradation product of the constituent(s);

(f) The potential for the constituent(s) or any degradation product of the constituent(s) to degrade into nonharmful constituents and the rate of degradation;

(g) The degree to which the constituent(s) or degradation product of the constituent(s) bioaccumulates in ecosystems;

(h) The plausible types of improper management to which the waste could be subjected;

(i) The quantities of the waste generated at individual generation sites or on a state-wide basis. Under this factor, the department will also consider whether or not the waste is listed under WAC 173-303-081 as a discarded chemical product and occurs in a relatively pure form. Any waste discarded chemical product which exceeds the quantity exclusion limit specified in WAC 173-303-081(2) for that waste will not be exempted;

(j) The nature and severity of the public health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent(s);

(k) Actions taken by other governmental agencies or regulatory programs based on the health or environmental threat posed by the waste or waste constituent(s); and

(l) Such other factors as may be appropriate.

(5) Bases for exempting wastes designated solely for the presence of chromium. The department will exempt a waste which is designated because of the presence of chromium if the petitioner can demonstrate that:

(a) The waste is not designated for any other characteristic under WAC 173-303-090, or for any of the criteria specified in WAC 173-303-101, 173-303-102 or 173-303-103;

(b) The waste is not listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium; and

(c)(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;

(ii) The waste is generated from a process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments or under nonoxidizing conditions.

(6) Bases for categorically excluding classes of wastes. This subsection does not apply to any waste class that includes hazardous waste regulated under 40 CFR Part 261. To successfully petition the department to categorically exclude a class of wastes, petitioners must demonstrate to the satisfaction of the department that the petition or petitions for exclusion:

(a) Accurately describe the class of wastes for which categorical exclusion is sought and show that the class of wastes does not include any wastes which would be regulated as hazardous waste under 40 CFR Part 261;

(b) Describe the variability or uniformity of the class of wastes over time and in relation to the individual wastes that comprise the class of waste;

(c) Discuss the generators and their individual wastes that belong to the class of wastes and, to the extent practical, any generators or individual wastes that, although belonging to the class of wastes, are not represented by the petition or petitions; and

(d) For each individual waste within the class of wastes, provide the demonstration described by subsection (3) of this section, except that where it is determined by consultation with the department to be impractical to provide the demonstration for each individual waste, the petitioner or petitioners shall provide the demonstration for samples of the individual wastes determined by consultation with the department to be representative of the class of wastes.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-090 DANGEROUS WASTE CHARACTERISTICS. (1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section shall be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(~~(-petitions))~~(2).

(4) Quantity exclusion limit. A solid waste which (~~has been designated as a dangerous or extremely hazardous waste solely because it~~) exhibits one or more of the dangerous waste characteristics shall be subject to the requirements of this chapter (~~(173-303-WAC)~~) if its quantity exceeds 400 lbs. (181.8 kg.) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability, but is not designated as a dangerous waste under any of the dangerous waste lists, (~~as set forth in~~) WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated (~~as a dangerous waste~~)DW(~~(?)~~), and shall be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using (~~the testing methods specified~~) Method 5.2 in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," available from the department; (~~(or)~~)

(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods." The NACE Standard is available from the department; or

(iii) It is a solid or sludge, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110(3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity, but is not designated as a dangerous waste under any of the dangerous waste lists, (~~as set forth in~~) WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated (~~as a dangerous waste~~)DW(~~(?)~~), and shall be assigned the dangerous waste number of D002.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity, but is not designated as a dangerous waste under any of the dangerous waste

lists, ~~((as set forth in))~~ WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated ~~((as a dangerous waste (DW)))~~, and shall be assigned the dangerous waste number of D003.

(8) Characteristic of EP toxicity.

(a) A solid waste exhibits the characteristic of EP toxicity if, using "Extraction Procedure Test Methods - 1981" on file with the department, the extract from a representative sample of the waste contains any of the contaminants listed in the EP toxicity list ~~((below))~~ in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of this ~~((paragraph))~~ subsection.

(b) A solid waste that exhibits the characteristic of EP toxicity, but is not designated as a dangerous waste under any of the dangerous waste lists, ~~((as set forth in))~~ WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) EP toxicity list. Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations in the ~~((extremely hazardous waste (EHW)))~~ EHW range shall cause that waste to be designated ~~((as extremely hazardous))~~ EHW. Any waste containing contaminants ~~((at or some of))~~ which occur at concentrations in the ~~((dangerous waste (DW)))~~ DW range only (i.e., no EHW contaminants), shall be designated ~~((as dangerous waste))~~ DW.

EP TOXICITY LIST

Dangerous Waste Number	Contaminant	EHW Maximum Concentration In Extract (mg/L)	DW Maximum Concentration In Extract (mg/L)
D004	Arsenic	> 500	5 - 500
D005	Barium	> 10,000	100 - 10,000
D006	Cadmium	> 100	1 - 100
D007	Chromium ((V))	> 500	5 - 500
D008	Lead	> 500	5 - 500
D009	Mercury	> 20	0.2 - 20
D010	Selenium	> 100	1 - 100
D011	Silver	> 500	5 - 500
D012	Endrin	> 2	0.02 - 2
D013	Lindane	> 40	0.4 - 40
D014	Methoxychlor	> 1,000	10 - 1,000
D015	Toxaphene	> 50	0.5 - 50
D016	2,4-D	> 1,000	10 - 1,000
D017	2,4,5-TP Silvex	> 100	1 - 100

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-103 **CARCINOGENIC DANGEROUS WASTES.** (1) Criteria. A substance which is listed in the National Institute for Occupational Safety and Health (NIOSH) document "Registry of Toxic Effects of Chemical Substances" (Registry), or any other documents, as an IARC (International Agency for Research on Cancer) human or animal, positive or suspected carcinogen, shall be a carcinogenic substance for the purposes of this section. Any IARC identified substance which is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled).

(2) Designation. Any person whose waste contains one or more IARC carcinogen(s) shall designate his waste ~~((as a dangerous waste (DW)))~~ if:

(a) ~~((The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and~~

~~((b)))~~ The monthly or batch waste quantity exceeds 400 lbs. (181.8 kg); and either

~~((b)(i))~~ The concentration of any one IARC positive (human or animal) carcinogen exceeds 1.0% of the waste quantity. Such waste shall be designated EHW, and such designation shall take precedence over any DW designation determined by ~~((b)(ii))~~ or ~~((b)(iii))~~ of this subsection; or

~~((b)(ii))~~ The concentration of any one IARC positive (human or animal) carcinogen exceeds 0.01% of the waste quantity. Such waste shall be designated DW; or

~~((b)(iii))~~ The total concentration summed for all IARC positive and suspected (human and animal) carcinogens exceeds 1.0% of the waste quantity. Such waste shall be designated DW.

~~((c))~~ For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-104 **GENERIC DANGEROUS WASTE NUMBERS.** (1) Purpose. This section sets forth the dangerous waste number ~~((DW#))~~ for each of the dangerous waste criteria designations.

(2) Characteristics. A waste which exhibits any of the dangerous waste characteristics, WAC 173-303-090, shall be assigned the ~~((DW#))~~ dangerous waste number corresponding to the characteristic(s) exhibited by the waste.

(3) Criteria. The following table shall be used for assigning ~~((DW#s))~~ dangerous waste numbers to wastes designated by the dangerous waste criteria or by WAC 173-303-084.

GENERIC DANGEROUS WASTE NUMBERS TABLE

((DW#)) Dangerous Waste#	Dangerous Waste Criteria and Designation
WT01	Toxic Dangerous Wastes EHW
WT02	DW Persistent Dangerous Wastes Halogenated Hydrocarbons
WP01	EHW
WP02	DW Polycyclic Aromatic Hydrocar
WP03	EHW Carcinogenic Dangerous Waste
WC01	((DW)) EHW
WC02	DW

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-110 **SAMPLING AND TESTING METHODS.**

(1) Purpose. This section describes the testing methods which may be used in the process of designating a dangerous waste.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below, for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-76;

(iv) Soil-like material - ASTM Standard D1452-65;

(v) Soil or rock-like material - ASTM Standard D420-69;

(vi) Containerized liquid wastes - "COLIWASA" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods~~((:))~~" ~~((and also in "Samplers and Sampling Procedures for Hazardous Waste Streams," EPA 600/2-80-18, January 1980)), SW-846, revised July 1982; and,~~

~~((vii))~~ Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in ~~((the same documents referenced in WAC 173-303-110(2)(a)(vi), above))~~ "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", SW-846, revised July 1982.

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

(3) Test procedures. ~~((The following test procedures are on file with the department, and shall be used when testing a waste for the indicated purposes:~~

(a) Determining EP toxicity — "Extraction Procedure Test Methods — 1981";

(b) Determining halogenated hydrocarbon concentrations — "Parr Bomb Test for Total Chlorine";

(c) Determining polycyclic aromatic hydrocarbon concentrations — "Analysis for Polynuclear Aromatic Hydrocarbons";

(d) Determining aquatic fish toxicity (FLM₉₆ or Aquatic LC₅₀) — "Static Acute Fish Toxicity Test" described in the document "Biological Testing Methods, Compliance with the Hazardous Waste Regulations," DOE 80-12, October, 1980, and;

(e) Determining oral rat toxicity (LD₅₀) — "Acute Oral Rat Toxicity Test" described in the document referenced in WAC 173-303-110(3)(d), above.) The test procedures listed in this subsection are available in two documents, copies of which can be obtained from the department by writing to:

Attn: Test Procedures
Hazardous Waste Section, PV-11
Department of Ecology
Olympia, Washington 98504

The document titles and included test procedures are as follows:

(a) "Chemical Testing Methods for Complying with the Dangerous Waste Regulation", March 1982, revised July 1983, describing methods for testing:

(i) Ignitability;

(ii) Corrosivity, including the addendum, "Test Method for Determining pH of Solutions in Contact with Solids", March 1984;

(iii) Reactivity;

(iv) EP Toxicity;

(v) Halogenated hydrocarbons; and

(vi) Polycyclic aromatic hydrocarbons; and

(b) "Biological testing methods", revised July 1981, describing procedures for:

(i) Static acute fish toxicity test; and

(ii) Acute oral rat toxicity test.

(4) Substantial changes to the testing methods described above shall be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), ((petitions;)) to the department.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-120 RECYCLED, RECLAIMED, AND RECOVERED WASTES. (1) ((Purpose. It is the purpose of this section to set forth the conditions under which a dangerous waste shall be handled when it is being recycled, reclaimed, or recovered.

(2) Any dangerous waste which is designated only because it exhibits one or more of the dangerous waste characteristics set forth under WAC 173-303-090 shall not be subject to the regulations of chapter 173-303 WAC if:

(a) It is being beneficially used or reused, or legitimately recycled, reclaimed, or recovered; or

(b) It is being accumulated, stored, or treated prior to beneficial use or reuse, or legitimate recycling, reclamation, or recovery.

(3) Any dangerous waste which is listed, or contains one or more dangerous wastes designated in the dangerous waste lists set forth under WAC 173-303-080, and which is transported or stored prior to being used, reused, recycled, reclaimed, or recovered is subject to the following requirements:

(a) WAC 173-303-060, notification and identification numbers;

(b) WAC 173-303-170 through 173-303-230 for generators;

(c) WAC 173-303-240 through 173-303-270 for transporters;

(d) WAC 173-303-280 through 173-303-395 for facility owners/operators;

(e) The storage requirements of WAC 173-303-400 through 173-303-520 for interim status facilities;

(f) The storage requirements of WAC 173-303-500 through 173-303-670 for final status facilities; and

(g) WAC 173-303-800 through 173-303-840 with respect to storage facility permits.) This section describes the requirements for persons who recycle solid wastes that are designated as dangerous waste by this chapter.

(2) Dangerous waste sludges and dangerous wastes which are listed in WAC 173-303-081 or 173-303-082, when recycled, are subject to the requirements of (a), (b) and (c) of this subsection. All other dangerous wastes, when recycled, are also subject to the requirements of (a), (b) and (c) of this subsection, unless specified otherwise in WAC 173-303-500 through 173-303-520. The following requirements apply to generators, transporters, and managers of recycled dangerous waste:

(a) Generators of recycled dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recycled dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270; and

(c) Managers of facilities that recycle dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-280 through 173-303-395, 173-303-420 through 173-303-440, and 173-303-800 through 173-303-840 for all recyclers, WAC 173-303-400 for recyclers with interim status permits, and WAC 173-303-600 through 173-303-670 for recyclers with final facility permits.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-180 MANIFEST. Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator shall prepare a ((typed or printed)) manifest((; containing the information required below;)) and shall follow all applicable procedures described ((below)) in this section.

(1) (a) Required information for manifests. The manifest information requirements specified herein are only applicable until September 20, 1984. After September 20, 1984, manifests must be in the form and must contain the information required by (b) of this subsection. The manifest shall contain at least the following information:

((a)) (i) A manifest document number;

((b)) (ii) The generator's name, address, telephone number, and EPA/State identification number;

((c) The name, address, telephone number, and EPA/State identification number of the origin of the dangerous waste, if the origin is different from the generator;

((d)) (iii) The ((transporter's)) name, address, telephone number, and EPA/State identification number of each transporter used;

((e)) (iv) The name, address, and EPA/State identification number of the designated receiving facility((; and of one alternate)) (such facility must be permitted to handle the waste identified on the manifest) and, if the generator so chooses, of an alternate facility permitted to handle the waste in the event an emergency prevents delivery to the primary designated receiving facility;

((f)) (v) The total quantity of each dangerous waste, and the type and number of containers identified by units of weight or volume to be received by the transporter;

((g)) (vi) The description of the waste(s) as required by United States Department of Transportation (DOT) regulations, 49 CFR 172.101, 172.202, and 172.203, and, when such information would be useful in the event of a spill or discharge during transport, the approximate percentages of each waste component;

((h)) (vii) Measures to be taken in case of accident, the National Response Center phone number, 1-800-424-8802, and the CHEMTREC phone number, 1-800-424-9300;

((i)) (viii) Such other information as required by the department to implement chapter 70.105 RCW; and

((j)) (ix) The following certification, or an equivalent certification, on the manifest:

"This is to certify that the above named materials are properly designated, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation, EPA, and the Washington State Department of Ecology."

(b) Uniform dangerous waste manifest. The requirements specified herein are applicable to all manifests used after September 20, 1984. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest shall be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262.

(2) The manifest shall consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator shall:

- (i) Sign and date the manifest certification by hand;
- (ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and
- (iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator shall give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

~~((d))~~ (e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

- (i) The next nonrail transporter, if any; or
- (ii) The designated facility if transported solely by rail; or
- (iii) The last rail transporter to handle the waste in the United States if exported by rail.

(4) Special requirements for shipments to the Washington ~~((extremely hazardous waste (EHW)))~~ facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford shall notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator shall not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180(4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-200 ACCUMULATING DANGEROUS WASTE ON-SITE. (1) A generator may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

~~((+))~~ (a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

~~((2))~~ (b) The waste is placed in containers ~~((which meet the standards of WAC 173-303-190(1), packaging, and are managed in accordance with WAC 173-303-630 (6) and (8), use and management of containers; or~~

~~(3) In tanks, provided)) and the generator complies with WAC 173-303-630 (2), (4), (5), (6), (8), and (9), or the waste is placed in tanks and the generator complies with ((the requirements set forth in WAC 173-303-400 for tanks except for waste analysis and trial tests (i.e., comply with Subpart J of 40 CFR Part 265 except 265.193))) WAC 173-303-640 (3), (4), (5), (6), and (7), except that in lieu of the "sufficient freeboard" requirement of WAC 173-303-640(3)(b)(ii) for uncovered tanks, the generator must maintain a minimum freeboard of two feet;~~

~~((4))~~ (c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

~~((5) Each container is properly labeled and marked according to WAC 173-303-190(2), labeling, and WAC 173-303-190(3), marking))~~ (d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "Dangerous Waste" or "Hazardous Waste". Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the

waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate); and

~~((6))~~ (e) The generator complies with the requirements for facility operators contained in WAC ~~((173-303-340))~~ 173-303-330 through 173-303-360 if any accumulated dangerous waste will remain on-site for more than ten days. If the generator must comply with WAC 173-303-330 through 173-303-360, then the requirements of those sections must be met by the date that he first begins accumulating dangerous waste on-site.

(2) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or
(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or

(c) A container used for receiving and accumulating waste(s) is full, provided that:

(i) None of the wastes being accumulated on-site are regulated pursuant to WAC 173-303-081; and

(ii) The total quantity of all wastes being accumulated on-site does not exceed 2200 pounds prior to the date the container is full.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-240 REQUIREMENTS FOR TRANSPORTERS OF DANGEROUS WASTE. (1) Transporters shall comply with the requirements of WAC 173-303-060, notification and identification numbers. Transporters who are involved in interstate transport shall use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/State ID#. Transporters who are involved only in intrastate transport shall use the identification number assigned to their headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport shall obtain a separate generator EPA/State ID# for such spill or terminal.

(2) Any person who transports a dangerous waste shall comply with the requirements of WAC 173-303-240 through 173-303-270, when ~~((:))~~ such dangerous waste is required to be manifested by WAC 173-303-180.

~~((a) The dangerous waste has been manifested according to the requirements of WAC 173-303-180, and~~

~~(b) The dangerous waste is being delivered to the owner/operator of a transfer, storage, treatment or disposal facility, whether in-state or out-of-state:))~~ Any person who transports moderate risk waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170(2)(b)(i), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.

(3) Any person who transports a dangerous waste shall also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States ~~((Department of Transportation (DOT)))~~ shipping descriptions by mixing them into a single container.

(4) These requirements shall not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted ~~((storage, treatment, or disposal))~~ TSD facilities.

(5) Transporters may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters who do not comply with these conditions are subject to the requirements for transfer facilities, WAC 173-303-275.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-395 OTHER GENERAL REQUIREMENTS.
(1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste

must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

- (i) Generate extreme heat or pressure, fire or explosion, or violent reaction;
- (ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;
- (iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
- (iv) Damage the structural integrity of the facility or device containing the waste; or
- (v) Through other like means, threaten human health or the environment.

(c) When required to comply with ((WAC 173-303-395(t)))(a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator shall inspect those areas of his facility where ignitable or reactive wastes are stored. This inspection shall be performed in the presence of a professional person who is familiar with the Uniform Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator shall enter the following information in his inspection log or operating record as a result of this inspection:

- (i) The date and time of the inspection;
- (ii) The name of the professional inspector or fire marshal;
- (iii) A notation of the observations made; and
- (iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator shall design, maintain and operate his dangerous waste facility in compliance with all applicable federal, state and local laws and regulations (e.g., control of stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) Asbestos dangerous waste disposal requirements. All asbestos containing waste material shall be disposed of at waste disposal sites which are operated in accordance with 40 CFR ((61-25)) Part 61 Subpart M. Such sites will not need to comply with any other standards of chapter 173-303 WAC, if they comply with 40 CFR ((61-25)) Part 61 Subpart M.

(4) Loading and unloading areas. TSD facilities which receive manifested shipments of liquid dangerous waste for treatment, storage or disposal must provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

- (a) Contain spills and leaks that might occur during loading or unloading;
 - (b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;
 - (c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and
 - (d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.
- (5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste shall not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit for waste currently being stored in impoundments or piles will begin on

the effective date of this requirement. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

(i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;

(ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile shall be deemed the same age as the oldest waste in the impoundment or pile;

(iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;

(iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;

(v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and

(vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing an on-site recycling or treatment process for the wastes stored in his impoundment or pile, then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will not exceed five years, and will only apply to those dangerous wastes covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan, at a minimum, must:

(i) Specify the wastes which will be recycled or treated in accordance with the plan;

(ii) Describe in detail the recycling or treatment which the owner/operator intends to perform, including descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;

(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;

(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:

(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;

(B) Construction and equipment installation times;

(C) Timing for complying with all required permit actions; and

(D) Such other elements as the department might require;

(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;

(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause him to fail to comply with his recycling or treatment plan. The owner/operator must also describe what actions he would take in the event that such occurrences or situations happen;

(vii) Be approved by the department. The plan shall not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension (not to exceed five years) granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and

(viii) Include any other elements that the department might require.

(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:

(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or other wise treat dangerous waste; or

(ii) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment,

recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

(iii) The maximum usable life of a surface impoundment or waste pile is less than five years, at the end of which time all dangerous wastes are scheduled for removal or disposal in place.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-500 ((SITING STANDARDS:)) SPECIAL REQUIREMENTS FOR RECYCLED DANGEROUS WASTE. ((+) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility:

(2) **Applicability.** These siting standards will apply to all facilities which require a permit under WAC 173-303-820 and 173-303-825, or as otherwise limited in each of the applicable paragraphs of this section:

(3) **Earthquake fault criteria:**

(a) For dangerous waste facilities, active portions of new treatment, storage, transfer, or disposal facilities will not be located within 200 feet of a fault which has had displacement in Holocene times. Where dangerous wastes are in solid or semisolid form, engineering efforts, as approved by the department, may be substituted for the 200-foot buffer zone:

(b) For extremely hazardous waste facilities, active portions of new or existing treatment, storage, transfer, or disposal facilities will not be located within 200 feet of a fault which has had displacement in Holocene times. No engineering exceptions to this limit shall be permitted:

(c) As used in WAC 173-303-500(3)(a) and (b):

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present:

Facilities which are located in political jurisdictions other than those listed in Appendix VI of 40 CFR 264 are assumed to be in compliance with this requirement:

(4) **Floodplain criteria:**

(a) For dangerous waste facilities, a facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a 100-year flood, unless the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters:

(b) For extremely hazardous waste facilities, a facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any extremely hazardous waste by a 100-year flood. Contingency procedures for removal of extremely hazardous waste will not be deemed equivalent to engineered flood proofing:

(c) The location to which wastes are moved must be a facility which is permitted by this chapter 173-303 WAC:

As used in WAC 173-303-500(4)(a) and (b):

(i) "100-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90-58 RCW):

(a) Areas defined as "wetlands" under RCW 90-58-030(2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste:

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations

where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility:

(6) **Sole source aquifer criteria.** No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(c) of the Safe Drinking Water Act (Public Law 93-523):

(1) This section applies only to those dangerous wastes which are not designated by 40 CFR Part 261 Subpart D, and which are not sludges (WAC 173-303-040(81)). Unless a recycling process or recycled dangerous waste has less stringent operational requirements specified in WAC 173-303-505 through 173-303-520, or is exempt in WAC 173-303-017, all generation, transportation and recycling of dangerous waste is subject to the requirements specified in WAC 173-303-120.

(2) The department may, on a case-by-case basis, determine that generators, transporters and/or recyclers regulated by WAC 173-303-505 through 173-303-520 are overaccumulating the dangerous waste prior to recycling (as this practice is described in WAC 173-303-121), or otherwise pose a threat to public health or the environment and therefore should be subject to the requirements under WAC 173-303-120.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-510 ((PERFORMANCE STANDARDS:)) SPECIAL REQUIREMENTS FOR CERTAIN RECYCLED CHARACTERISTIC DANGEROUS WASTES. ((+) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities:

(2) **Applicability.** This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-845. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280 through 173-303-400 and 173-303-600 through 173-303-670:

(3) **Performance standards.** Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

(a) Degradation of ground water quality;

(b) Degradation of air quality by open burning or other activities;

(c) Degradation of surface water quality;

(d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible;

(i) Endangerment of the health of employees, or the public near the facility:)

(1) This section applies only to those dangerous wastes which are not designated by 40 CFR Part 261 Subpart D, and which are not sludges (WAC 173-303-040(81)). Generators, transporters and recycling facilities who handle dangerous waste in a manner described in this subsection, are subject to the requirements described in subsection (2) of this section:

(a) Wastes that are dangerous solely because they exhibit the ignitability characteristics of WAC 173-303-090(5), or the reactivity characteristics of WAC 173-303-090(7)(a)(i), (ii), (iii), (vi), (vii) or (viii) and that are either stored at facilities producing fuels for their own subsequent use or stored by facilities that ultimately burn these wastes or waste derived fuels containing these wastes;

(b) Byproducts designated by the ignitability characteristics of WAC 173-303-090(5), or the reactivity characteristics of WAC 173-303-090(7)(a)(i), (ii), (iii), (vi), (vii) or (viii) only that are burned for energy recovery or used to produce fuels; and

(c) Byproducts designated by one or more characteristics (WAC 173-303-090) only that are reclaimed.

(2) All generators, transporters, and recyclers who handle dangerous wastes that are recycled or held for recycling in a manner described in subsection (1) of this section, are subject to the following requirements:

(a) WAC 173-303-060, notification for all persons;

- (b) WAC 173-303-145, spills and discharges for all persons;
- (c) WAC 173-303-220(1), annual report for generators only; and
- (d) WAC 173-303-390(2), annual report for facilities only.

NEW SECTION

WAC 173-303-515 SPECIAL REQUIREMENTS FOR RECYCLING OF DANGEROUS WASTE PURSUANT TO NONBATCH TOLLING AGREEMENTS. (1) This section applies only to those dangerous wastes which are not designated by 40 CFR Part 261 Subpart D, and which are not sludges (WAC 173-303-040(81)). The requirements listed in subsection (2) of this section apply to generators, and transporters of dangerous waste being reclaimed pursuant to nonbatch tolling agreements. The requirements listed in subsection (3) of this section apply to owners, or operators of facilities that store recycled dangerous waste pursuant to nonbatch tolling agreements. For the purposes of this section, "nonbatch tolling agreement" is a contractual agreement pursuant to which the person generating the dangerous waste transfers the waste to a reclaimer who returns material reclaimed from the waste to the person generating the dangerous waste.

(2) Generators and transporters of recycled dangerous waste reclaimed pursuant to nonbatch tolling agreements and who are not exempted by WAC 173-303-017 or regulated under WAC 173-303-120 are subject to the following requirements:

- (a) Generators:
 - (i) WAC 173-303-060;
 - (ii) WAC 173-303-190;
 - (iii) WAC 173-303-200;
 - (iv) WAC 173-303-210 except for subsection (1);
 - (v) WAC 173-303-220 except for subsection (2); and
 - (vi) WAC 173-303-230; and
- (b) Transporters:
 - (i) WAC 173-303-060;
 - (ii) WAC 173-303-240 (3) and (4); and
 - (iii) WAC 173-303-270.

(3) Facilities. Owners or operators of facilities that store dangerous waste being reclaimed pursuant to nonbatch tolling agreements are subject to the following requirements:

- (a) Reclaiming facilities that have an interim status permit:
 - (i) 40 CFR Part 265 Subpart A;
 - (ii) 40 CFR Part 265 Subpart B except for 265.13;
 - (iii) 40 CFR Part 265 Subpart C;
 - (iv) 40 CFR Part 265 Subpart D;
 - (v) 40 CFR Part 265 Subpart E except for 265.71 and 265.72;
 - (vi) 40 CFR Part 265 Subparts F through L; and
 - (vii) All applicable requirements of WAC 173-303-800 through 173-303-840 that are applicable to interim status permits;
- (b) Reclaiming facilities that have a final facility permit:
 - (i) WAC 173-303-280 (2) and (3);
 - (ii) WAC 173-303-290;
 - (iii) WAC 173-303-310 through 173-303-360;
 - (iv) WAC 173-303-380 except for subsection (1)(h);
 - (v) WAC 173-303-390 (2) and (3);
 - (vi) WAC 173-303-395;
 - (vii) WAC 173-303-610 through 173-303-650;
 - (viii) WAC 173-303-660; and
 - (ix) All applicable requirements of WAC 173-303-800 through 173-303-840 that are applicable to final facility permits.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-520 ((BUFFER MONITORING ZONES:)) SPECIAL REQUIREMENTS FOR RECLAIMING SPENT LEAD ACID BATTERY WASTES. ((+)) Buffer zones:

(a) The owner/operator of a dangerous waste facility which treats or stores ignitable waste in covered tanks must treat or store his ignitable waste in a manner equivalent with the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of "The Flammable and Combustible Liquids Code-1981."

(b) The owner/operator of a dangerous waste facility which stores reactive waste must store his reactive waste in a manner equivalent with the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1979 Edition.

(c) Within the practical limits of the best available management technology, the owner/operator of a new dangerous waste impoundment, landfarm, or landfill should attempt to locate his facility so that the travel time (as defined in WAC 173-303-040) from the active portion of the facility to the nearest downstream well or surface water used for drinking purposes is at least:

- (i) Three years, for dangerous wastes; and
- (ii) Ten years, for extremely hazardous waste.

(2) Monitoring zones:

(a) The owner/operator of a new dangerous waste facility handling category X, A, B, C, or D dangerous waste, not designated as extremely hazardous waste, may provide a monitoring zone around lagoons, landfarms, and landfills as follows:

$$D = wv \text{ (ft)}$$

Where

- D = the minimum width of the monitoring zone
- w = 3, a constant
- v = velocity of surface soil migration, ft/yr
- N = number of times the surface soil is sampled at one spot in a year. Samples shall be taken a distance of

$$S = D \text{ (ft) from the active portion of the facility}$$

Where

- D = the monitoring zone width in feet and
- w = 3.

(b) The same monitoring zone determinations may be made for facilities handling extremely hazardous waste (category X, A, B, or C), except that the value W = 10 shall be used.

(c) Additional information and assistance on choosing monitoring zones is available from the department. This section applies only to those dangerous wastes which are not designated by 40 CFR Part 261 Subpart D, and which are not sludges (WAC 173-303-040(81)).

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are not subject to the requirements of this chapter if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

- (a) For reclaiming facilities with an interim status permit:
 - (i) 40 CFR Part 265 Subpart A;
 - (ii) 40 CFR Part 265 Subpart B except for 265.13;
 - (iii) 40 CFR Part 265 Subpart C;
 - (iv) 40 CFR Part 265 Subpart D;
 - (v) 40 CFR Part 265 Subpart E except for 265.71 and 265.72;
 - (vi) 40 CFR Part 265 Subpart F through L; and
 - (vii) All requirements of WAC 173-303-800 through 173-303-840 that are applicable to interim status permits;
- (b) For reclaiming facilities with a final facility permit:
 - (i) WAC 173-303-280 (2) and (3);
 - (ii) WAC 173-303-290;
 - (iii) WAC 173-303-310 through 173-303-360;
 - (iv) WAC 173-303-380 except for subsection (1)(h);
 - (v) WAC 173-303-390 (2) and (3);
 - (vi) WAC 173-303-395;
 - (vii) WAC 173-303-610 through 173-303-650;
 - (viii) WAC 173-303-660; and
 - (ix) All requirements of WAC 173-303-800 through 173-303-840 that are applicable to final facility permits.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-610 CLOSURE AND POST-CLOSURE. (1) Applicability.

(a) ((WAC 173-303-610)) Subsections (2) to (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities(, and);

(b) ((WAC 173-303-610)) Subsections (7) to (10) of this section, (which concern post-closure care), apply to the owners and operators of all ((dangerous waste disposal facilities)) regulated units (as defined in WAC 173-303-040(75)) at which dangerous waste will remain after closure, to surface impoundments and waste piles as specified in WAC 173-303-650(6) and 173-303-660(9), and, unless otherwise

authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and post-closure requirements, any portion of a facility which closes is subject to the applicable closure and post-closure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance; ~~((and (b)))~~ (ii) Controls, minimizes or eliminates to the extent necessary to prevent threats to human health and the environment, post-closure escape of dangerous waste, dangerous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground, surface water, ground water, or the atmosphere~~((:)); and ((c))~~ (iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), or 173-303-670(8) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) Background environmental levels, for any dangerous waste, managed at the facility, which is listed under WAC 173-303-081 or 173-303-082; and

(ii) At least the designation limits of WAC 173-303-084, 173-303-090, or 173-303-101 through 173-303-103 for any dangerous waste, managed at the facility, which is not listed under WAC 173-303-081 or 173-303-082. In addition to these limits, the department may specify in the closure plan for a facility any lower limits for removal or decontamination which the department deems appropriate.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with WAC ~~((173-303-815))~~ 173-303-806(4), and approved by the department as part of the permit issuance proceeding under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with ~~((WAC 173-303-610))~~ subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650~~((7))~~(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with ~~((WAC 173-303-610(6)))~~ subsection (6) of this section. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include at least:

(i) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility and how the requirements of ~~((WAC 173-303-610))~~ subsections (2) to (6) of this section, and the applicable closure requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650~~((7))~~(6), 173-303-655(8), 173-303-660(9), and 173-303-670(8) will be met;

(ii) An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iii) A description of the steps needed to decontaminate facility equipment during closure; and

(iv) An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.)

(b) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is

that period during which wastes are periodically managed on-site or received from off-site.) The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time ~~((see WAC 173-303-840(10)))~~. If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within sixty days after the change in plans or design occurs.

(c) The owner or operator must notify the department at least one hundred eighty days prior to the date he expects to begin closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, the owner or operator must treat, remove from the site, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, and either:

(i)~~((A))~~ The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

~~((B))~~(ii)(A) The facility has the capacity to receive additional wastes~~((:));~~

~~((H))~~ (B) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

~~((HH))~~ (C) Closure of the facility would be incompatible with continued operation of the site~~((and~~

(ii) He has taken and will continue to take all steps to prevent threats to human health and the environment).

(b) The owner or operator must complete closure activities in accordance with the approved closure plan within one hundred eighty days after receiving the final volume of wastes. The department may approve a longer closure period if the owner or operator demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, and either:

(i) The closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii) (A) The facility has the capacity to receive additional wastes;

(B) There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site~~((;~~

(iii) And he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility).

(5) Disposal or decontamination of equipment. When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all dangerous waste and residues.

(6) Certification of closure. When closure is completed, the owner or operator must submit to the department certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.

(7) Post-closure care and use of property.

(a) Post-closure care must continue for thirty years after the date of completing closure and must consist of at least the following:

(i) Ground water monitoring and reporting as applicable; and

(ii) Maintenance of monitoring and waste containment systems as applicable.

(b) During the one hundred eighty-day period preceding closure (see ~~((WAC 173-303-610(3)(c)))~~ subsection (3)(c) of this section) or at any time thereafter, the department may reduce the post-closure care period to less than thirty years if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the facility is secure).

Prior to the time that the post-closure care period is due to expire the department may extend the post-closure care period if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of waste at levels which may be harmful to human health and the environment).

(c) The department may require, at closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the post-closure period after the date of completing closure when:

- (i) Wastes may remain exposed after completion of closure; or
- (ii) Access by the public or domestic livestock may pose a hazard to human health or may disturb the post-closure monitoring or waste containment systems.

(d) Post-closure use of property on or in which dangerous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

- (i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or
- (ii) Is necessary to reduce a threat to human health or the environment.

(e) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in (~~WAC 173-303-610(8)~~) subsection (8) of this section.

(8) Post-closure plan; amendment of plan.

(a) The owner or operator of a disposal facility must have a written post-closure plan. In addition, certain piles and certain surface impoundments are required by WAC 173-303-650 and 173-303-660, respectively, to have written post-closure plans. The plan must be submitted with the permit application in accordance with WAC (~~173-303-815~~) 173-303-806(4), and approved by the department as part of the permit issuance proceeding under WAC 173-303-840. The approved post-closure plan will become a condition of any permit issued. The department's decision must assure that the approved post-closure plan is consistent with subsections (7), (8), (9), and (10) of this section, and the applicable requirements of WAC 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). A copy of the approved plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

- (i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;
- (ii) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:
 - (A) The integrity of the cap and final cover or other containment structures where applicable; and
 - (B) The function of the facility monitoring equipment;
- (iii) And the name, address, and phone number of the person or office to contact about the disposal facility during the post-closure period. This person or office must keep an updated post-closure plan during the post-closure period.

(b) The owner or operator may amend his post-closure plan at any time during the active life of the disposal facility or during the post-closure care period. The owner or operator must amend his plan whenever changes in operating plans or facility design, or events which occur during the active life of the facility or during the post-closure period, affect his post-closure plan. He must also amend his plan whenever there is a change in the expected year of closure.

(c) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design which affects the post-closure plan, modification of the post-closure plan must be requested at the same time (~~(see WAC 173-303-840(10))~~). In all other cases the request for modification of the post-closure plan must be made within sixty days after the change in operating plans or facility design or the events which affect his post-closure plan occur.

(9) Notice to local land authority. Within ninety days after closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in (~~WAC 173-303-610(7)(d)~~) subsection (7)(d) of this section. In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or area of the facility. For wastes

disposed of before (~~these regulations were promulgated~~) November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept (including, but not limited to, records kept in compliance with 40 CFR Part 265). Any changes in the type, location, or quantity of dangerous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the department.

(10) Notice in deed to property.

(a) The owner of the property on which a disposal facility is located must record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage dangerous wastes;

(ii) Its use is restricted under (~~WAC 173-303-610(7)(d)~~) subsection (7)(d) of this section; and

(iii) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or area of the facility required in (~~WAC 173-303-610(9)~~) subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department.

(b) If at any time the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste.

NEW SECTION

WAC 173-303-809 DEMONSTRATION PERMIT FOR NEW CHEMICAL, PHYSICAL, OR BIOLOGICAL TREATMENT PROCESSES. (1) Purpose and applicability. This section applies to TSD facilities which will be chemically, physically, or biologically treating dangerous waste through new processes, and which are applying for a final facility permit. The purpose of this section is to provide permits which will allow new treatment processes (NTP) to operate and demonstrate the conditions of operation. The department will use the demonstration information developed under permits issued pursuant to this section to specify the final operating conditions in the final facility permit. Demonstration permits will not be issued under this section to applicants whose NTP will be treating dangerous waste which is also designated as hazardous waste under 40 CFR Part 261. Demonstration permits for trial burns or land treatment will not be issued under this section; they must be issued under WAC 173-303-807 and 173-303-808 respectively.

(2) Permit issuance. The department may issue a NTP demonstration permit either in advance of or as part of a final facility permit. The demonstration permit will include the demonstration and performance standards of subsection (3) of this section. If issued in lieu of the final facility permit, the NTP demonstration permit shall be issued as described in subsection (4) of this section. If issued as part of the final facility permit, the NTP demonstration permit and final facility permit shall be issued as described in subsection (5) of this section. The department will decide which permit issuance procedure will be followed based on information provided by the NTP applicant in Part B of the facility permit application.

(3) Demonstration and performance standards. This subsection describes the standards that will be included in a NTP demonstration permit to determine and establish the effectiveness of the NTP and the necessary final facility operating conditions. These standards will also assure that the NTP demonstration will be performed in a manner which will not pose a threat to public health and the environment.

(a) Demonstration. The NTP demonstration must be likely to show whether or not the NTP will effectively treat the dangerous waste. If the information provided by the applicant in his Part B application is determined by the department to be inadequate or to provide insufficient information regarding the likelihood of effective treatment, then a permit will not be issued under subsection (4) or (5) of this section. At a minimum, the NTP demonstration must:

(i) Accurately simulate the operating conditions of the NTP;

(ii) Specify the wastes and waste quantities to be treated and the duration of the demonstration;

- . (iii) Be likely to result in effective treatment; and
- (iv) Obtain the following information during the demonstration:
 - (A) Data on the concentrations and quantities of dangerous and nondangerous wastes and constituents before and after treatment;
 - (B) Recommended changes in operating conditions that could provide for more effective treatment;
 - (C) Identification of situations which resulted in not meeting the operating conditions, or in releases of dangerous waste or constituents to the environment;
 - (D) Data from any required monitoring equipment and process control instruments, such as temperature or pressure gauges, level indicators, waste feed rate and flow meters, etc.;
 - (E) The effectiveness of any emergency control equipment or measures, when tested or implemented, such as shut off valves, spill containment systems, cleanup actions, etc.; and
 - (F) Such other information or data as required by the department.

(b) Performance. The NTP demonstration must be performed in a manner which will not pose a threat to public health or the environment. If the department determines, from the information provided by the applicant in his Part B application, that the NTP demonstration would pose a threat to public health or the environment, then a permit will not be issued under subsection (4) or (5) of this section. The NTP demonstration will be considered to pose a threat if it cannot comply with the performance standards of WAC 173-303-430(3).

(4) Demonstration permit only. If the department finds that the Part B application does not contain enough information regarding the NTP to establish the full final facility operating conditions, then the department will issue a demonstration permit only. This permit will be issued in accordance with the decision-making procedures of WAC 173-303-840, and will cover only the NTP demonstration. The duration of the demonstration, and applicable operating conditions and performance standards will be specified in the permit. The department may extend the demonstration as a modification (or minor modification, if applicable) to the permit.

Within thirty days of the end of the demonstration, the owner/operator shall provide to the department the information obtained under subsection (2)(a)(iv) of this section, and a revised Part B application covering any necessary changes or new operating conditions. Based on the adequacy of the information and the revised Part B application, the department will either:

(a) Issue a final facility permit under WAC 173-303-806, if the available information is sufficient to establish all necessary operating conditions; or

(b) Issue a phased permit under subsection (5) of this section, if the available information is nearly sufficient to establish the necessary operating conditions; or

(c) Deny the final facility permit under WAC 173-303-840, if the available information indicates that the NTP cannot operate without posing a threat to public health or the environment.

(5) Phased permit. If the department finds that the Part B application contains substantial information regarding the NTP that would be sufficient to establish nearly all final operating conditions, then the department may issue a two-phase final facility permit. This phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for a NTP demonstration, and a second phase (to become effective as described in (b) of this subsection) for establishing the NTP facility operating conditions.

(a) First phase. The department will establish, as requirements in the first phase of the permit, conditions for conducting the NTP demonstration. The NTP demonstration may be conducted, if approved by the department, as an actual trial run of the NTP facility itself. The demonstration conditions will include design and operating parameters, demonstration duration, monitoring procedures, information to be collected pursuant to subsection (2)(a)(iv) of this section, performance standards, and such other conditions deemed appropriate by the department.

Upon completion of the first phase, the owner/operator must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the NTP demonstration has been carried out in accordance with the conditions specified in the first phase of the permit. The owner/operator must also submit a report containing all information and data collected and identifying any significant problems encountered during the demonstration. The owner/operator shall not implement the second phase of his permit until after the certification and report have been submitted to the department, and he has been notified by the department in

accordance with (b) of this subsection that the second phase of his permit is effective.

(b) Second phase. The department will establish, as requirements in the second phase of the permit, final operating conditions for the NTP facility. These conditions will, to the maximum extent possible given the information available and provided in the Part B application, include all applicable requirements necessary to comply with the final facility standards of this chapter (including, but not limited to, WAC 173-303-600 through 173-303-670 and 173-303-806). The second phase shall also identify those operating conditions which are reasonably expected to change as a result of information developed during the first phase demonstration, and the maximum extent to which those conditions are expected to change. The second phase shall also specify what criteria, if met, will result in a need to terminate the permit or to make a major modification to the permit under WAC 173-303-830 because of new information developed during the first phase.

Upon completion of the first phase, the department will review the certification and report submitted pursuant to (a) of this subsection. Based on the new information provided in the certification and report, the department will either:

(i) Notify the owner/operator that the second phase of his permit is effective immediately, if the new information indicates that the second phase is adequate and no changes are necessary; or

(ii) Notify the owner/operator that the second phase of his permit will not be effective until changes to the second phase are made, if the new information indicates that the requirements of the second phase must be changed.

(A) If the necessary changes have already been identified in the second phase prior to permit issuance and the changes are no greater in extent than already identified in the second phase, then the department shall immediately make the appropriate changes to the requirements in the second phase of the permit. Upon completing the changes, the department shall notify the owner/operator of the changes and that, as soon as the owner/operator has included the new requirements into his facility operations, the second phase of his permit is effective.

(B) If the necessary changes are not already identified, or are greater than the extent specified in the second phase so that the changes cannot be included as provided in (b)(ii)(A) of this subsection, or if the necessary changes meet the criteria already specified in the second phase as being cause for major modification of the permit, then the department will proceed to modify the permit in accordance with WAC 173-303-830(3). The second phase of the permit will be effective only after the permit modifications have been made and the department has notified the owner/operator that his permit is effective; or

(iii) Notify the owner/operator that the second phase will not be effective and that his permit will be terminated, if the new information indicates radical problems with the NTP that cannot be addressed through a permit modification, or if the new information meets the criteria already specified in the second phase as being cause for termination of the permit. Permit termination will proceed in accordance with WAC 173-303-830(5).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-840 PROCEDURES FOR DECISION MAKING. (1) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is completed, the department ((may)) shall tentatively decide whether to prepare a draft permit, or to deny the application.

(c) If the department decides to prepare a draft permit, it shall contain the following information:

(i) All conditions applicable to permits under WAC 173-303-810;

(ii) Applicable conditions under WAC 173-303-830; and

(iii) Other RCRA permits, applicable standards for storage, treatment and disposal, and other permit conditions.

(d) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(2) Fact sheet.

(a) A fact sheet shall be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(b) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other person.

(c) The fact sheet shall include, when applicable:

(i) A brief description of the type of facility or activity which is the subject of the draft permit;

(ii) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(iii) A brief summary of the basis for the draft permit conditions including supporting references;

(iv) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and

(v) A description of the procedures for reaching a final decision on the draft permit including:

(A) The beginning and ending dates of the comment period and the address where comments will be received;

(B) Procedures for requesting a hearing and the nature of that hearing;

(C) Any other procedures by which the public may participate in the final decision; and

(D) Name and telephone number of a person to contact for additional information.

(3) Public notice and involvement.

(a) The department shall give public notice that the following actions have occurred:

(i) A draft permit has been prepared;

(ii) A hearing has been scheduled; or

(iii) An appeal has been filed with the pollution control hearings board.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial shall be given to the owner/operator who requested the permit modification.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application shall allow at least forty-five days for public comment. Public notice of a public hearing shall be given at least thirty days before the hearing.

(e) Public notice of activities described in this section shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, and other appropriate government authorities, including any affected states;

(D) Persons on the mailing list developed by:

(I) Those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(ii) For major permits, by publication of a notice in a daily newspaper within the area affected by the facility; ((σ)) and

(iii) For major permits, by radio broadcast of the public notice; ((σ)) and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet, and the application;

(v) A brief description of the comment procedures required and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) Date, time, and place of the hearing;

(vii) Reference to the date of the previous public notice relating to the permit;

(viii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures; and

(ix) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) shall be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(b) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department shall hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in WAC 173-303-840(3).

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing may be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the department. A comment period longer than thirty days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required, appear to raise substantial new questions concerning a permit, the director may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department shall issue a final permit decision. The department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision shall become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(9) Response to comments.

(a) At the time that any final permit decision is issued, the department shall issue a response to comments. The department is required to issue a response to comments when a final permit is issued.

(b) This response shall specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing.

(c) The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830(3) and (4), or terminated for the reasons specified in WAC ~~((173-303-820(4) or 173-303-825(4)))~~ 173-303-805 or 173-303-806. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830(3), it shall prepare the draft permit under WAC 173-303-840(1), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department shall require the submission of a new application.

(c) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Minor modifications" as defined in WAC 173-303-830(4) are not subject to the requirements of this section.

(e) If the department tentatively decides to terminate an interim status permit under WAC ~~((173-303-820(4)))~~ 173-303-805 or a final permit under WAC ~~((173-303-825(4)))~~ 173-303-806, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(1).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-910 PETITIONS. (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. ~~((WAC 173-303-910(1)))~~ This subsection sets forth general requirements which apply to all such petitions. The remaining ~~((paragraphs))~~ subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and

(iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(d) After evaluating all public comments the department will make a final decision in accordance with RCW 34.04.060. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.04.025.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by ~~((WAC 173-303-910(1), above))~~ subsection (1) of this section:

(i) A full description of the proposed method, including all procedural steps and equipment used in the method;

(ii) A description of the types of wastes or waste matrices for which the proposed method may be used;

(iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;

(iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through ~~((173-303-090))~~ 173-303-103.

(b) To be successful, the generator must ~~((demonstrate to the satisfaction of the department that either:~~

~~((i) His waste would not be a designated dangerous waste under the dangerous waste criteria, WAC 173-303-100, by obtaining representative samples from his waste and checking his samples against the dangerous waste criteria; or~~

~~((ii) His waste does not otherwise pose a threat to public health or the environment, as verified by data provided by the generator. Such data shall be developed through consultation with the department, and shall establish beyond a reasonable doubt that the waste does not pose a threat:~~

~~((c) Representative samples must be taken over a period of time sufficient to reflect the variability (if any) or the uniformity of the waste)) make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4) and (5).~~

~~((d))~~ (c) Each petition must include, in addition to the information required by ~~((WAC 173-303-910(1), above))~~ subsection (1) of this section:

(i) The name and address of the laboratory facility performing the sampling or tests of the waste;

(ii) The names and qualifications of the persons sampling and testing the waste;

(iii) The dates of sampling and testing;

(iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum ~~((weekly))~~ monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in ~~((the respective dangerous waste criteria, WAC 173-303-100))~~ WAC 173-303-072(3) and, where applicable, (4) and (5);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative(:):

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

~~((f))~~ (d) After receiving a petition for a dangerous waste ~~((exclusion))~~ exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

~~((f))~~ (e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

~~((g))~~ (f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

~~((h))~~ (g) The department may (but shall not be required to) grant a temporary exemption before making a final decision under ~~((WAC 173-303-910(1), above))~~ subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must ~~((demonstrate to the satisfaction of the department that:~~

~~(i) The wastes would not pose a significant threat to public health or the environment as demonstrated by data provided by the generator;~~

~~(ii) The wastes are adequately regulated under other existing state or federal programs, and will not pose a significant threat to public health or the environment; or~~

~~(iii) The wastes are currently being recycled, reclaimed, or recovered in a manner which does not pose a significant threat to public health or the environment))~~ make the demonstrations required in WAC 173-303-072(5) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

~~(b) ((In addition to the information required by WAC 173-303-910(1) and 173-303-910(3)(d), above, each petition must include:~~

~~(i) Data showing the results of testing the waste for which exclusion is sought against the dangerous waste criteria, WAC 173-303-100 through 173-303-103;~~

~~(ii) A description of the state or federal program which regulates the wastes and information supporting the claim that the program adequately protects public health and the environment, if applicable; or~~

~~(iii) A description of the current waste recycling, reclamation and recovery practices and information supporting the claim that the practices do not pose a significant threat to public health and the environment if applicable.))~~ Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated for toxicity pursuant to WAC 173-303-084 or 173-303-101 but which is toxic solely because it is highly acidic or basic may be redesignated as corrosive only, provided that the generator can demonstrate this fact through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-303-275 TRANSFER FACILITIES (OR COLLECTION FACILITIES).

**WSR 84-09-084
PROPOSED RULES
LOTTERY COMMISSION
[Filed April 18, 1984]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery intends to adopt, amend, or repeal rules concerning Evergreen Lotto rules, adding new chapter 315-32 WAC;

that the agency will at 10:00 a.m., Friday, June 1, 1984, in the Olympia Regional Office, Commission Conference Room, 108 Park Village Plaza, 600 Cooper Point Road S.W., Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 1, 1984.

Dated: April 18, 1984

By: Kevin Ryan
Assistant Attorney General
for Lawrence G. Waldt
Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s):
Chapter 315-32 WAC, Evergreen Lotto rules.

Statutory Authority: RCW 67.70.040.

Specific Statutes that Rule(s) are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): Chapter 315-32 WAC defines terms, specifies price, defines the type and method

of play, prizes, where and when tickets may be purchased, and drawing procedures for Evergreen Lotto.

Reasons Supporting the Proposed Rule(s): Certain terms and criteria need to be defined in order to provide consistency and understanding. Licensed agents and players of Evergreen Lotto need to know how the game will function. Specifying criteria for Evergreen Lotto in chapter 315-32 WAC will provide this information.

The Agency Personnel Responsible for Drafting: Frank Edmondson, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 753-1482, and C. J. Coffman, Contracts Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, N. A. Stussy, Assistant Director for Operations and Enforcement, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director for Administration, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director for Marketing, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

NEW SECTION

WAC 315-32-010 DEFINITIONS FOR EVERGREEN LOTTO. (1) Number: Any play integer from 1 through 40 inclusive. (2) Game grids: A field of the 40 numbers found on the play slip.

(3) Play slip: A mark-sense game card used by players of Evergreen Lotto to select plays. There shall be ten game grids on each play slip identified as A, B, C, D, E, F, G, H, I, and J.

NEW SECTION

WAC 315-32-020 PRICE OF EVERGREEN LOTTO TICKET. The price of an Evergreen Lotto ticket shall be selected by the player, from \$1.00 to \$5.00, in increments of \$1.00. Evergreen Lotto tickets shall be sold at the price of two plays for one dollar, in even pairs only. If a player uses a play slip to make plays, the player shall play the following game grids for the amount stated.

- \$1 - game grids A and B.
- \$2 - game grids A, B, C, and D.
- \$3 - game grids A, B, C, D, E, and F.
- \$4 - game grids A, B, C, D, E, F, G, and H.
- \$5 - game grids A, B, C, D, E, F, G, H, I, and J.

NEW SECTION

WAC 315-32-030 PLAY FOR EVERGREEN LOTTO. (1) Type of play: An Evergreen Lotto player must select six numbers in each play. A winning play is achieved only when 4, 5, or 6 of the numbers selected by the player match, in any order, the six winning numbers drawn by the lottery.

(2) Method of play: The player will use play slips to make number selections. The TDM will read the play slip and issue ticket(s) with corresponding plays. If a play slip is not available, the agent may enter the selected numbers via the keyboard. A player may leave all play selections to a random number generator operated by the computer, commonly referred to as "quick play".

NEW SECTION

WAC 315-32-040 PRIZES FOR EVERGREEN LOTTO. (1) The prize amounts to be paid to each Evergreen Lotto player who selects a winning combination of numbers vary due to the parimutuel calculation of prizes. The prize amounts are based on the total amount in the prize pool for that Evergreen Lotto drawing distributed over the number of winning tickets in each of the following categories.

WINNING COMBINATIONS	PRIZE CATEGORIES
All six winning numbers in one play	First Prize (Jackpot)
Any five winning numbers in one play	Second Prize
Any four winning numbers in one play	Third Prize

(2) Prize pool. The prize pool consists of forty-five percent of Evergreen Lotto revenue.

(3) Prize amounts.

(a) First prize (jackpot). Fifty-eight percent of the prize pool is to be divided equally among all players who selected all six winning numbers in one play (in any sequence), provided, that the jackpot shall have a minimum cash value of \$500,000.

(b) Second prize. Twenty percent of the prize pool is to be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. Twenty percent of the prize pool is to be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Prize reserve. Two percent of the prize pool to be held for payment of prizes if the prize pool is insufficient to pay the minimum prize for the jackpot at that drawing.

(e) All second and third prize allocations will be rounded down to nearest dollar, and the remainder, if any, from the rounding process shall be placed in the prize reserve.

(4) Roll-over feature.

(a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(c) If no one selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments.

(a) Each prize that has a cash value of \$500,000 or more shall be paid in twenty equal annual payments.

(b) Each prize that has a cash value from \$250,000 up to but not including \$500,000 shall be paid in ten equal annual payments.

(c) Each prize that has a cash value of less than \$250,000 shall be paid in cash.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form of fixed term annuity.

NEW SECTION

WAC 315-32-050 **TICKET PURCHASES.** (1) Evergreen Lotto tickets may be purchased or redeemed between 6:00 a.m. and 11:00 p.m., seven days per week, provided that on-line agents shall sell and redeem tickets only during their normal business hours.

(2) Evergreen Lotto tickets may be purchased only from a licensed agent authorized by the director to sell on-line tickets.

(3) Evergreen Lotto tickets shall contain the player's selection of numbers, amount, game grids played, and drawing date.

(4) Evergreen Lotto tickets may be purchased for the next drawing only.

NEW SECTION

WAC 315-32-060 **DRAWINGS.** (1) The Evergreen Lotto drawings shall be held each week on Saturday evening, except that the director may change the drawing schedule if Saturday is a holiday.

(2) The drawings will be conducted by lottery officials.

(3) Each drawing shall determine, at random, six winning numbers with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn numbers are not declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

WSR 84-09-085
PROPOSED RULES
LOTTERY COMMISSION
[Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery intends to adopt, amend, or repeal rules concerning:

Amd	WAC 315-04-070	License fees.
Amd	WAC 315-04-120	Transfer of license prohibited.
New	WAC 315-04-132	Change of business structure.
New	WAC 315-04-133	Change of ownership.
New	WAC 315-04-134	Change of corporate officers.
New	WAC 315-11-120	Definitions for Instant Game Number 10 ("Bonanza").
New	WAC 315-11-121	Criteria for Instant Game Number 10.
New	WAC 315-11-122	Ticket and stub validation requirements for Instant Game Number 10;

that the agency will at 10:00 a.m., Friday, June 1, 1984, in the Olympia Regional Office, Commission Conference Room, 108 Park Village Plaza, 600 Cooper Point Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 1, 1984.

Dated: April 18, 1984

By: Kevin Ryan
Assistant Attorney General
for Lawrence G. Waldt
Chairman

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-04-070 License fees; 315-04-120 Transfer of license prohibited; 315-04-132 Change of business structure; 315-04-133 Change of ownership; 315-04-134 Change of corporate officers; 315-11-120 Definitions for Instant Game Number 10 ("Bonanza"); 315-11-121 Criteria for Instant Game Number 10; and 315-11-122 Ticket and stub validation requirements for Instant Game Number 10.

Statutory Authority: RCW 67.70.040.

Specific Statutes These Rules are Intended to Implement: RCW 67.70.040.

Summaries of the Rules: WAC 315-04-070, this amendment reduces the late renewal fee for a licensed agent from \$25.00 to \$10.00 and clarifies that the late renewal fee is charged for each licensed location; WAC 315-04-120, this amendment deletes reference to change of ownership or change of business structure of a licensee and clarifies that a license is personal to a licensed agent and is not transferred to another person except in the event of death or incapacity of the licensed agent; WAC 315-04-132, this rule establishes that every change of business structure of a licensed agent must be reported to the lottery prior to the change. A change of business structure means the change from one form of business organization to another, such as from sole proprietorship to partnership or corporation; WAC 315-04-133, this rule establishes that every substantial change of ownership of a licensed agent must be reported to the lottery before the change occurs. A substantial change of ownership shall mean the transfer of 10 percent or more equity; WAC 315-04-134, this rule establishes that licensed agents report to the director of the lottery a change in corporate officer(s) not later than ten days following the effective date of the change; WAC 315-11-120, this rule provides definitions of the terms used in Instant Game Number 10 rules; WAC 315-11-121, this rule sets forth criteria for Instant Game Number 10, including the price of a ticket, determination of winning tickets and stubs, ticket and stub validation requirements, ticket and stub redemption, instant prize awards, and the director's authority to vary the game's length and/or the number of tickets sold; and WAC 315-11-122, this rule states the ticket and stub validation requirements for Instant Game Number 10, what may occur if a ticket or stub fails validation requirements, and the lottery's responsibility if a defective ticket is sold.

Reasons Supporting the Proposed Rules: WAC 315-04-070, this amendment is necessary in order to ensure that the fee for a licensed agent that renews late is the same as that charged an agent that fails to renew within 60 days of license expiration and later applies for a new license; and to eliminate the burden and expense of processing unnecessary applications and background checks; WAC 315-04-120, the rationale for this amendment is to distinguish between a change of ownership or a change of business structure from the death or incapacity of a licensee; WAC 315-04-132, this rule clarifies that a change of business structure of a licensed agent involves the change from one form of business organization to another and that it is distinct from WAC 315-04-120; WAC 315-04-133, this rule clarifies that a change of ownership of a licensed agent involves the transfer of ten percent or more equity and that it is differentiated from WAC 315-04-120; WAC 315-04-134, the lottery has fewer requirements for a change of corporate officers than for other types of change. This rule eliminates an unnecessary burden and expense both for the lottery and the licensed agent; WAC 315-11-120, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-121 and 315-11-122; WAC 315-11-121, licensed agents and players of Instant Game Number 10 need to know how the game will function. Specifying the criteria which apply to Instant Game Number 10 will provide this information; and WAC 315-11-122, tickets and stubs for Instant Game Number 10 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and stubs and to prevent the lottery from paying out prize money on invalid tickets and stubs.

The Agency Personnel Responsible for Drafting: C. J. Coffman, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 753-1482, and Frank Edmondson, Contract Specialist, Office of the Director, Washington State Lottery, P.O. Box 9702, Olympia, WA 98504, (206) 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Robert Boyd, Director, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, N. A. Stussy, Assistant Director for Operations and Enforcement, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3329, William Robinson, Assistant Director for Administration, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director for Marketing, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The office of the director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the office of the director, Washington State Lottery or who voluntarily interact with the office of the director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the office of the director, Washington State Lottery.

AMENDATORY SECTION (Amending Order 41, filed 12/8/83)

WAC 315-04-070 LICENSE FEES. (1) The fee for a license application shall be \$15.00.

(2) The fee for renewal of a license shall be \$15.00.

(3) The fee for late renewal of a license shall be ~~(\$25.00)~~ \$10.00 for each licensed location in addition to the renewal fee of \$15.00.

(4) The fee for a background check shall be \$10.00 (~~for:~~

~~(a) Initial licensure~~) regardless of the number of individuals listed on the license application for whom background checks are required(~~;~~). A background check will be required and this fee will be charged when an application for a license or renewal thereof lists an individual who does not have on file with the lottery a current "criminal history statement" or current "renewal affidavit - criminal history."

~~((b) Each subsequent addition of one or more partners or officers, an owner's or partner's spouse, or a new holder of ten percent or more equity in the business:))~~

(5) All fees established in this section or other sections of this title are not refundable with the exception of the fees in subsections (1) and (2) (~~above~~) of this section which may be refunded if a license is not issued or renewed.

(6) The fees in subsections (1) and (2) of this section may be prorated for staggered license renewal periods as provided in WAC 315-04-100.

AMENDATORY SECTION (Amending Order 41 [54], filed 12/8/83 [4/9/84])

WAC 315-04-120 TRANSFER (~~OF OWNERSHIP~~) OF LICENSE PROHIBITED. (~~((++))~~) Any license issued by the director is personal to the licensed agent and may not be transferred to another person except in the event of the death or incapacity of licensee as provided in WAC 315-04-130.

~~((2) If the person to which a license is issued substantially changes its ownership, the license shall immediately terminate and be void and tickets shall not be sold. Every such change in ownership shall be reported to the lottery prior to the change. The license [and identification card] shall be surrendered to the lottery immediately. A substantial change in ownership of a business shall mean the transfer of ten percent or more equity in that business. In the event the new ownership wishes to become a licensed agent, the new ownership shall submit an application and fees for initial licensure and the lottery shall process these in accordance with these rules:))~~

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

NEW SECTION

WAC 315-04-132 CHANGE OF BUSINESS STRUCTURE. Every change of business structure of a person to whom a license has been issued must be reported to the lottery prior to the change. A change of business structure shall mean the change from one form of business organization to another, such as from sole proprietorship to partnership or corporation.

- (1) If such change involves the addition of one or more owners or officers, the license shall terminate and be void and tickets shall not be sold. In the event the new person wishes to become a licensed agent, that person shall submit a license application and fees which the lottery will process in accordance with these rules.
- (2) If such change does not involve the addition of one or more owners or officers, the license shall not be terminated. No fee will be required; however, the licensed agent shall submit a license application reflecting the change and any other documentation the director may require.

NEW SECTION

WAC 315-04-133 CHANGE OF OWNERSHIP. Every substantial change of ownership of a person to whom a license has been issued must be reported to the lottery prior to the change. A substantial change of ownership shall mean the transfer of ten percent or more equity.

- (1) If such a change involves the addition of one or more owners, the license shall terminate and be void and tickets shall not be sold. In the event the new person wishes to become a licensed agent, the new person shall submit a license application and fees which the lottery shall process in accordance with these rules.
- (2) If such change involves the deletion of one or more existing owners, the license shall not be terminated. No fees will be required; however, the licensed agent shall submit a license application reflecting the change(s) and any other documentation the director may require.
- (3) If such change involves a transfer of ten percent or more equity among existing owners who have on file with the lottery a current "criminal history statement" or current "renewal affidavit - criminal history", the license shall not be terminated. No fees nor application will be required.

NEW SECTION

WAC 315-04-134 CHANGE OF CORPORATE OFFICERS. Each licensed agent shall report on a form prescribed by the director every change of corporate officer(s) to the lottery not later than ten days following the effective date of the change. The director may require the licensed agent to submit additional documentation. The lottery will not assess a license fee for a change of corporate officer(s).

If such change involves the addition of one or more corporate officers who does not have on file with the lottery a current "criminal history statement" or current "renewal affidavit - criminal history", each such officer shall submit a "personal information form" and a "criminal history statement". The lottery will assess a fee for a background check.

NEW SECTION


WAC 315-11-120 DEFINITIONS FOR INSTANT GAME NUMBER 10 ("BONANZA"). (1) Play numbers: The following are the "play numbers": "TICKET", "\$2.00", "\$5.00", "\$25.00", "\$500", "\$5,000" and an illustration of a HORSESHOE. Each such play number is printed in gray-black ink in the Archer font in positive and one of these play numbers appears under each of the six rub-off spots on the front main portion (left side) of the ticket.

(2) Validation number: The unique nine-digit number on the front bottom center on the main portion (left side) of the ticket. There is a ticket stub (right portion of the ticket) for Instant Game Number 10 and the unique validation number will also appear at the bottom of the front of the ticket stub.

(3) Pack-ticket number: The ten-digit number of the form 1000001-000 printed on the back of the ticket in .11" high type in red. The first seven digits of the pack-ticket number for Instant Game Number 10 constitute the "pack number" which starts at 1000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed material appearing below each play number which verifies and corresponds with that play number. The

caption is a spelling out, in full or abbreviated form, of the play number, except in the case of the play number which is an illustration of a HORSESHOE. One and only one of these captions appears under each play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the captions which correspond with and verify each play number are:

<u>PLAY NUMBER</u>	<u>CAPTION</u>
TICKET	TICKET
\$2.00	TWO
\$5.00	FIVE
\$25.00	TWTY FIV
\$500	FIVE HUND
\$5,000	FIVE THOU
	DOUBLE

(5) Agent validation codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify and validate instant winners below \$25. For Instant Game Number 10, the agent validation code is a three-letter code, with each letter appearing in a varying three of nine locations beneath the removable covering and among the play numbers on the main portion of the ticket. The agent validation codes used by the licensed agent to verify lower tier prizes are:

- TIC = Free Ticket
- TKS = 2 Free Tickets
- TWO = \$2.00
- FOR = \$4.00
- FIV = \$5.00
- TEN = \$10.00

(6) Pack: A set of 400 fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

(7) Stub play number: The letter found under the removable covering on the front of the stub (right side) portion of the ticket. The stub play number is printed in Archer font in positive with a small caption beneath it. The stub play numbers are "B", "O", "N", "A", and "Z".

(8) Stub captions: The small printed material appearing below each stub play number which verifies and corresponds with that stub play number. This stub caption is a double repetition of the stub play number. One and only one of these stub captions appears under the stub play number and is printed in gray-black ink in positive in 5 x 9 font. For Instant Game Number 10, the stub captions which correspond with and verify the stub play numbers are as follows:

<u>STUB PLAY NUMBER</u>	<u>STUB CAPTION</u>
B	BB
O	OO
N	NN
A	AA
Z	ZZ

NEW SECTION

WAC 315-11-121 CRITERIA FOR INSTANT GAME NUMBER 10. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 as a play number in any three of the six spots on the main portion of the ticket shall win the following prize:

- Three TICKET play numbers - Win one free ticket
- Three \$2.00 play numbers - Win \$2.00
- Three \$5.00 play numbers - Win \$5.00
- Three \$25.00 play numbers - Win \$25.00
- Three \$500 play numbers - Win \$500
- Three \$5,000 play numbers - Win \$5,000

(b) The bearer of a ticket having a TICKET, \$2.00, \$5.00, \$25.00, \$500, or \$5,000 play number in any two of the six spots on the main portion of the ticket and an illustration of a HORSESHOE in a third spot shall win one of the following prizes:

- Two TICKET play numbers plus horseshoe - Win two free tickets
- Two \$2.00 play numbers plus horseshoe - Win \$4.00
- Two \$5.00 play numbers plus horseshoe - Win \$10.00
- Two \$25.00 play numbers plus horseshoe - Win \$50.00

Two \$500 play numbers plus horseshoe – Win \$1,000
Two \$5,000 play numbers plus horseshoe – Win \$10,000

(c) In any event, only the highest instant prize amount meeting the standards of (a) and (b) of this subsection will be paid on a given ticket.

(d) The bearer of seven stubs each containing one of the following stub play numbers "B", "O", "N", "A", "N", "Z", and "A" so that there are seven stubs which collectively spell the word "Bonanza" shall be entitled to a prize of \$50,000. Each stub must be from a valid Instant Game Number 10 "Bonanza" ticket stub. One or more stubs or the claim form must be signed by the claimant. A claim shall not include more than one name.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or payable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery, to the particular ticket validation requirements for Instant Game Number 10 set forth in WAC 315-11-122, and to the requirements stated on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set out on the back of the ticket.

(6) Grand prize drawing for Instant Game Number 10: The grand prize drawing process shall be conducted as follows:

(a) Participants in the grand prize drawing process shall be those validated prize winners of either exactly \$25 or \$50 whose prize claim is received by the lottery within fourteen days after the announced end of Instant Game Number 10 in the manner prescribed on the back of the instant ticket. The lottery is not responsible for any entry until it is received.

(b) Each of the \$25 or \$50 winning tickets must be a valid Instant Game Number 10 "Bonanza" ticket.

(c) The legible name of an eligible player must be present on the back of each eligible ticket or on the claim form.

(d) There will be one grand prize drawing for Instant Game Number 10. The preliminary grand prize drawing process and the grand prize drawing will be conducted at times and places and pursuant to methods to be announced by the director. The prizes involved in the grand prize drawing will be: First prize, \$1,000 a week for life, with the prize payment starting at age eighteen or older, with a minimum payment of \$1,000,000 being guaranteed; second prize, \$100,000; third and fourth prizes, \$75,000 each; fifth and sixth prizes, \$50,000 each; seventh and eighth prizes, \$25,000 each; and ninth and tenth prizes, \$10,000 each. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.

(7) Notwithstanding any other provisions of these rules, the director may: (a) Vary the length of Instant Game Number 10, and/or (b) vary the number of tickets sold in Instant Game Number 10 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-122 TICKET AND STUB VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 10. (1) In addition to meeting all of the other requirements in these rules and regulations, the following validation requirements will apply to instant game tickets in Instant Game Number 10. To be a valid Instant Game Number 10 ticket or a valid stub, all of the following requirements must be met.

(a) Exactly one play number must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Exactly one stub play number must appear under the one rub-off spot on the stub portion of the ticket.

(c) Each of the six play numbers must have a caption underneath, and each must agree with its caption.

(d) The stub play number must have a stub caption underneath and it must agree with its caption.

(e) Each of the six play numbers and play number captions must be present in their entirety and be fully legible.

(f) The stub play number and stub captions must be present in their entirety and be fully legible.

(g) Each of the six play numbers and their captions must be printed in gray-black ink.

(h) The one stub play number and its stub caption must be printed in gray-black ink.

(i) The pack-ticket number, validation number, and agent validation code must be present in their entirety and be legible on the ticket. The validation number shall correspond, using the lottery's codes, to the play numbers on the ticket.

(j) The validation number on the stub must be present in its entirety and be legible. The validation number shall correspond, using the lottery's codes, to the stub play number.

(k) Neither the ticket nor the stub may be altered, unreadable, reconstituted, or tampered with in any manner.

(l) Neither the ticket nor the stub may be counterfeit in whole or in part.

(m) The validation numbers and agent validation code shall be printed in gray-black ink, and the pack-ticket number shall be printed in red ink.

(n) The ticket must have been issued by the director in an authorized manner.

(o) Neither the ticket nor the stub may be stolen nor appear on any list of omitted tickets on file with the director.

(p) The play numbers and their captions, the stub play number and its stub caption, the validation numbers, the agent validation code and the pack-ticket number must be right-side-up and not reversed in any manner.

(q) The ticket must be complete, and not miscut, and have exactly one play number and exactly one caption under each of the six rub-off spots on the main (left) portion of the ticket, exactly one pack-ticket number, exactly one agent validation code, and exactly one validation number on the main (left) portion of the ticket.

(r) The stub must be complete, and not miscut, and have exactly one stub play number and exactly one stub caption on the stub (right) portion of the ticket, and exactly one validation number.

(s) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(t) Neither the ticket nor the stub may be blank or partially blank, misregistered, defective, or printed or produced in error.

(u) Each of the play numbers must be exactly one of those described in WAC 315-11-120(1) and each of the captions to the play numbers must be exactly one of those described in WAC 315-11-120(4); each of the stub play numbers must be exactly one of those described in WAC 315-11-120(7) and each of the stub captions must be exactly one of those described in WAC 315-11-120(8).

(v) Each of the six play numbers on the main portion of the ticket and the one stub play number on the stub (right) portion of the ticket must be printed in the Mead Archer size font and must correspond precisely to the artwork on file with the director; each of the six play number captions and the one stub caption must be printed in the Mead 5 x 9 font and must correspond precisely to the artwork on file with the director; the pack-ticket number must be .11" high in red and correspond precisely to the artwork on file with the director; and the validation numbers must be printed in the Mead 9 x 12 font and must correspond precisely to the artwork on file with the director.

(w) The display printing must be regular in every respect and correspond precisely with the artwork on file with the director.

(x) The ticket or the stub must pass all additional confidential validation requirements of the director.

(2) Any ticket or the stub not passing all the validation requirements in subsection (1) of this section is invalid and ineligible for any prize.

(3) The director may replace any invalid ticket or stub with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but can still be validated by the other validation tests, the director may pay the prize for that ticket.

WSR 84-09-086
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed April 18, 1984]

WSR 84-09-087
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order DE 84-7—Filed April 18, 1984]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Blaine, city of, amending WAC 173-19-4502;

that the agency will at 7:00 p.m., Wednesday, May 23, 1984, in the Blaine School District Cafetorium, 955 H Street, in Blaine, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 14, 1984.

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 25, 1984.

Dated: April 18, 1984
 By: John F. Spencer
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-4502 Blaine, city of.

Description of Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for the city of Blaine.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the Department of Ecology for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, MS/PV-11, Olympia, WA 98504, (206) 459-6287.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not required.

AMENDATORY SECTION (Amending Order DE 82-05, filed 4/23/82)

WAC 173-19-4502 **BLAINE, CITY OF.** City of Blaine master program approved September 29, 1975. Revision approved August 30, 1977. Revision approved December 28, 1978. Revision approved June 26, 1980. Revision approved April 6, 1982. Revision approved June 14, 1984.

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to motor vehicle emission inspection, amending chapter 173-422 WAC.

This action is taken pursuant to Notice No. WSR 84-03-056 filed with the code reviser on January 18, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.120-.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 18, 1984.

By Donald W. Moos
 Director

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-050 **EMISSION CONTRIBUTING AREAS.** Emission contributing areas within which the motor vehicle emission inspection program (~~will apply~~) applies are designated by the following United States Postal Service ZIP codes as of the effective dates ~~((of this regulation:))~~ set forth below:

(1) Puget Sound Region (Effective January 1, 1982)

98004	98037
98005	98039
98006	98040
98007	98041
98008	98043
98009	98046
98011	98052
98012	98053
98020	98055
98021	98056
98027	98057
98028	98062
98033	98063
98034	98072
98036	98073
	98083
	98101 thru 98199,
	inclusive except 98110

(2) Spokane Region (~~The designations below shall apply only if local programs for reducing motor vehicle related air contaminants by means other than inspection and maintenance are not demonstrated to the satisfaction of the United States Environmental Protection~~)

~~Agency to bring the area hereby designated into compliance with applicable air quality standards.)) (Effective July 1, 1985)~~

99201	99206
99202	99207
99203	99208
	99212
99204	99216
99205	99218

WSR 84-09-088
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order DE 83-36—Filed April 18, 1984]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to the proposed rules amend chapter 173-303 WAC, dangerous waste regulations, in the following areas: The moderate risk waste standards amendment provides a lesser degree of mandatory handling standards for certain wastes which pose a moderate threat to the environment; the land disposal/groundwater monitoring standards specify groundwater requirements more suited for Washington's soil conditions and topography; and the technical amendments correct errors and clarify the existing regulation.

This action is taken pursuant to Notice Nos. WSR 83-21-090, 84-04-075 and 84-07-057 filed with the code reviser on October 19, 1983, February 1, 1984, and March 21, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 70.105 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 17, 1984.

By Donald W. Moos
 Director

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-010 PURPOSE. This regulation implements chapter 70.105 RCW, The Hazardous Waste Disposal Act of 1976 as amended in 1980 and 1983, and implements, in part, chapter 70.105A RCW, and Subtitle C of Public Law 94-580, The Resource Conservation and Recovery Act, which the legislature has empowered the department to implement. ((+)) The purposes of this regulation are to:

((+)) (1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;

((b)) (2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;

((c)) (3) Provide the form and rules necessary to establish a ((manifest)) system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling ((of)) dangerous and extremely hazardous wastes;

((d)) (4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;

((e)) (5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;

((f)) (6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and

((g)) (7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible.

~~((2) Nothing in chapter 173-303 WAC is intended to abridge or alter the rights of action, by the state or by any person, which may exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.~~

~~Nothing in chapter 173-303 WAC is intended to create or form the basis for any liability on the part of the state, or its officers, agents, or employees, for any injury or damage which result:~~

~~(a) From the failure of any person to comply with the provisions of this chapter;~~

~~(b) From any action on the part of the department of ecology related to the enforcement of this chapter; or~~

~~(c) From any inspection, order, permit, or approval by the department of ecology.~~

~~(3) Nothing in chapter 173-303 WAC is intended to alter, amend, or supersede the authority granted under chapter 80.50 RCW to the energy facility site evaluation council (EFSEC). Applications for siting, certifying, and permitting thermal power plants shall be processed in accordance with chapter 463-42 WAC.))~~

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-020 APPLICABILITY. ((+)) This ((regulation)) chapter 173-303 WAC shall apply to all persons who handle dangerous wastes including, but not limited to:

((+)) (1) Generators;

((b)) (2) Transporters;

((c)) (3) Owners and operators of dangerous waste recycling, transfer, storage, treatment, and disposal facilities; and

((d)) (4) The operator of the state's extremely hazardous waste management facility.

~~((2) Nothing in this regulation shall apply to radioactive wastes:))~~

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-030 ABBREVIATIONS. The following abbreviations are used in this regulation.

- (1) ASTM – American Society for Testing Materials
- (2) APHA – American Public Health Association
- (3) CDC – Center for Disease Control
- (4) CFR – Code of Federal Regulations
- (5) DOT – Department of Transportation
- (6) °C – degrees Celsius
- (7) DW – dangerous waste
- (8) DWS – drinking water standards of the Safe Drinking Water Act
- (9) EHW – extremely hazardous waste
- (10) EP – extraction procedure
- (11) EPA – Environmental Protection Agency
- (12) °F – degrees Fahrenheit
- (13) g – gram
- (14) IARC – International Agency for Research on Cancer
- (15) kg – kilogram (one thousand grams)
- (16) L – liter
- (17) lb – pound
- (18) LC₅₀ – lethal concentration 50 percent kill
- (19) LD₅₀ – lethal dose 50 percent kill
- (20) M – molar (gram molecular weights per liter of solution)
- (21) mg – milligram (one thousandth of a gram)
- (22) NFPA – National Fire Protection Association
- (23) NIOSH – National Institute for Occupational Safety and Health
- (24) pH – negative logarithm of the hydrogen ion concentration
- (25) POTW – publicly owned treatment works
- (26) ppm – parts per million (weight/weight)
- (27) RCRA – Resource Conservation and Recovery Act
- (28) RCW – Revised Code of Washington
- (29) TLM₉₆ – toxic limit median, 96 hours
- (30) TSD facility – transfer, treatment, storage, or disposal facility
- (31) UBC – Uniform Building Code
- (32) UFC – Uniform Fire Code
- (33) USCG – United States Coast Guard

- (34) USGS – United States Geological Survey
- (35) WAC – Washington Administrative Code
- (36) % – percent
- (37) # – number

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-040 DEFINITIONS. When used in this regulation, the following terms have the meanings given below.

(1) "Active portion" means that portion of a facility which is not a closed portion (subsection (11) of this section), and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after ((the effective date of WAC 173-303-070 and which is not a closed portion)):

(a) The effective date of the waste's designation by 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion").

(2) "Administrator" means the administrator of the environmental protection agency or his designee.

(3) "Aquatic LC₅₀" (same as TLM₉₆) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as *Lepomis macrochirus* (bluegill) or *Pimephales promelas* (flathead minnow), or cold water species such as salmonidae, when using the testing method described in WAC 173-303-110.

(4) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.

(6) "Batch" means any waste which is generated less frequently than once a month.

(7) "Berm" means the shoulder of a dike.

(8) "Boiler" means an enclosed device using controlled flame combustion and having the following design characteristics:

(a) The unit has provision for heat recovery; and

(b) The combustion chamber and heat recovery section are of integral design. The combustion chamber and heat recovery sections are of integral design if formed physically into one manufactured or assembled unit. (A unit in which the furnace or combustion chamber and heat recovery section are joined by ducts or connections carrying flue gas is not integrally designed); and

(c) Significant heat recovery takes place in the combustion chamber section by radiant transfer of heat to the transfer medium.

(9) "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process, or that is produced incidentally to the primary purpose of a production process.

(10) "Carcinogenic" means a material known to contain greater than one percent of an IARC positive or suspected, human or animal carcinogen. For inorganic carcinogens with nonbioaccumulative chronic effects, only those wastes (e.g., asbestos) which are likely to pose a respiratory carcinogenic threat shall be designated as carcinogenic dangerous wastes.

~~((9)) "Claims-made policy" means an insurance policy that provides coverage for an occurrence if a claim is filed during the term of the policy.~~

~~((10))~~ (11) "Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

~~((11))~~ (12) "Closure" means the requirements placed upon all ~~((transfer, storage, treatment or disposal))~~ TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure" ~~((definition))~~).

~~((12))~~ (13) "Compliance procedure" shall mean any proceedings instituted pursuant to the Hazardous Waste Disposal Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Disposal Act. ~~((For purposes of this section,))~~ A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

~~((13))~~ (14) "Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

~~((14))~~ (15) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

~~((15))~~ (16) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

~~((16))~~ (17) "Contract" means the written agreement signed by the department and the state operator.

~~((17)) "Corrosive" means the characteristic of substances which are chemically very acidic or very basic, or which tend to corrode metals, and is a dangerous waste characteristic, WAC 173-303-090(6).))~~

(18) "Dangerous wastes" means ~~((any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:~~

~~(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or~~

~~(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.))~~ those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter (including dangerous and extremely hazardous waste), while the abbreviation "DW" will refer to that part of the regulated universe which is dangerous only, and not extremely hazardous. (See also "Extremely hazardous waste" and "Hazardous waste" definitions.)

(19) "Department" means the department of ecology.

(20) "Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

(21) "Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste shipment and which is authorized pursuant to this chapter or RCRA to manage dangerous waste.

(22) "Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

(23) "Director" means the director of the department of ecology.

(24) "Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment. Release includes, but is not limited to, the actions of: Spilling, leaking, pumping, pouring, emitting, dumping, emptying, depositing, placing, or injecting.

(25) "Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

(26) "Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

(27) "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

(b) Meets the definition of tank, container, transport vehicle, or vessel.

(28) "EPA/State identification number" or "EPA/State ID #" means the number assigned by EPA or by the department of ecology to each generator, transporter, and ((transfer, storage, treatment, or disposal)) TSD facility.

(29) ~~("EP toxicity" means those contaminants described in WAC 173-303-090(8), dangerous waste characteristics, which would designate the waste as a dangerous or extremely hazardous waste, if found in the waste extract obtained by using the extraction procedure set forth in WAC 173-303-110(3)(a), testing methods.~~

~~((30)) "Extremely hazardous waste" means ((any dangerous waste which~~

~~(a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form~~

~~(i) presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make up of man or wildlife, and~~

~~(ii) is highly toxic to man or wildlife~~

~~(b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment:)) those dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous wastes which are extremely hazardous. (See also "Dangerous waste" and "Hazardous waste" definitions.)~~

~~((31)) (30) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" shall be used interchangeably.~~

~~((32)) (31) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.~~

~~((33)) (32) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.~~

~~((34)) (33) "Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.~~

~~((35)) (34) "Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.~~

~~((36)) (35) "Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.~~

~~((37)) (36) "Ground water" means water which fills voids below the land surface and in the earth's crust.~~

~~((38)) (37) "Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements~~

of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

(38) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103.

(39) ("Heavy metals" means only those metals which can be obtained using the Extraction Procedure (EP) described in WAC 173-303-110(3)(a), testing methods, and which are listed in WAC 173-303-090(8), dangerous waste characteristics:)) "Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW". (See also "Dangerous waste" and "Extremely hazardous waste" definitions.)

(40) ("Ignitable" means the characteristic of a substance which ignites or burns readily and vigorously, and is a dangerous waste characteristic, WAC 173-303-090(5):)) "Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

(a) The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(41) "Incinerator" means an enclosed device using controlled flame combustion((the primary purpose of which is)) to ((thermally break down)) burn or reduce dangerous waste and in which the combustion chamber (or chambers) and heat recovery section, if any, are not of integral design (see also "boiler").

(42) "Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(43) "Industrial-furnace" means any of the following devices that are integral components of manufacturing processes and use flame combustion or elevated temperature to accomplish recovery of materials or energy; cement kilns, lime kilns, aggregate kilns, phosphate kilns, blast furnaces, smelting furnaces, methane reforming furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and pulping liquor recovery furnaces. The department may decide to add devices to this list on the basis of one or more of the following factors:

(a) The device is designed and used primarily to accomplish recovery of material products;

(b) The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

(c) The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

(d) The device burns or reduces raw materials to make a material product;

(e) The device is in common industrial use to produce a material product; and

(f) Other factors, as appropriate.

~~((44))~~ (44) "Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.

~~((44))~~ (45) "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours, kills within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

~~((45))~~ (46) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste ~~((contained therein)).~~

~~((46))~~ (47) "Interim status permit" means a temporary permit given to ~~((treatment, storage, and disposal))~~ TSD facilities which qualify under WAC 173-303-805(5).

~~((47))~~ (48) "Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

~~((48))~~ (49) "Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste ~~((has the quality of persistence, or))~~ will remain after the facility is closed, this practice is disposal.

~~((49))~~ (50) "Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

~~((50))~~ (51) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

~~((51))~~ "Letter of credit" means ~~the letter authorizing one person to pay money or extend credit to another on the credit of the writer. For the purposes of this regulation a bank would be authorized by a facility to pay money to the department in case of failure to perform closure according to this chapter.)~~

(52) "Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or ~~((top))~~ berms of a surface impoundment, waste pile, or landfill.

(53) "Major facility" means a facility or activity classified by the department as major.

(54) "Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

(55) "Moderate risk waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090, 173-303-101, 173-303-102 or 173-303-103. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a moderate risk waste.

(56) "NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

~~((56))~~ (57) "Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

~~((57))~~ (58) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

~~((58))~~ (59) "On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, shall be considered on-site travel if: (a) The travel crosses the right of way at a perpendicular intersection; or, (b) the right of way is controlled by the property owner and is inaccessible to the public.

~~((59))~~ (60) "Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

~~((60))~~ (61) "Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

~~((61))~~ "Penal sums" means ~~the sum agreed upon in a bond, to be forfeited if the condition of the bond is not fulfilled.)~~

(62) "Permit" means an authorization ~~((by the department))~~ which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

(a) The department, pursuant to this chapter;

(b) United States EPA, pursuant to 40 CFR Part 270;

or

(c) Another state authorized by EPA, pursuant to 40 CFR Part 271.

(63) "Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

(64) "Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

(65) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(66) "Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or ~~((desiccant))~~ desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

(67) "Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is ~~((being treated or stored))~~ used for treatment or storage.

(68) "Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

(69) "Polycyclic aromatic hydrocarbons" (PAH) means ~~((only those 4-, 5-, or 6-ring aromatic hydrocarbons which can be obtained using the testing method described in WAC 173-303-110 and which are persistent dangerous wastes))~~ those hydrocarbon molecules composed of two or more benzene rings. For the purposes of this chapter, the PAH of concern for designation are only those PAH with more than three rings and less than seven rings.

(70) "Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure ~~((definition))~~.")

(71) "Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

~~((72))~~ ~~((("Reactive" means the characteristic of a substance which is unstable, easily undergoes chemical changes, or readily evolves vapors or gases, and is a dangerous waste characteristic, WAC 173-303-090(7)).~~

~~((73))~~ "Reclaim" means to process a solid or dangerous waste in order to recover useable products, or to regenerate the solid or dangerous waste so that it can continue to serve its original purpose. Reclamation is the process of reclaiming.

(73) "Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

(74) "Recycle" means reuse or recover a material that is, or reclaim a material from, a solid or dangerous waste.

(75) "Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

(a) January 26, 1983 for wastes regulated by 40 CFR Part 261;

(b) October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

(c) The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

(76) "Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

(77) "Reuse" means use a solid or dangerous waste without first subjecting it to recovery or reclamation.

~~((77))~~ (78) "Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

~~((75))~~ (79) "Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

~~((76))~~ (80) "Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this ~~((regulation))~~ chapter.

~~((77))~~ (81) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

~~((78))~~ (82) "Solid waste" means ~~((all putrescible and nonputrescible solid, semisolid, or liquid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, pressurized gaseous wastes in containers, and discarded commodities. (See also waste:)))~~ any solid, semi-solid, liquid or contained gaseous material, garbage, refuse, sludge, or discarded commodity resulting from industrial, commercial, mining, agricultural, or community operations or activities that is not a primary product of such operations or activities.

~~((79))~~ ~~((("Spill" means the accidental or intentional release of any material into the environment:))~~ (83) "Spent material" means any material that has been used and can no longer serve the purpose for which it was produced.

~~((80))~~ (84) "State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

~~((81))~~ "Standby trust fund" shall mean a trust fund which must be established by an owner or operator who obtains a letter of credit or surety bond as specified in these regulations. The institution issuing the letter of credit or surety bond will deposit into the standby trust fund any drawings by the department on the credit or bond.

~~((82))~~ (85) "Storage" means the holding of dangerous waste for a temporary period, except that the accumulation of dangerous waste, by the generator on the site of generation, for less than ninety days from the date the

dangerous waste was generated is not storage as long as the generator complies with the requirements of WAC 173-303-200.

~~((83))~~ (86) "Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

~~((84))~~ "Surety bond" means the obligation of a guarantor to pay a second party upon default by a third party in the performance the third party owes to the second party. For purposes of this regulation the guarantor may be a bank, the second party the department and the third party a facility.

~~((85))~~ (87) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen ~~((or))~~ materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

~~((86))~~ (88) "Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

~~((87))~~ (89) "Thermal treatment" means the use of a device which uses primarily elevated temperatures to treat a dangerous waste.

~~((88))~~ (90) "TLM₉₆" means the same as "Aquatic LC₅₀."

~~((89))~~ (91) "Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

~~((90))~~ (92) "Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

~~((91))~~ (93) "Transfer facility" or "collection facility" means a facility at which dangerous waste shipments are collected, consolidated, and stored for more than ten days before transfer to a storage, treatment, or disposal facility.

~~((92))~~ (94) "Transportation" means the movement of dangerous waste by air, rail, highway, or water.

~~((93))~~ (95) "Transporter" means a person engaged in the off-site transportation of dangerous waste.

~~((94))~~ (96) "Travel time" means the period of time necessary for a ~~((molecule of a))~~ dangerous waste constituent released to the soil (either by accident or intent) to enter ~~((the nearest well or surface water used for drinking purposes))~~ any on-site or off-site aquifer or water supply system.

~~((95))~~ (97) "Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes ~~((nonhazardous))~~ nondangerous or less ~~((hazardous))~~ dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

(98) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

~~((96))~~ (99) "Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160(2), containers.

~~((97))~~ "Trust fund" means the money or property set aside as a trust for the benefit of another and held by a trustee.

~~((98))~~ (100) "Underground injection" means the sub-surface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

~~((99))~~ "Waste" means any discarded, abandoned, unwanted, or unrecoverable material.)

(101) "Unsaturated zone" means the zone between the land surface and the water table.

(102) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

~~((100))~~ (103) "Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

~~((101))~~ (104) "Waste water treatment unit" means a device which:

(a) Is part of a waste water treatment facility which is subject to regulation under either ~~((Section 402 or Section 307(b) of the Federal Clean Water Act, and))~~:

(i) Section 402 or section 307(b) of the Federal Clean Water Act; or

(ii) Chapter 90.48 RCW, State Water Pollution Control Act, provided that any dangerous waste treated at the facility is designated only by this chapter 173-303 WAC and is not regulated as hazardous waste under 40 CFR Part 261; and

(b) Handles dangerous waste as defined in WAC 173-303-070 through 173-303-103 in either of the following manner:

(i) Receives and treats or stores an influent dangerous waste water; or

(ii) Generates and accumulates or treats or stores a dangerous waste water treatment sludge; and

(c) Meets the definition of tank in WAC 173-303-040.

~~((102))~~ (105) "Existing TSD facility" means a facility which was in operation or for which construction commenced on or before ~~((the effective date of this chapter))~~ November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state and local ~~((hazardous waste control))~~ statutes, regulations and ordinances and either:

(a) A continuous on-site, physical construction program has begun; or

(b) The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

~~((103))~~ (106) "New TSD facility" means a facility which began operation or for which construction commenced after ~~((the effective date of this chapter))~~ November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

Any terms used in this chapter which have not been defined in this section shall have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else shall have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-045 REFERENCES TO EPA'S HAZARDOUS WASTE AND ~~((CONSOLIDATED))~~ PERMIT REGULATIONS. ~~((1))~~ Any references in this chapter to any parts, subparts, or sections from EPA's Hazardous Waste Regulations, including 40 CFR Parts 260 through ~~((267, or EPA's Consolidated Permit Regulations, including 40 CFR Parts 122 through 125))~~ 270 and Part 124, shall ~~((include any federal rules or amendments to federal rules as published in the Federal Register on the following dates:~~

- (a) May 19, 1980;
- (b) July 16, 1980;
- (c) October 30, 1980;
- (d) November 10, 1980;
- (e) November 12, 1980;
- (f) November 17, 1980;
- (g) November 19, 1980;
- (h) November 25, 1980;
- (i) December 4, 1980;
- (j) December 31, 1980;
- (k) January 9, 1981;
- (l) January 12, 1981;
- (m) January 16, 1981;
- (n) January 23, 1981;
- (o) February 13, 1981;
- (p) February 20, 1981;
- (q) March 23, 1981;
- (r) May 18, 1981;
- (s) May 20, 1981;
- (t) June 3, 1981;
- (u) June 29, 1981;
- (v) July 7, 1981;
- (w) July 15, 1981; and
- (x) November 17, 1981.

~~((2) Copies of these publications can be obtained))~~ be in reference to those rules as they existed on March 31, 1984. Copies of the appropriate referenced federal requirements are available upon request from the department.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-050 ~~((IMMINENT HAZARD))~~ DEPARTMENT OF ECOLOGY CLEANUP AUTHORITY. ~~((Notwithstanding any provisions of this regulation, the director or his designee may take immediate action within his authority to avert an imminent and substantial danger to the public health or the environment caused by the improper management of any dangerous waste, regardless of quantity or concentration.))~~ The department may conduct or contract for the removal of dangerous wastes or hazardous substances where there has been or is a potential for discharge or release, regardless of quantity or concentration, which could pose a threat to public health or the environment.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-060 NOTIFICATION AND IDENTIFICATION NUMBERS. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste ~~((transfer, storage, treatment, or disposal))~~ TSD facility shall have ~~((an))~~ a current EPA/State identification number (EPA/State ID #). ~~((2))~~ Any person who offers a dangerous waste to a transporter ~~((; transfer station;))~~ or to a dangerous waste ~~((storage, treatment, or disposal))~~ TSD facility which does not have an EPA/State ID #, or whose EPA/State ID # has been cancelled or withdrawn, shall be in violation of this regulation.

~~((3))~~ (2) Every person who must have an EPA/State ID #, and who has not already received his ID #, must notify the department by obtaining and completing a Washington state notification form 2, and submitting the completed form to the department. ~~((The notification form))~~ Any person already assigned an EPA/State ID # must submit a revised notification form 2 to the department prior to any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity. Notification form 2 and instructions for its completion may be obtained by contacting the department.

~~((4) The EPA/State ID # must be used in all records and reports required by the department.))~~

(3) Any person with an EPA/State ID # may request that his ID # be withdrawn if he will no longer be handling dangerous waste. Any person whose ID # has been withdrawn must notify the department before he uses the ID # at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted if an ID # will not be used for at least two years.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-071 EXCLUDED CATEGORIES OF WASTE. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter

173-303 WAC, except for WAC 173-303-050, because they generally are not (~~hazardous~~) dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) ~~((Petitions. Generators who believe that their wastes should be excluded may petition the department in accordance with the requirements of WAC 173-303-910, petitions, including all relevant data.))~~ Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter shall comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050:

(a) Domestic sewage that passes through a sewer system to a publicly-owned treatment works (POTW) for treatment;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment;

~~(c) ((Radioactive wastes or byproducts; (d)) Household wastes; ((e)) (d) Agricultural crops and animal manures which are returned to the soil as fertilizers;~~

~~((f) Waste tires from motor vehicles; (g)) (e) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;~~

~~((h)) (f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;~~

~~((i) Waste railroad ties; (j) Waste telephone and utility poles and pole butts)) (g) Waste wood or wood products treated with preservatives if the waste is generated by persons who utilize the treated wood or wood products for these materials' intended end use;~~

~~((k)) (h) Irrigation return flows; ((l)) (i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;~~

~~((m)) (j) Mining overburden returned to the mining site; ((and (n)) (k) Polychlorinated biphenyl (PCB) wastes regulated by EPA under 40 CFR Part 761 (Toxic Substances Control Act regulation); and~~

~~(l) Asbestos wastes or asbestos containing wastes which would be designated only for carcinogenicity by~~

WAC 173-303-084 or 173-303-103, and any other inorganic wastes which are designated only under WAC 173-303-084 or 173-303-103 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the procedures of 40 CFR Part 61 Subpart M.

~~((4) Temporary exclusions. The following wastes are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, until January 1, 1984. The department will study data provided by industry on each of the wastes listed in WAC 173-303-071(4) to assess the need for permanent exclusions. Any waste which has not been permanently excluded (by addition to WAC 173-303-071(3), above) by January 1, 1984, shall become subject to the requirements of chapter 173-303 WAC.~~

~~(a) Drilling fluids, produced waters, and other wastes associated with the exploration, development and production of oil, gas, or geothermal energy;~~

~~(b) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, and~~

~~(c) Cement kiln dust waste.))~~

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-075 CERTIFICATION OF DESIGNATION. (1) Purpose and applicability.

(a) The purpose of WAC 173-303-075 is to establish procedures by which the generator of a solid waste may apply to the department for a review of his waste, and for a determination of the designation of his waste. When a final determination is made, the department shall issue a certificate of designation which shall describe the status of the generator's waste with respect to the designation requirements of this chapter 173-303 WAC.

(b) The provisions of this section are applicable to any person who produces a solid waste (~~and~~), who may be subject to the requirements of this chapter 173-303 WAC as the generator of a dangerous waste and who wishes to obtain a certificate designating the status of his waste.

(2) Certification. Any person who produces a solid waste which could be a dangerous waste may apply to the department, in accordance with the guidelines published pursuant to WAC 173-303-075(4), for a certificate of designation for his waste.

(a) The certificate of designation will describe the status of the designation for a waste or wastes as follows:

(i) Either, the certificate will state that the waste or wastes listed in the certificate are designated dangerous waste; or

(ii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the designation (~~procedures~~) lists or characteristics of WAC 173-303-080 through 173-303-090; or

(iii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the dangerous waste lists, characteristics or

criteria, WAC ~~((173-303-100))~~ 173-303-080 through 173-303-103.

(b) The certificate of designation will, at a minimum, include the following information:

(i) The name, address, telephone number and, where applicable, the EPA/State identification number of the person to whom the certificate is issued;

(ii) A statement of the status of the designation of the waste or wastes listed in the certificate and, if designated, whether DW or EHW;

(iii) A listing of the waste or wastes for which the certificate has been issued;

(iv) The signature of the director or his designee;

(v) The date on which the certificate was issued; and

(vi) The period of time or conditions for which the certificate is valid.

(c) Once a certificate of designation has been issued to a person, that person is no longer subject to the designation procedures of WAC 173-303-080 through 173-303-103, unless the period of time for which the certificate is valid expires, the conditions under which the certificate is valid change, or the department withdraws its certification of designation in accordance with WAC 173-303-075(5). If the certificate states that the waste or wastes listed in it are designated, then the person to whom the certificate is issued shall comply with all applicable requirements of this chapter 173-303 WAC. If the certificate states that the waste or wastes listed in it are not designated, then the person to whom the certificate is issued is not subject to the requirements of this chapter 173-303 WAC, unless the certificate becomes invalid or the department withdraws its certification.

(d) While an application for a certificate of designation is pending final action by the department, the person applying for certification must comply with all applicable requirements of this chapter 173-303 WAC.

(e) While a certificate of designation is being amended, in accordance with WAC 173-303-075(5), the certificate shall remain in effect except for those parts of the certificate which the department specifically suspends.

(3) Designation. Determination of the status of designation for a waste or wastes for which a certificate of designation is being sought shall follow the procedures set forth in this ~~((paragraph, WAC 173-303-075(3)))~~ subsection.

(a) A waste shall be certified as a dangerous waste if it is designated under any of the methods set forth in WAC 173-303-080 through 173-303-103.

(b) A waste shall be certified as not a dangerous waste if:

(i) It has only been checked against WAC 173-303-080 through 173-303-090 (lists and characteristics) and it is not designated; or

(ii) It has been checked against the dangerous waste lists, characteristics and criteria, WAC ((173-303-100)) 173-303-080 through 173-303-103, and it is not designated.

~~((c) The final determination of the status of designation shall be stated in the certificate of designation, in~~

~~accordance with WAC 173-303-075(2)(b)(ii), for the waste or wastes listed in the certificate.))~~

(4) Application. Any person who wishes to apply for a certificate of designation shall do so according to the certification guidelines published by and available from the department. The department shall follow the procedures specified in the certification guidelines when considering an application for a certificate.

~~((a) Within one hundred twenty days of the effective date of the chapter 173-303 WAC, the department will publish guidelines describing how to apply for a certificate of designation. The guidelines can be obtained from the department after publication.~~

~~(b) The application guidelines, at a minimum, will prescribe:~~

~~(i) Basic requirements for information (e.g., the name, address and telephone number of the person making application, the waste or wastes for which the certificate of designation is sought, and such other general information as the department may require);~~

~~(ii) Data necessary for designating the waste or wastes (e.g., names and concentrations of chemical constituents in a waste, if known, results of any tests performed on a waste, information on the processes which produced a waste and any chemicals used in those processes, etc.);~~

~~(iii) Sampling and testing procedures, and the circumstances under which sampling and testing will be required;~~

~~(iv) Such other information and procedures as the department may deem necessary for the accurate designation of a waste;~~

~~(v) Procedures and forms for submitting applications;~~

~~(vi) Procedures which the department will follow in considering applications and determining the status of designation;~~

~~(vii) Procedures for issuing certificates of designation; and~~

~~(viii) Procedures for reviewing certification, pursuant to WAC 173-303-075(5), including procedures for amendment and withdrawal of certification.))~~

(5) Review of certification. Review of and changes to or withdrawal of certificates of designation shall be performed by the department according to the procedures specified in the certification guidelines, available from the department. At a minimum, the certification guidelines provide for the following procedures:

(a) The department will periodically review each certificate of designation to insure that it is current and accurately states the proper designation for the waste or wastes listed on the certificate.

(b) The department may amend, or any person with a certificate of designation may request the department to amend, any certificate in the event that changes to the certificate are necessary to keep it current or maintain its accuracy. The person will obtain concurrence of the department if he wishes to amend his certificate to reflect changes in the information on the certificate (e.g., new wastes, changes in waste properties, changes of address, etc.).

(c) The department reserves the authority to withdraw any certificate of designation if there is reason to believe that the certificate results in a threat to public health or

the environment. If a certificate is withdrawn, then the waste or wastes listed on the certificate shall be subject to all applicable requirements of this chapter 173-303 WAC.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-081 **DISCARDED CHEMICAL PRODUCTS.** (1) A waste shall be designated as a ~~((dangerous waste))~~ discarded chemical product if it is discarded or intended to be discarded in amounts greater than the quantity exclusion limits of ~~((WAC 173-303-081))~~ subsection (2) ((, below)) of this section, and if it is, or if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate which ~~((if it had met specifications would have))~~ has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) ~~((Or))~~ Any containers or inner liners that have been used to hold any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the acutely dangerous chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty and have been triple rinsed as described in WAC 173-303-160 (2) and (4);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in ((WAC 173-303-081)) subsection (1)((, above)) of this section, shall be a dangerous waste generator if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the ~~((discarded chemical products list as extremely hazardous wastes (EHW)))~~ acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated EHW;

(ii) For chemicals and for residues from the cleanup of spills involving chemicals designated on the ~~((discarded chemical products list as dangerous wastes (DW)))~~ moderately dangerous chemical products list of WAC 173-303-9903 - 400 lbs. (181.8 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg)

of residue remaining in the containers or inner liners per month or per batch. Even if the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160 (2) and (4), the residue quantities remaining in the containers or inner liners must be summed as an aggregate quantity. Such wastes are designated EHW;

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the ~~((discarded chemical products list as EHW))~~ acutely dangerous chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated EHW.

(b) A person's total monthly waste quantity shall be the sum of all his wastes ~~((of a given type))~~ which share a common quantity exclusion limit (e.g., the total quantity of all EHW discarded chemical products, the total quantity of all ~~((timers))~~ residues contaminated by EHW discarded chemical products, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) ~~((Mixtures:))~~ Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product shall be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture shall be designated. The mixture designation shall be the same as the designation for the discarded chemical product which was mixed with the solid waste. For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004; EHW designation) and 22 lbs. (10 kg) of a solid waste, would be designated as an EHW, and would have the dangerous waste number P004.

~~((4))~~ Discarded chemical products list. The discarded chemical products list appears in WAC 173-303-9903. The generator shall determine the appropriate DW or EHW designation for his waste from the discarded chemical products list, and shall comply with all applicable requirements for that designation:))

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-082 **DANGEROUS WASTE SOURCES.** The dangerous waste sources list appears in WAC 173-303-9904. Any waste which is listed or which is a residue from the management of a waste listed on the dangerous waste sources list, and which is generated in amounts which exceed 400 lbs. (181.8 kg) per month or per batch, shall be designated ~~((as a dangerous waste ()))~~ DW(()), and shall be assigned the dangerous waste number ~~((DW #))~~ ((DW #)) which corresponds to the waste's listing. Note—WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW. Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid

waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture shall be designated as a dangerous waste source. The mixture shall ~~((be designated as a DW))~~ have the same designation (DW or EHW), and shall have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste. For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste source if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-084 DANGEROUS WASTE MIXTURES. (1) Purpose. It is the purpose of this section to describe the means for designating a waste mixture containing dangerous wastes which are not listed in WAC 173-303-081 through 173-303-083.

(2) References. The ~~((1981 publication of the))~~ National Institute for Occupational Safety and Health's (NIOSH) "Registry of Toxic Effects of Chemical Substances" (Registry) is adopted by reference. The table in the United States EPA's regulations 40 CFR Table 117.3 (Spill Table) is adopted by reference.

(3) Waste mixture defined. For the purposes of this section, a waste mixture shall be any waste about which some or all of its constituents and concentrations are known, and which has not been designated as:

- (a) A discarded chemical product under WAC 173-303-081;
- (b) A dangerous waste source under WAC 173-303-082; or
- (c) An infectious dangerous waste under WAC 173-303-083.

(4) A person who has a waste mixture shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH Registry and/or to the EPA Spill Table to determine:

- (a) Toxicity data or category for each known constituent in his waste;
- (b) Whether or not each known constituent of his waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings; and,
- (c) Whether or not each known constituent of his waste is an International Agency for Research on Cancer (IARC) human or animal, positive or suspected carcinogen.

(5) Toxicity.

(a) If a person has toxic constituents in his waste, he shall determine the toxic category for each known toxic constituent. The toxic category for each constituent may be determined directly from EPA'S Spill Table, or by obtaining data from the NIOSH Registry and checking this data against the toxic category table, below. If data

is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If toxicity data for a constituent cannot be found in EPA'S Spill Table, NIOSH Registry, or other source reasonably available to a person, then he need not determine the toxic category for that constituent.

TOXIC CATEGORY TABLE

Category	TLm96 (Fish) or, Aquatic (Fish) LC50(ppm)	Oral (Rat) LD50(mg/kg)	Inhalation (Rat) LC50(mg/L)	Dermal (Rabbit) LD50(mg/kg)
X	<.1	<.5	<.02	< 2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) A person whose waste mixture contains one or more toxic constituents shall determine the equivalent concentration for his waste from the following formula:

$$\text{Equivalent Concentration(\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where $\Sigma(X,A,B,C, \text{ or } D) \%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste mixture contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\text{E.C. (\%)} = \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10000} + \frac{0\%}{100000}$$

$$= .01\% + 0\% + .01\% + .011\% + 0\% = .031\%$$

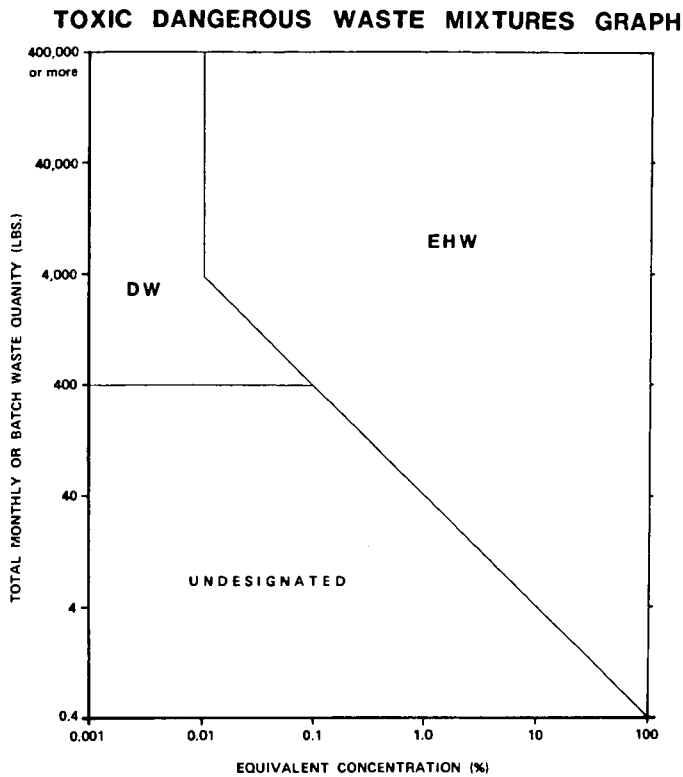
So his equivalent concentration equals .031%.

(c) A person whose waste mixture contains toxic constituents shall determine his designation from the toxic dangerous waste mixtures graph, below, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked ~~((dangerous waste ()))~~ DW((+)), he shall designate his waste as ~~((a dangerous waste))~~ DW; if the plotted point is in the area marked ~~((extremely hazardous waste ()))~~ EHW((+)), he shall designate his waste as ~~((an extremely hazardous waste))~~ EHW.

(d) If a person knows only some of the toxic constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for toxicity under ~~((WAC 173-303-084(5)))~~ this subsection.

(e) Toxic dangerous waste mixtures graph. A larger version of this graph appears in WAC 173-303-9906.

Figure 1.



(6) Persistence.

(a) A person whose waste mixture contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of those halogenated hydrocarbons for which he knows the concentrations in his waste mixture.

Example 2. A person's waste mixture contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(b) A person whose waste mixture contains one or more ((~~four-~~, ~~five-~~, or ~~six-ring~~)) polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those ((~~four-~~, ~~five-~~, or ~~six-ring~~))

polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in his waste mixture.

Example 3. A person's waste mixture contains: Chrysene - .08%; 3, 4 - ((~~benzpyrene~~)) benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(c) A person whose waste mixture contains halogenated hydrocarbons shall determine his designation from the persistent dangerous waste mixtures graph, below, by finding the total halogenated hydrocarbon concentration for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total halogenated hydrocarbon concentration. If the plotted point is in the area marked ((~~dangerous waste~~)) DW((~~?~~)), then he shall designate his waste ((~~as a dangerous waste~~)) DW; if the plotted point is in the area marked ((~~extremely hazardous waste~~)) EHW((~~?~~)), then he shall designate his waste ((~~as an extremely hazardous waste~~)) EHW.

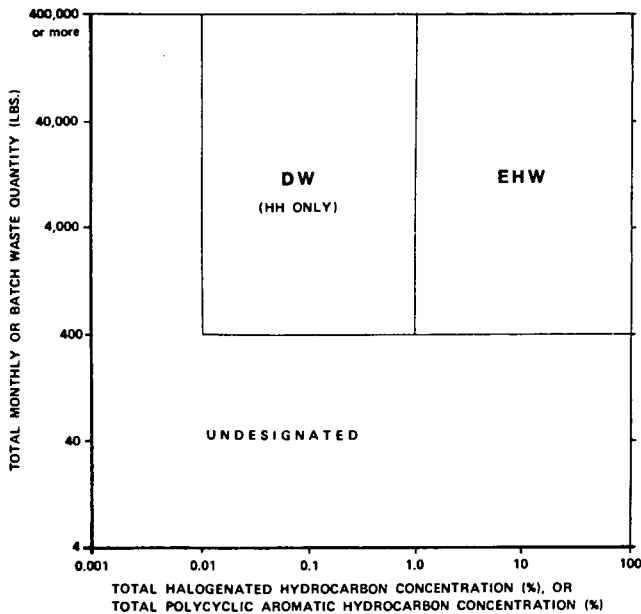
(d) A person whose waste mixture contains ((~~four-~~, ~~five-~~, or ~~six-ring~~)) polycyclic aromatic hydrocarbons with more than three rings and less than seven rings shall determine his designation from the persistent dangerous waste mixtures graph, below, by finding the total polycyclic aromatic hydrocarbon concentration of his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total polycyclic aromatic hydrocarbon concentration. If the plotted point is in the area marked ((~~extremely hazardous waste~~)) EHW((~~?~~)), then he shall designate his waste ((~~as an extremely hazardous waste~~)) EHW. If the plotted point is outside of the area marked EHW, then his waste is not designated ((~~as a dangerous waste~~)).

(e) If a person knows only some of the persistent constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for persistence under ((~~WAC 173-303-084(6)~~)) this subsection.

(f) Persistent dangerous waste mixtures graph. A larger version of this graph also appears in WAC 173-303-9907.

Figure 2 @l1

PERSISTENT DANGEROUS WASTE MIXTURES GRAPH



(7) Carcinogens. Any person whose waste mixture contains one or more IARC human or animal, positive or suspected carcinogen(s) shall designate his waste (~~(as a dangerous waste ())~~) DW(~~())~~) if:

- (a) The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and
- (b) The monthly or batch waste quantity exceeds 400 lbs. (181.8 kg.).

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.

(8) Assigning dangerous waste numbers. A person whose waste is a dangerous waste mixture shall assign a dangerous waste number (~~((DW #))~~) from the generic dangerous waste numbers table in WAC 173-303-104, generic dangerous waste numbers. He shall assign the ~~((DW #))~~ dangerous waste number from the table which corresponds to the designation for his dangerous waste.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-100 DANGEROUS WASTE CRITERIA. (1) The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes, WAC 173-303-101;
- (b) Persistent dangerous wastes, WAC 173-303-102;
- (c) Carcinogenic dangerous wastes, WAC 173-303-103; and
- (d) Dangerous waste characteristics, WAC 173-303-090.

(2) Applicability. Any person who has established that his waste meets any of the dangerous waste criteria is a dangerous waste generator, and shall comply with the applicable requirements set forth in this chapter (~~(for generators)~~). A person shall use the dangerous waste criteria to designate his waste pursuant to WAC 173-303-070(3)(b), or 173-303-070(4), or to exempt his waste pursuant to WAC ~~((173-303-070(6)))~~ 173-303-072, or to otherwise establish the risk which his waste presents to public health and the environment.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-101 TOXIC DANGEROUS WASTES. (1) Purpose. This section describes methods for determining the toxicity of a waste and the criteria by which a toxic waste shall be designated (~~(as a dangerous)~~) DW or (~~(extremely hazardous waste)~~) EHW.

(2) Categorization. (a) The following toxic category table establishes categories (X, A, B, C, or D) for particular toxicity levels. The X category is the most toxic, and the D category is least toxic. Substances which have toxicity levels below the D category are generally considered to be nontoxic.

TOXIC CATEGORY TABLE

Category	TLm96 (Fish) or Aquatic (Fish) LC50(ppm)	Oral (Rat) LD50(mg/kg)	Inhalation (Rat) LC50(mg/L)	Dermal (Rabbit) LD50 (mg/kg)
X	<.1	<.5	<.02	<2
A	.1 - 1	.5 - 5.02	.2 - 2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) In order to determine the toxic categories for the constituents in his waste, a person must obtain toxicity data on the constituents either through knowledge he has about his waste, or by obtaining data from the two sources referenced in ~~((WAC 173-303-101))~~ subsection (3)(a) and (b) of this section, (~~(below))~~ (EPA'S Spill Table and NIOSH Registry). If data obtained for a constituent is available for more than one of the toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used to assign the most acutely toxic category to the waste constituent.

(3) Establishing waste toxicity. A person shall establish the toxicity of his waste or waste constituents by applying his knowledge about his waste, or by using the following information sources or testing methods, or ~~((both))~~ all of these:

- (a) The National Institute for Occupational Safety and Health (NIOSH) document "Registry of Toxic Effects of Chemical Substances" (Registry);
 - (b) The United States EPA's regulation 40 CFR Table 117.3 (Spill Table); and
 - (c) The bioassay testing methods adopted under WAC 173-303-110(3).
- (4) Book designation procedure.
- (a) A person may use the book designation procedure described in this paragraph only if:

(i) He knows the toxic categories (as set forth in ((WAC 173-303-101)) subsection (2) of this section, ((above))) for the significant toxic constituents in his waste;

(ii) He knows the concentrations of the significant toxic constituents in his waste; and

(iii) He can demonstrate to the department beyond a reasonable doubt that any waste constituents about which he has limited or no knowledge do not significantly affect the toxicity of his waste.

(b) Equivalent concentration. A person who is book designating his waste shall determine the equivalent concentration (in percent) of the toxic constituents in his waste by using the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{10,000}$$

where $\Sigma(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

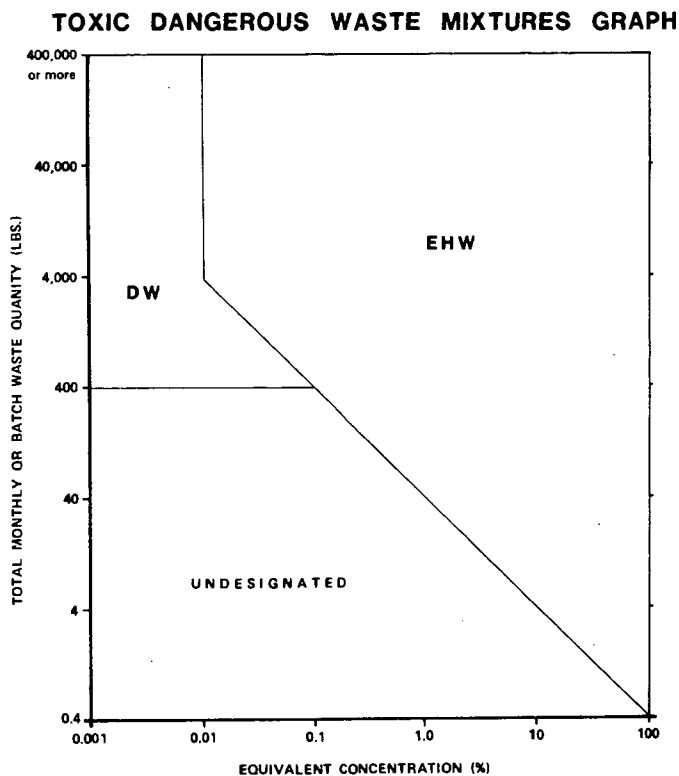
Example 1. A person's waste contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10,000} + \frac{0\%}{10,000} \\ &= .01\% + 0\% + .01\% + .011\% + 0\% = .031\% \end{aligned}$$

So his equivalent concentration equals .031%.

(c) Toxic dangerous waste graph. To book designate his waste, a person shall use the toxic dangerous waste mixtures graph, below ((also,)) a larger version of this graph appears in ((the appendix)) WAC 173-303-9906, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked ((dangerous waste (f)))DW((f)), he shall designate his waste ((as a dangerous waste)) DW; if the plotted point is in the area marked ((extremely hazardous waste (f)))EHW((f)), he shall designate his waste ((as an extremely hazardous waste)) EHW.

Figure.



(5) Designation from bioassay data. If a person has established the toxicity of his waste by means of the bioassay test methods adopted under WAC 173-303-110(3), ((sampling and testing methods,)) and has determined his waste's toxicity range (C category or greater toxicity, or D category toxicity), then he shall designate his waste according to the toxic dangerous waste designation table, below.

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxic range falls in the . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation is . . .
D Category	Greater than 400 lbs. (181.8 kg)	((Dangerous Waste)) ((f))DW((f))
X, A, B, or C Category	40 - 400 lbs. (18.2 - 181.8 kg)	DW
	Greater than 400 lbs. (181.8 kg)	((Extremely Hazardous Waste)) ((f))EHW((f))

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-102 PERSISTENT DANGEROUS WASTES. (1) Purpose. This section describes the procedures for designating wastes which contain halogenated hydrocarbons (HH) and/or ((four-, five-, and six-ring)) polycyclic aromatic hydrocarbons with more than three rings and less than seven rings (PAH).

(2) Concentration determination. A person shall determine the concentration of HH and/or PAH in his waste by either testing his waste as specified in ((WAC 173-303-102(2)))(a) of this subsection, ((below,)) or by the calculation procedures described in ((WAC 173-303-102(2)))(b)((, below)) of this subsection.

(a) Concentration tests. A person shall test his waste to determine its concentration level as follows:

(i) For HH - By using the testing methods specified in WAC 173-303-110(3)(b); and,

(ii) For PAH - By using the testing methods specified in WAC 173-303-110(3)(c).

(b) Concentration calculations. If a person knows the concentrations of the significant persistent constituents in his waste, and if he can demonstrate to the department beyond a reasonable doubt that any remaining persistent constituents for which he does not know the concentrations would not contribute significantly to the total persistent concentration, then he may calculate the concentration of persistent constituents in his waste as follows:

(i) A person whose waste contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of his waste's significant halogenated hydrocarbons.

Example 1. A person's waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(ii) A person whose waste contains one or more ((four-, five-, or six-ring)) polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of his waste's significant ((four-, five-, or six-ring)) polycyclic aromatic hydrocarbons with more than three rings and less than seven rings.

Example 2. A person's waste contains: Chrysene - .08%; 3, 4 - ((benzopyrene)) benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(3) Designation criteria and quantity. A person whose waste contains persistent (HH or PAH) constituents shall designate his waste according to the persistent dangerous waste table, below, if his monthly or batch waste quantity exceeds 400 lbs. (181.8 kg.).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a concentration level of . . .	Then your waste's designation is . . .
Halogenated	0.01 to 1.0%	((Dangerous Waste)) ((f))DW((g))
Hydrocarbons (HH)	greater than 1.0%	((Extremely Hazardous Waste - f))EHW((g))
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*

* No DW concentration level for PAH.

NEW SECTION

WAC 173-303-121 ACCUMULATION WITHOUT SUFFICIENT USE, REUSE OR RECYCLING.

A substance is accumulated without sufficient amounts being used, reused, or recycled if, during the calendar, fiscal, or inventory year period, the amount of substance that is used, reused or recycled (or transferred to a different site for use, reuse or recycling) during the year period does not equal at least seventy-five percent by volume of the amount of that substance accumulated at the beginning of the period. For the purposes of this section, this principle shall be called overaccumulation. Subsections (1) and (2) of this section provide certain exceptions to this principle of overaccumulation.

(1) Substances shall not be considered as overaccumulated once they have been used, reused, or recycled, even though they may previously have been overaccumulated.

(2)(a) If a substance accumulates for one year without use, reuse, recycling, or transfer of at least seventy-five percent of the accumulated volume, the department may determine that the substance is not being overaccumulated during the following year. To obtain this determination, the person accumulating the substance must notify the department in writing, submitting the following information:

(i) The name and address of the person required to notify and the address of the site of accumulation, if different;

(ii) A description of:

(A) The substance being accumulated;

(B) Why the substance is, or if not exempted would be, a dangerous waste (e.g., whether listed, toxic, ignitable, etc.);

(C) The amount accumulated at the date of notification; and

(D) The way the substance is stored prior to use, reuse, recycling or transfer; and

(iii) A statement of:

(A) What the notifier expects the disposition (use, reuse, transfer, etc.) of the substance to be;

(B) Why this expectation is reasonable (e.g., because of past practice, market factors or contractual arrangements);

(C) Why the substance has accumulated for over one year; and

(D) When the notifier expects the use, reuse, recycling or transfer to occur.

The department may then use this information to determine whether the substance will not be overaccumulated during the following year, or alternatively, may require further pertinent information from the notifier. Such a determination will be based upon the reasonableness of the notifier's expectation that the substance will be used, reused, recycled or transferred for these purposes, taking into account the past practices, market factors, contractual arrangements, character, and quantity of the substance being accumulated, and the manner in which the substance is being stored. The notifier must keep appropriate records to demonstrate why he reasonably expects the accumulated substance to be used, reused, recycled or transferred for these purposes and must provide these records to the department upon its request.

(b) After the second year without use, reuse, recycling or transfer of at least seventy-five percent of the total volume accumulated at the beginning of that year, the department may again determine that the accumulated substance is not being overaccumulated during the following year. To do this, it must receive in writing the same information described in (a) of this subsection, from the person accumulating the substance. In addition, at least fifty percent of the total volume accumulated at the beginning of the year must have been used, reused, recycled, or transferred.

(c) If the substance accumulates for a third year without use, reuse, recycling or transfer of at least seventy-five percent of the total volume accumulated at the beginning of that year, all substance not actually used, reused, recycled, or transferred is being overaccumulated.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-140 DISPOSAL OF EXTREMELY HAZARDOUS WASTE. No person shall dispose of designated ~~((extremely hazardous waste (EHW)))~~ at any land disposal facility in the state other than the facility established and approved by the department for such purpose under chapter 70.105 RCW. A person is not prohibited from reclaiming, recycling, recovering, treating, detoxifying, neutralizing, or otherwise processing EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter 173-303 WAC.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-141 TREATMENT, STORAGE, OR DISPOSAL OF DANGEROUS WASTE. A person shall only offer a designated dangerous waste ~~((for treatment, storage, or disposal (TSD)))~~ to a TSD facility which is operating either: Under a permit issued pursuant to the requirements of ~~((WAC 173-303-800 through 173-303-845, unless otherwise authorized by the department))~~ this chapter; or, if the TSD facility is located outside of this state, under interim status or a permit issued by United States EPA under 40 CFR Part

270, or under interim status or a permit issued by another state which has been authorized by United States EPA pursuant to 40 CFR Part 271.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-145 SPILLS AND DISCHARGES INTO THE ENVIRONMENT. (1) Purpose and applicability. This section sets forth the requirements for any person responsible for a spill or discharge into the environment, except when such release is otherwise permitted under state or federal law. For the purposes of complying with this section, a transporter who spills or discharges dangerous waste or hazardous substances during transportation will be considered the responsible person. This section shall apply when any dangerous waste~~(;))~~ or ~~((when any material having the properties of a dangerous waste, as described in WAC 173-303-080 through 173-303-103;))~~ hazardous substance is intentionally or accidentally spilled or discharged into the environment (unless otherwise permitted) such that public health or the environment are threatened, regardless of the quantity of ~~((material or the quantity exclusion limits for))~~ dangerous waste or hazardous substance.

(2) Notification. Any person who is responsible for a nonpermitted spill or discharge shall immediately notify the individuals and authorities described for the following situations:

(a) For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, notify the appropriate regional office of the department of ecology; and

(b) For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, in western Washington notify the local air pollution control authority, or in eastern Washington notify the appropriate regional office of the department of ecology.

(3) Mitigation and control. The person responsible for a nonpermitted spill or discharge shall take appropriate immediate action to protect human health and the environment (e.g., diking to prevent contamination of state waters, shutting of open valves).

(a) In addition, the department may require the person responsible for a spill or discharge to:

(i) Clean up all released dangerous wastes or hazardous substances ~~((dangerous wastes, or materials having the properties of dangerous waste)))~~, or to take such actions as may be required or approved by federal, state, or local officials acting within the scope of their official responsibilities. This may include complete or partial removal of released dangerous wastes or hazardous substances as may be justified by the nature of the released dangerous wastes or hazardous substances, the human and environmental circumstances of the incident, and

protection required by the Water Pollution Control Act, chapter 90.48 RCW;

(ii) Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge in accordance with this chapter 173-303 WAC(~~(, unless otherwise approved by the department)~~). The department may require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any ~~((substances))~~ materials resulting from clean-up; and

(iii) If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the department.

(b) Where immediate removal or temporary storage of spilled or discharged dangerous wastes or hazardous substances is necessary to protect human health or the environment, the department may direct that removal be accomplished without a manifest, by transporters who do not have EPA/State identification numbers(~~(, or that the substances be temporarily stored at facilities which do not have permits issued under this chapter 173-303 WAC)~~).

(4) Nothing in WAC 173-303-145 shall eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-160 CONTAINERS. (1) Waste quantity. Containers and inner liners shall not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in nonempty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is empty when all wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, whichever quantity is least, either less than one inch of waste remains at the bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to one percent or less of the container's ((or inner liner's)) total capacity, ((whichever quantity is less)) or, if the container's total capacity is greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure.

(3) Residues remaining in a container or inner liner which held ((designated dangerous waste (-))DW((+)) need not be designated if ((it)) the container or inner liner is empty, as defined in ((WAC 173-303-160(2), above)) subsection (2) of this section.

(4) Residues remaining in a container or inner liner which held ((extremely hazardous waste (-))EHW((+)),

need not be designated if ((it)) the container or inner liner is empty, as defined in ((WAC 173-303-160(2), above)) subsection (2) of this section, and if ((it)) the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing shall be ten percent or more of the container's or inner liner's capacity. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (e.g., fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (e.g., on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department.

Any rinsate or vacuumed residue which results from the cleaning of containers or inner liners ~~((and which is a solid waste))~~ shall whenever possible be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner~~((, or))~~. In the case of a farmer, if the rinsate is a pesticide ~~((or herbicide))~~ residue then the rinsate shall be ~~((disposed))~~ managed or reused in a manner consistent with the instructions on the pesticide ~~((or herbicide))~~ label, ~~((or else))~~ provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property. Otherwise, the rinsate shall be checked against the designation requirements (WAC 173-303-070 through ((173-303-090)) 173-303-103) and, if designated, managed according to the requirements of this chapter 173-303 WAC.

A person may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910~~((, petitions))~~(1).

NEW SECTION

WAC 173-303-161 OVERPACKED CONTAINERS (LABPACKS). Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:

(1) Hazardous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the department of transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely

absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material;

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with WAC 173-303-395(1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090(7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-170 REQUIREMENTS FOR GENERATORS OF DANGEROUS WASTE. (1) A person shall be a dangerous waste generator if his solid waste is designated by the requirements of WAC 173-303-070 through ~~((173-303-090))~~ 173-303-103.

(a) The generator shall be responsible for designating his ~~((dangerous))~~ waste as ~~((extremely hazardous))~~ DW or ~~((dangerous waste))~~ EHW.

(b) The generator may request an exemption for his dangerous waste according to the procedures of WAC ~~((173-303-910, petitions))~~ 173-303-072.

(2) A dangerous waste generator shall notify the department and obtain an EPA/State Identification Number as required by WAC 173-303-060, and shall comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) ~~((The generator shall comply with the requirements of WAC 173-303-060, notification and identification numbers.~~

~~((4) A person who triple rinses and disposes of his own containers shall comply with WAC 173-303-230(3), Special conditions, and WAC 173-303-160, Containers.~~

~~((5))~~ Except for the accumulation and storage of dangerous wastes for less than ninety days as allowed under WAC 173-303-200, any generator who transfers, stores, treats, or disposes of dangerous waste on-site shall perform his operations in accordance with the TSD facility requirements of this chapter ~~((173-303-WAC))~~.

(4) The generator of a moderate risk waste may, upon approval by the department, for moderate risk waste only:

(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for moderate risk waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same moderate risk waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction

before implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and

(b) Pursuant to the requirements of WAC 173-303-200, accumulate moderate risk waste in containers and tanks for up to one hundred eighty days, and accumulate moderate risk waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3), (7), (8), and (9).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-190 PREPARING DANGEROUS WASTE FOR TRANSPORT. The generator shall fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator shall package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179(~~and with packaging requirements of the Washington state utilities and transportation commission (UTC) and the Washington state patrol~~).

(2) Labeling. The generator shall label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator shall:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or ~~((essentially))~~ equivalent(~~(:))~~ words and information, displayed in accordance with 49 CFR 172.304:

~~((DANGEROUS))~~ HAZARDOUS WASTE - State and Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority, and the Washington State Department of Ecology or the United States Environmental Protection Agency.

Generator's Name and Address

.....
.....
.....

Manifest Document Number

.....

(4) Placarding. The generator shall placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-210 GENERATOR RECORD-KEEPING. (1) The generator shall keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy shall be retained for at least three years from the date the waste was accepted by the initial transporter.

(2) The generator shall keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least three years from the due date of each report.

(3) The generator shall keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste(;) for at least three years from the date that the waste was last transferred for on-site or off-site (~~(storage, treatment, or disposal)~~) TSD.

(4) The periods of retention for any records described in this section shall be automatically extended(:

(a)) during the course of any unresolved enforcement action requiring those records(~~;~~ or

(b)) or upon request by the director.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-220 GENERATOR REPORTING. The generator shall submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator who ships (~~(his)~~) any dangerous waste off-site shall submit annual reports to the department, on the (~~(generator annual report form - Part A)~~) Generator Annual Dangerous Waste Report - Form 4 according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site shall comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports concerning the quantities and disposition of his dangerous waste.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-230 SPECIAL CONDITIONS. (1) Exporting dangerous waste.

(a) The requirements of 40 CFR, Section 262.50(a), (b) and (c), International Shipments, are (~~(here)~~) adopted by reference.

(b) Copies of any exception reports submitted to the Administrator of United States EPA shall be submitted to the director of the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer shall comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), (~~(required information for manifests)~~) except that:

(a) In place of the generator's name, address and EPA/State identification number, the name and address of the foreign generator and the importer's name, address and EPA/State identification number shall be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) Triple rinsing. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use shall not be treated as a generator or as a facility owner/operator(~~(, provided that)~~) if the containers are empty as defined in WAC 173-303-160(2), and if used to hold EHW, have been triple rinsed according to WAC 173-303-160(4), and either:

(a) (~~(He triple rinses each emptied dangerous waste container in accordance with WAC 173-303-160, containers; and~~

(b)) The rinsate is not a dangerous waste under this chapter 173-303 WAC; or

(~~(c)~~) (b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide (~~(or herbicide)~~) residues, he reuses or (~~(disposes of)~~) manages the rinsate in a manner consistent with the instructions on the pesticide (~~(or herbicide)~~) label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars shall handle the rinsate according to this chapter, 173-303 WAC, and according to chapter 90.48 RCW, water pollution control.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-250 DANGEROUS WASTE ACCEPTANCE, TRANSPORT, AND DELIVERY. (1) A transporter shall not accept dangerous waste from a generator unless it is accompanied by a manifest (~~((prepared))~~) signed by the generator in accordance with WAC 173-303-180, manifest.

(2) Before transporting a dangerous waste shipment, the transporter shall sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter shall return a signed copy to the generator before commencing transport.

(3) The transporter shall insure that the manifest accompanies the dangerous waste shipment.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility shall:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter shall deliver the entire quantity of dangerous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6) If the dangerous waste cannot be delivered in accordance with (~~((WAC 173-303-250))~~) subsection (5) of this section, (~~((above,))~~) the transporter shall contact the generator for further directions, and shall revise the manifest according to the generator's instructions.

(7) The requirements of (~~((WAC 173-303-250))~~) subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility;

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/State identification numbers, generator certification, and signatures) accompanies the dangerous waste;

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the

date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2)(~~((transporter recordkeeping))~~).

(8) For shipments involving rail transportation, the requirements of (~~((WAC 173-303-250))~~) subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/State identification numbers, generator certification, and signatures) accompanies the dangerous waste at all times.

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States shall:

(a) Indicate on the manifest the date the dangerous waste left the United States;

(b) Sign the manifest and retain one copy in accordance with WAC 173-303-260(3), transporter recordkeeping; and

(c) Return a signed copy of the manifest to the generator.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-260 TRANSPORTER RECORD-KEEPING. (1) A transporter of dangerous waste shall

keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(2) Water (bulk shipment) and rail transporter recordkeeping.

(a) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter shall retain a copy of a shipping paper containing all the information required on a manifest (excluding the EPA/State identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(b) For shipments of dangerous waste by rail within the United States:

(i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required on a manifest (excluding the EPA/State Identification Numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter; and

(ii) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(3) A transporter who transports dangerous waste out of the United States shall keep a copy of the manifest, indicating that the dangerous waste left the United States, for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the director.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-270 DISCHARGES DURING TRANSPORT. In the event of a spill or discharge of dangerous waste during transportation, the transporter shall comply with the requirements of WAC 173-303-145, Spills and discharges into the environment. In addition to the notices required by WAC 173-303-145, the transporter shall provide the following notifications:

(1) Give notice to the generator of the waste that a discharge has occurred;

(2) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15;

(3) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington D.C., 20590; and,

(4) For a water (bulk shipment) transporter, give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-280 GENERAL REQUIREMENTS FOR DANGEROUS WASTE MANAGEMENT FACILITIES. (1) Applicability. The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which transfer, store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. The owner or operator of a facility which manages moderate risk waste may comply with the special requirements specified in WAC 173-303-550 through 173-303-560 in lieu of the general requirements of WAC 173-303-280 through 173-303-395, but only for those moderate risk wastes which he manages. Owners and operators of transfer or collection facilities shall also comply with the applicable provisions specified in WAC 173-303-275. Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) Imminent hazard. Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) Identification numbers. Every facility owner or operator shall ~~((obtain))~~ apply for an EPA/State identification number from the department in accordance with WAC 173-303-060.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-290 REQUIRED NOTICES. (1) The facility owner or operator who is receiving dangerous waste from a foreign source shall ~~((comply with Title 40 CFR 265.12(a). The facility owner or operator shall also send a copy of the required notification to the department))~~ notify the department in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-300 GENERAL WASTE ANALYSIS. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator shall obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility shall confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis shall be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator shall develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of ~~((WAC 173-303-300))~~ subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste will be analyzed, and the rationale for selecting these parameters;

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(g) For off-site facilities, the procedures for confirming that each dangerous waste received matches the

identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:

(i) The procedures for identifying each waste movement at the facility; and

(ii) The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-310 SECURITY. (1) The owner or operator shall comply with the requirements of this section, unless he can demonstrate to the department that:

(a) Physical contact with wastes or equipment within the active portion of the facility will not injure persons or livestock; and

(b) Disturbance of the wastes or equipment within the active portion of the facility by persons or livestock will not result in violations of this chapter 173-303 WAC.

(2) A facility must have:

(a) Signs posted at each entrance to the active portion, and at other locations, in sufficient numbers to be seen from any approach to the active portion. Signs must bear the legend, "Danger-Unauthorized Personnel Keep Out," or an equivalent legend, written in English, and must be legible from a distance of twenty-five feet or more; and either

(b) A 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility; or

(c) An artificial or natural barrier, or a combination of both, which completely surrounds the active portion of the facility, with a means to control access through gates or other entrances to the active portion of the facility at all times.

(3) In lieu of WAC 173-303-310(2), above, the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit (as defined in WAC 173-303-040) must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the totally enclosed treatment facility or the elementary neutralization or wastewater treatment unit.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-320 GENERAL INSPECTION.

(1) The owner or operator shall inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

- (a) He must keep the schedule at the facility;
- (b) The schedule must identify the types of problems which are to be looked for during inspections;
- (c) The schedule shall indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. The inspection schedule shall also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(d) The owner or operator shall keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least three years from the date of inspection.

(3) The owner or operator shall remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-330 PERSONNEL TRAINING.

(1) Training program. The facility owner or operator shall provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter 173-303 WAC, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and shall include those elements set forth in the training plan required in ((WAC 173-303-330(2), below)) subsection (2) of this section. In addition:

- (a) The training program shall be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;
- (b) Facility personnel must participate in an annual review of the training provided in the training program;
- (c) This program must be successfully completed by the facility personnel:
- (i) Within six months after these regulations become effective; or
- (ii) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(d) At a minimum, the training program shall familiarize facility personnel with emergency equipment and

systems, and emergency procedures. The program shall include other parameters as set forth by the department, but at a minimum shall include, where applicable:

- (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
- (ii) Key parameters for automatic waste feed cut-off systems;
- (iii) Communications or alarm systems;
- (iv) Response to fires or explosions;
- (v) Response to ground-water contamination incidents; and
- (vi) Shutdown of operations.

(2) Written training plan. The owner or operator shall develop a written training plan which must be kept at the facility and which must include the following documents and records:

(a) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications, and duties for each position;

(b) A written description of the type and amount of both introductory and continuing training required for each position; and

(c) Records documenting that facility personnel have received and completed the training required by ((WAC 173-303-330)) this section.

(3) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-340 PREPAREDNESS AND PREVENTION. Facilities shall be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, or surface or ground water which could threaten the public health or the environment. This section describes preparations and preventive measures which help avoid or mitigate such situations.

(1) Required equipment. All facilities must be equipped with the following, unless it can be demonstrated to the department that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction to facility personnel;

(b) A device, such as a telephone or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(2) Access to communications or alarms. Personnel must have immediate access to the signalling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in (~~WAC 173-303-340(1), above~~) subsection (1) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in (~~WAC 173-303-340(1), above~~) subsection (1) of this section.

(3) Aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(4) Arrangements with local authorities. The owner or operator shall attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(a) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

(b) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(d) Where more than one (~~police and fire department~~) party might respond to an emergency, agreements designating primary emergency authority (~~to a specific police and a specific fire department;~~) and agreements with any others to provide support to the primary emergency authority.

(5) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-350 CONTINGENCY PLAN AND EMERGENCY PROCEDURES. (1) Purpose. The purpose of (~~WAC 173-303-350~~) this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or ground water by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency circumstances, and the plan shall be implemented immediately in such emergency circumstances.

(2) Contingency plan. Each owner or operator must have a contingency plan at his facility for use in emergencies or sudden or nonsudden releases which threaten the public health and the environment. If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of (~~WAC 173-303-350~~) this section and WAC 173-303-360.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with (~~WAC 173-303-350~~) this section and WAC 173-303-360;

(b) A description of the actions which shall be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), manifest system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services;

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810(14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of

each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator shall review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations or the facility permit are revised;

(b) The plan fails in an emergency;

(c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-360 EMERGENCIES. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures shall be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and ~~((a real))~~ areal extent of any released materials.

(c) Concurrently, the emergency coordinator shall assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-

term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with ~~((WAC 173-303-360(2)(i), above,))~~

(i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

- (ii) Name, address, and telephone number of the facility;
- (iii) Date, time, and type of incident (e.g., fire, explosion);
- (iv) Name and quantity of material(s) involved;
- (v) The extent of injuries, if any;
- (vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- (vii) Estimated quantity and disposition of recovered material that resulted from the incident.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-370 MANIFEST SYSTEM. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in (~~WAC 173-303-370(4)~~) subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/State identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in (~~WAC 173-303-370(4)~~) subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must (~~sign and date the manifest and return it~~) send a copy of the signed and dated shipping paper to the generator ((in lieu of the shipping paper)); and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following shall be acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in (~~WAC 173-303-370(4)~~, above)) subsection (4) of this section between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may (~~return the shipment to the generator, or~~) send ((it)) the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (~~WAC 173-303-370(5)(b)~~, above) (b) of this subsection, then the owner or operator shall take those actions described in the contingency plan, WAC 173-303-350(3)(b).

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-380 FACILITY RECORDKEEPING. (1) Operating record. The owner or operator of a facility shall keep a written operating record at his facility. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by ((WAC 173-303-380(2))) subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses required by WAC 173-303-300, general waste analysis;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360(2)(k);

(e) Records and results of inspections as required by WAC 173-303-320(2)(d), general inspection (except such information need be kept only for three years);

(f) Monitoring, testing, or analytical data where required by 40 CFR Part 265 Subparts F through R for interim status facilities, and by WAC 173-303-630 through 173-303-670 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility; and

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, required notices.

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information shall be kept in the operating record, as follows:

(a) Each dangerous waste received shall be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed then the waste description shall include the process which generated the waste;

(b) The waste description shall include the waste's physical form (i.e., liquid, solid, sludge, or gas);

(c) The weight, or volume and density, of the dangerous waste shall be recorded, using one of the units of measure specified in Table 1, below;

TABLE 1

Unit of Measure	Symbol	Density
Pounds	P	
Short tons (2000 lbs)	T	
Gallons (U.S.)	G	P/G
Cubic yards	Y	T/Y

TABLE 1

Unit of Measure	Symbol	Density
Kilograms	K	
Tonnes (1000 kg)	M	
Liters	L	K/L
Cubic meters	C	M/C

(d) And, the date(s) and method(s) of management for each dangerous waste received shall be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2

1. Storage
 - S01 Container (barrel, drum, etc.)
 - S02 Tank
 - S03 Waste pile
 - S04 Surface impoundment
 - S05 Other (specify)
2. Treatment
 - (a) Thermal treatment
 - T06 Liquid injection incinerator
 - T07 Rotary kiln incinerator
 - T08 Fluidized bed incinerator
 - T09 Multiple hearth incinerator
 - T10 Infrared furnace incinerator
 - T11 Molten salt destructor
 - T12 Pyrolysis
 - T13 Wet air oxidation
 - T14 Calcination
 - T15 Microwave discharge
 - T16 Cement kiln
 - T17 Lime kiln
 - T18 Other (specify)
 - (b) Chemical treatment
 - T19 Absorption mound
 - T20 Absorption field
 - T21 Chemical fixation
 - T22 Chemical oxidation
 - T23 Chemical precipitation
 - T24 Chemical reduction
 - T25 Chlorination
 - T26 Chlorinolysis
 - T27 Cyanide destruction
 - T28 Degradation
 - T29 Detoxification
 - T30 Ion exchange
 - T31 Neutralization
 - T32 Ozonation
 - T33 Photolysis
 - T34 Other (specify)
 - (c) Physical treatment
 - (i) Separation of components
 - T35 Centrifugation
 - T36 Clarification
 - T37 Coagulation
 - T38 Decanting
 - T39 Encapsulation
 - T40 Filtration
 - T41 Flocculation

- T42 Flotation
- T43 Foaming
- T44 Sedimentation
- T45 Thickening
- T46 Ultrafiltration
- T47 Other (specify)
 - (ii) Removal of specific components
- T48 Absorption-molecular sieve
- T49 Activated carbon
- T50 Blending
- T51 Catalysis
- T52 Crystallization
- T53 Dialysis
- T54 Distillation
- T55 Electrodialysis
- T56 Electrolysis
- T57 Evaporation
- T58 High gradient magnetic separation
- T59 Leaching
- T60 Liquid ion exchange
- T61 Liquid-liquid extraction
- T62 Reverse osmosis
- T63 Solvent recovery
- T64 Stripping
- T65 Sand filter
- T66 Other (specify)
 - (d) Biological treatment
- T67 Activated sludge
- T68 Aerobic lagoon
- T69 Aerobic tank
- T70 Anaerobic lagoon or tank
- T71 Composting
- T72 Septic tank
- T73 Spray irrigation
- T74 Thickening filter
- T75 Trickling filter
- T76 Waste stabilization pond
- T77 Other (specify)
- T78-79 (Reserved)

3. Disposal

- D80 Underground injection
- D81 Landfill
- D82 Land treatment
- D83 Ocean disposal
- D84 Surface impoundment
 - (to be closed as a landfill)
- D85 Other (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the

United States EPA Regional Administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-390 FACILITY REPORTING.

The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in ~~((facilities report form - Part C))~~ the Unmanifested Waste Report - Form 5 (which may be obtained from the department) must be used for this report. The report must include the following information:

(a) The EPA/State identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/State identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator shall prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in ~~((facilities report form - Part B))~~ the TSD Facility Annual Dangerous Waste Report - Form 5 (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include the following information:

(a) The EPA/State identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/State identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/State identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed (~~by the owner or operator of the facility or his authorized representative~~) in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator shall also report to the department releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360(2)(k) and interim status groundwater monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2).

In addition, the owner or operator shall submit any other reports ((as)) required by the department.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-400 INTERIM STATUS FACILITY STANDARDS. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status shall apply to all facilities which comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC ((173-303-815(2))) 173-303-805. Interim status shall end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(7).

(b) Interim status facilities must meet the interim status standards (~~upon the effective date of these regulations. Interim status facilities handling state designated wastes (i.e., not identified by 40 CFR Part 261) or facilities which are subject to WAC 173-303-400(3)(c) (ii), (iii), and (v), must meet interim status standards 180 days after promulgation of this regulation~~) by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c) (ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Persons disposing of dangerous waste by underground injection which is permitted under the Safe Drinking Water Act;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes;

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); ((and))

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200((6)) provides otherwise; and

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200(1)(b) and 173-303-395(1) (a) and (b).

(d) The owner or operator of an interim status facility which manages moderate risk waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those moderate risk wastes which he manages and only after the owner or operator has requested and the department has issued a notice of interim status modification.

(3) Standards.

(a) Interim status standards shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 ((of)) Subparts F through R which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those Subparts which are not otherwise explicitly described in this chapter 173-303 WAC), the general requirements for dangerous waste management facilities, WAC 173-303-280 through 173-303-395, and the applicable requirements of WAC ((173-303-500)) 173-303-420, Siting standards, ((WAC 173-303-510)) 173-303-430, Performance standards, and ((WAC 173-303-520)) 173-303-440, Buffer monitoring zones.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R to the state of Washington facilities, the federal terms shall have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, shall be replaced with) the following state of Washington meanings:

(i) "Regional administrator" shall mean the "department;"

(ii) "Hazardous" shall mean "dangerous;" and

(iii) "Compliance procedure" shall have the meaning set forth in WAC 173-303-040, definitions.

(c) In addition to the changes described in ((WAC 173-303-400(3))) (b) of this subsection, the following modifications shall be made to interim status standards of 40 CFR Part 265 Subparts F through R:

(i) The words "~~within one year after~~) the effective date of these regulations" shall mean ((the effective date of 40 CFR Part 265:));

(A) November 19, 1981, for facilities which manage any wastes designated by 40 CFR Part 261; and

(B) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-103 and not designated by 40 CFR Part 261;

(ii) "Subpart N – landfills" shall have an additional section ~~((9))~~ added which reads: "An owner/operator shall not landfill an organic carcinogen ~~((designated in WAC 173-303-081, 173-303-082, 173-303-084, or 173-303-100, nor))~~ or an ~~((extremely hazardous waste))~~ EHW, as defined by WAC 173-303-080 to ~~((173-303-100))~~ 173-303-103, except at the EHW facility at Hanford;"

(iii) "Subpart R – underground injection" shall have an additional section ~~((c))~~ which reads: "Owners and operators of wells are prohibited from disposing of ~~((ex- extremely hazardous waste as defined by WAC 173-303-080 to 173-303-100;))~~ EHW or an organic carcinogen designated under WAC ~~((173-303-081, 173-303-082, 173-303-084, or 173-303-100))~~ 173-303-080 through 173-303-103;"

(iv) "Subpart M – land treatment," section 165.273(b) shall be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080"; ~~((and))~~

(v) "Subpart F – ground water monitoring," section 265.91(c) shall include the requirement that: "Groundwater monitoring wells shall be designed, constructed, and operated so as to prevent groundwater contamination ~~((in accordance with chapter 173-160 WAC. New groundwater monitoring wells shall have an inside diameter of not less than four inches (10 cm))).~~ Chapter 173-160 WAC may be used as guidance in the installation of wells"; and

(vi) "Subpart H – financial requirements" shall have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H."

NEW SECTION

WAC 173-303-420 SITING STANDARDS. (1) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.

(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.

(3) Earthquake fault criteria.

(a) Active portions of new TSD facilities will not be located within 200 feet of a fault which has had displacement in Holocene times. For facilities managing moderate risk waste only, engineering efforts, as approved by the department, may be substituted for the 200-foot buffer zone.

(b) As used in (a) of this subsection:

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection.

Chelan	Grays Harbor	Mason	Skamania
Clallam	Jefferson	Okanogan	Snohomish
Clark	King	Pacific	Thurston
Cowlitz	Kitsap	Pierce	Wahkiakum
Douglas	Kittitas	San Juan	Whatcom
Ferry	Lewis	Skagit	Yakima
Grant			

(4) Floodplain criteria.

(a) A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a 100-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a 100-year flood. Contingency procedures for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:

(i) "100-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW).

(a) Areas defined as "wetlands" under RCW 90.58.030(2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523).

NEW SECTION

WAC 173-303-430 PERFORMANCE STANDARDS. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) Degradation of ground water quality;
- (b) Degradation of air quality by open burning or other activities;
- (c) Degradation of surface water quality;
- (d) Destruction or impairment of flora and fauna outside the active portion of the facility;
- (e) Excessive noise;
- (f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;
- (g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;
- (h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and
- (i) Endangerment of the health of employees, or the public near the facility.

NEW SECTION

WAC 173-303-440 BUFFER MONITORING ZONES. (1) Buffer zones.

(a) The owner/operator of a dangerous waste facility which treats or stores ignitable or reactive waste, except for those reactive wastes with buffer zones specified in (b) of this subsection in covered tanks must treat or store his ignitable waste in a manner equivalent with the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of "The Flammable and Combustible Liquids Code-1981."

(b) The owner/operator of a dangerous waste facility which treats or stores reactive waste exhibiting a characteristic specified in WAC 173-303-090(7)(a)(vi), (vii) or (viii) must provide a buffer zone for his reactive waste equivalent with the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1979 Edition. Where this requirement conflicts with the buffer zone of (a) of this subsection, the larger of the two buffer zones determined under (a) and (b) of this subsection must be used.

(c) Within the practical limits of the best available management technology, the owner/operator of a new

dangerous waste impoundment, pile, landfarm, or landfill should attempt to locate his facility so that the travel time (as defined in WAC 173-303-040) from the active portion of the facility to the nearest downstream well or surface water used for drinking purposes is at least:

- (i) Three years, for DW; and
- (ii) Ten years, for EHW.

(2) Monitoring zones.

(a) The owner/operator of a new dangerous waste facility handling DW only may at his discretion provide a monitoring zone around surface impoundment, waste pile, land treatment, and landfill areas as follows:

$$D = \frac{wv}{N} \text{ (ft)}$$

Where

D = the minimum width of the monitoring zone

w = 3, a constant

v = velocity of surface soil migration, ft/yr

N = number of times the surface soil is sampled at one spot in a year.

Samples shall be taken a distance of

$$S = \frac{D}{w} \text{ (ft) from the active portion of the facility}$$

Where

D = the monitoring zone width in feet and

w = 3.

(b) The same monitoring zone determinations may be made for new facilities handling EHW, except that the value W = 10 shall be used.

(c) Additional information and assistance on choosing monitoring zones is available from the department.

NEW SECTION

WAC 173-303-505 SPECIAL REQUIREMENTS FOR RECYCLED MODERATE RISK WASTE. In lieu of the requirements described in WAC 173-303-510 through 173-303-520, persons who generate, transport or recycle moderate risk waste as defined in WAC 173-303-040 may for such moderate risk waste only, comply with the requirements for moderate risk waste described in:

- (1) WAC 173-303-170(2) for generators;
- (2) WAC 173-303-240 for transporters; and
- (3) WAC 173-303-550 through 173-303-560 for facilities.

NEW SECTION

WAC 173-303-550 SPECIAL REQUIREMENTS FOR FACILITIES MANAGING MODERATE RISK WASTE. (1) Purpose. Moderate risk wastes (as defined in WAC 173-303-040(55)) pose less risk to public health and the environment than do other dangerous wastes, therefore, they do not require as high a level of regulation. The purpose of WAC 173-303-550 through 173-303-560 is to set forth those mandatory standards which are minimally acceptable for managing moderate risk waste, and the criteria and selective standards which will be applied based on the specific risks posed by such wastes.

(2) **Applicability.** The requirements of WAC 173-303-550 through 173-303-560 apply to owners and operators of facilities which manage moderate risk waste, and are only applicable to such moderate risk wastes as are being managed. Whenever a moderate risk waste is shipped from a facility, the owner or operator must comply with WAC 173-303-170 through 173-303-230, requirements for generators.

(3) **Standards.** The owner/operator of a facility managing moderate risk wastes must comply with all applicable standards of this chapter unless he requests (as described in subsection (4) of this section) and the department approves (as described in subsection (5) of this section) the application of less stringent standards to his facility. The owner/operator may request relief from any standards except those minimum standards specified in WAC 173-303-560. Failure to comply with an approval issued by the department pursuant to subsection (5) of this section, will be a violation of this chapter. Failure to comply with all applicable requirements of this chapter while the department is considering a request or after a request has been denied will be a violation of this chapter.

(4) **Request.** The owner/operator may request that less stringent standards be applied to his moderate risk waste management activities in any manner or form that he chooses. His request must be submitted in writing to the department, and must include:

(a) The facility name, EPA/State Identification #, address, telephone number, and a contact person at the facility;

(b) The moderate risk waste(s) managed at the facility and the type(s) of management applied to them;

(c) The specific standards from which the owner/operator seeks relief;

(d) A description, for each standard, demonstrating:

(i) Why the owner/operator believes the standard to be unnecessary;

(ii) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(iii) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(e) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810(12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the

information required by this subsection may result in the department's denying the owner's/operator's request.

(5) **Approval or denial.** The department will review any requests submitted pursuant to subsection (4) of this section, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the owner/operator of its decision in writing. Approval of a request will not be final until the permit has been modified or issued as described in (a) or (b) of this subsection. If the department decides to approve all or part of the request and the owner/operator agrees with the department's decision, then the department will proceed to grant such approval as follows:

(a) **Interim status facilities.** For a facility which qualifies for interim status (as described in WAC 173-303-805), the department shall issue a notice of interim status modification in accordance with WAC 173-303-805(8) stating what standards the owner/operator must meet;

(b) **Final facilities.**

(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.

(ii) The department may request that an applicant for a final facility permit submit his planned moderate risk demonstrations (prepared in accordance with subsection (4) of this section) a maximum of three months prior to submittal of his Part B application.

NEW SECTION

WAC 173-303-560 MINIMUM STANDARDS FOR FACILITIES MANAGING MODERATE RISK WASTE. In no case will the department approve standards for facilities managing moderate risk waste which do not include, at a minimum, the following applicable requirements:

- (1) WAC 173-303-060;
- (2) WAC 173-303-350;
- (3) WAC 173-303-360;
- (4) WAC 173-303-370;
- (5) WAC 173-303-380;
- (6) WAC 173-303-390; and
- (7) WAC 173-303-430.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-575 ~~((TEMPORARY STANDARDS FOR NEW DANGEROUS WASTE LAND DISPOSAL FACILITIES. (1) Purpose, scope and applicability:~~

~~(a) The purpose of WAC 173-303-575 is to establish minimum standards that define the acceptable management of dangerous waste for new land disposal facilities. Extremely hazardous waste can only be disposed in accordance with WAC 173-303-140.~~

(b) The regulations in ~~WAC 173-303-575~~ apply to owners and operators of new dangerous waste landfills, surface impoundments, land treatment facilities and Class I underground injection wells that require individual permits under ~~WAC 173-303-800~~.

(c) The requirements of this part do not apply to:

(i) A person disposing of dangerous waste by means of ocean disposal subject to a permit by rule issued under ~~WAC 173-303-805~~;

(ii) A person disposing of dangerous waste by means of underground injection subject to a permit by ~~WAC 173-303-805~~;

(iii) An owner or operator of a POTW subject to a permit by rule under ~~WAC 173-303-805~~;

(iv) The owner or operator of a facility permitted, licensed, or registered by the state to manage municipal or industrial solid waste, if the only dangerous waste the facility treats, stores, or disposes of is under the quantity exclusion limits of ~~WAC 173-303-070 to 173-303-103~~;

(v) The owner or operator of a facility which treats or stores dangerous waste that is recycled and not subject to regulation as set forth in ~~WAC 173-303-120~~;

(vi) A generator accumulating waste on-site in compliance with ~~WAC 173-303-200~~;

(vii) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in ~~WAC 173-303-040~~; or

(viii) Persons who undertake activities to immediately contain or treat a spill of dangerous waste or material which, when spilled, becomes a dangerous waste.

(2) Applicability of final facility standards.

In addition to the standards contained in ~~WAC 173-303-575~~ owners and operators of new dangerous waste landfills, surface impoundments, land treatment facilities and underground injection wells must comply with Siting standards, ~~WAC 173-303-500~~, Performance standards, ~~WAC 173-303-510~~, Buffer monitoring zones, ~~WAC 173-303-520~~, and general facility requirements, ~~WAC 173-303-280 through 173-303-395~~.

(3) Duration of temporary standards and their relationship to final permits:

(a) The regulations in ~~WAC 173-303-575~~ are applicable, and will serve as a basis for issuing permits, to owners or operators of new dangerous waste landfills, surface impoundments, land treatment facilities, or underground injections facilities until final regulations for such facilities become effective.

(b) Only those owners and operators of new dangerous waste landfills, surface impoundments, land treatment facilities or underground injection wells who have applied for a permit, and for whom public notice of the preparation of a draft permit has been issued under ~~WAC 173-303-840(3)~~, by the date final facility standards for these facilities become effective may be issued permits under the regulations in ~~WAC 173-303-575~~.

(4) Additional permit procedures applicable to ~~WAC 173-303-575~~.

(a) The procedures for issuance, modification, revocation and reissuance, and termination of permits under ~~WAC 173-303-830~~ are applicable to permits issued

pursuant to ~~WAC 173-303-575~~. In addition, the following procedures apply to permits for facilities regulated under ~~WAC 173-303-575~~:

(i) Any facility for which a draft permit is prepared pursuant to ~~WAC 173-303-575~~ may be a major dangerous waste management facility. If the department determines that a facility is major, then a fact sheet shall be prepared for each such facility in accordance with ~~WAC 173-303-840~~; and

(ii) Instead of the "brief summary of the basis for the draft permit conditions" required by ~~WAC 173-303-840(2)(c)(iii)~~, the fact sheet shall include a detailed discussion of basis for the draft permit conditions. This shall include a demonstration that relevant factors listed by the Environmental Protection Agency in 40 CFR 267 Subparts B through G were considered and a showing of how the draft permit reflects these considerations.

(b) The provisions of ~~WAC 173-303-800 through 173-303-815~~ and ~~WAC 173-303-825 through 173-303-845~~ apply to permits for facilities regulated under ~~WAC 173-303-575~~. In addition to the information required by ~~WAC 173-303-815~~, the applications for permits under ~~WAC 173-303-575~~ must include the following information:

(i) For a landfill, sufficient information to demonstrate compliance with Subparts C and F of 40 CFR 267;

(ii) For a surface impoundment, sufficient information to demonstrate compliance with Subparts D and F of 40 CFR 267;

(iii) For a land treatment facility, sufficient information to demonstrate compliance with Subparts E and F of 40 CFR 267; and

(iv) For an underground injection well, sufficient information to demonstrate compliance with Subpart G or 40 CFR 267.

(5) Definitions.

Unless otherwise specified, terms used in ~~WAC 173-303-575~~ are defined in 40 CFR 260.10 and 122.3, or ~~WAC 173-303-040~~. For the purposes of ~~WAC 173-303-575~~, "regional administrator" shall mean the "department."

(6) Temporary standards.

Temporary standards for new dangerous waste land disposal facilities shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 267 Subparts B through F.

(7) An owner/operator shall not landfill dangerous waste containing greater than one percent IARC organic carcinogens, nor an extremely hazardous waste as defined by ~~WAC 173-303-080 through 173-303-103~~ except at the extremely hazardous waste facility at Hanford.

(8) Owners and operators of underground injection wells are prohibited from disposing of extremely hazardous waste as defined by ~~WAC 173-303-080 through 173-303-103~~, or dangerous waste containing greater than one percent IARC organic carcinogens.

(9) Groundwater monitoring wells shall be designed, constructed and operated so as to prevent groundwater contamination in accordance with chapter ~~173-160~~ WAC. Monitoring wells shall be a minimum of 4 inches (10 centimeters) in diameter.

~~(10) Owners and operators of new dangerous waste land disposal facilities shall design, construct, and operate landfills to segregate and contain wastes, wherever practical, so as to enhance the retrievability of wastes.)) (Reserved.)~~

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-600 FINAL FACILITY STANDARDS. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which ~~((and))~~ describe the acceptable management of dangerous waste ((facilities must meet to obtain a permit under WAC 173-303-825.

~~(2) The final facility standards apply to owners and operators of all facilities which treat, store, or dispose of dangerous waste as defined in WAC 173-303-080 through 173-303-103. The final facility standards are to be used to determine whether a permit may be issued pursuant to the requirements set forth in WAC 173-303-800.))~~ In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-303-280 through 173-303-395, and WAC ~~((173-303-500))~~ 173-303-420 through ((173-303-520)) 173-303-440.

~~(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.~~

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the Underground Injection Control Program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC ~~((173-303-805))~~ 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

~~(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-301 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);~~

~~(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160(4);~~

~~(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);~~

~~(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to~~

contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

~~((f) The owner or operator of an elementary neutralization or a wastewater treatment unit))~~ (k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200(1)(b) and 173-303-395(1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages moderate risk waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those moderate risk wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-520 in lieu of the final facility standards.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-620 FINANCIAL REQUIREMENTS. (1) Applicability.

(a) The requirements of ~~((WAC 173-303-620))~~ subsections (3), (4), ((and)) (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in ((WAC 173-303-620)) this section.

(b) The requirements of ~~((WAC 173-303-620))~~ subsections (5) and (6) of this section apply only to owners and operators of dangerous waste disposal facilities, and piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section.

(c) States and the federal government are exempt from the requirements of ~~((WAC 173-303-620; however,))~~ this section, except that operators of facilities who are under contract with the state or federal government must meet the ((financial)) requirements of this section.

(2) ~~((The definitions of WAC 173-303-040 pertaining to liability are the common meanings of the terms as they are generally used in the insurance industry and are not intended to limit the meanings in a way that conflicts with general usage.))~~ Definitions. As used in this section, the following listed or referenced terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of WAC 173-303-610(7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f) and (g) are adopted by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610(2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650((7))(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). ((The owner or operator must keep this estimate, and all subsequent estimates required in WAC 173-303-620 at the facility.)) The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610(3)(a)).

(b) The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan ((affects)) increases the cost of closure.

(c) ((On each anniversary of the date on which the first estimate was prepared as specified in WAC 173-303-620(3)(a), the owner or operator must adjust the latest closure cost estimate using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its survey of current business. The inflation factor must be calculated by dividing the latest published annual deflator by the deflator for the previous year. The result is the inflation factor. The adjusted closure cost estimate must equal the latest closure cost estimate (see WAC 173-303-620(3)(b)) times the inflation factor.)) The owner or operator must adjust the closure cost estimate for inflation within thirty days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in (c) (i) and (ii) of this subsection, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure. ((An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from among the following or equivalent options:

(a) Closure trust fund. The following procedures shall be used to establish a closure trust fund:

(i) An owner or operator may satisfy the requirements of WAC 173-303-620(4) by establishing a closure trust fund which conforms to the requirements of WAC 173-303-620(4)(a) and by sending an originally signed duplicate of the trust agreement to the department by certified mail. An owner or operator of a new facility must send the originally signed duplicate of the trust agreement to the department by certified mail at least sixty days before the date on which dangerous waste is first received for treatment, storage, or disposal. The trustee must be a bank or other financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(ii) The wording of the trust agreement must be identical to the wording specified in 40 CFR 264.151(a)(1) and the trust agreement must be accompanied by a formal certification of acknowledgement.

(iii) Payments to the trust fund must be made annually by the owner or operator over the term of the initial permit. The payments to the closure trust fund must be made as follows:

(A) For a new TSD facility, the first payment must be made when the trust fund is established. The first payment must be at least equal to the closure cost estimate (see WAC 173-303-620(3)), except as provided in WAC 173-303-620(4)(g), divided by the number of years in the term of the permit. Subsequent payments must be made no later than thirty days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{\text{ACE} - \text{CV}}{Y}$$

where ACE is adjusted closure cost estimate calculated under WAC 173-303-620(3)(c), CV is the current value of the trust fund, and Y is the number of years remaining in the term of the permit;

(B) If an owner or operator established a trust fund as specified in WAC 173-303-400, and the value of the trust fund does not equal the adjusted closure cost estimate when a permit is awarded for the facility, the amount of the adjusted closure cost estimate still to be

paid into the trust fund must be paid in over the term of the permit. Payments must continue to be made no later than thirty days after each anniversary date of the first payment made pursuant to WAC 173-303-400. The amount of each payment must be determined by performing the following calculation:

$$\text{Next payment} = \frac{\text{ACE} - \text{CV}}{Y}$$

where ACE is the adjusted closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the term of the permit.

(iv) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in WAC 173-303-620(4)(a)(iii)(A) and (B).

(v) If the owner or operator establishes a closure trust fund after having initially used one or more alternate mechanisms specified in WAC 173-303-620(4), his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments made as specified in WAC 173-303-620(4)(a)(iii)(A) and (B).

(vi) After the term of the initial permit is completed, whenever the adjusted closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund (as described in section 10 of the trust agreement; see WAC 173-303-620(4)(a)(ii)).

(vii) If the value of the fund is less than the amount of the new estimate, the owner or operator must, within sixty days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in WAC 173-303-620(4) to cover the difference.

(viii) If an owner or operator substitutes other financial assurance as specified in WAC 173-303-620(4) for all or part of the trust fund, he may submit a written request to the department for release of the amount in the trust fund which is greater than the amount required as a result of such substitution.

(ix) Within sixty days after receiving a request from the owner or operator for release of funds as specified in WAC 173-303-620(4)(a)(vii) or (a)(viii), the department will instruct the trustee to release to the owner or operator such funds as the department specifies in writing.

(x) After beginning final closure, an owner or operator or any other person authorized to conduct closure may request reimbursement for closure expenditures by submitting itemized bills to the department. Within sixty days after receiving bills for closure activities, the department will instruct the trustee to make reimbursements in those amounts as the department specifies in writing, if the department determines that the closure expenditures are in accordance with the closure plan or otherwise justified.

(xi) The department will agree to termination of the trust when:

(A) The owner or operator substitutes alternate financial assurance for closure as specified in WAC 173-303-620(4); or

(B) The department notifies the owner or operator, in accordance with WAC 173-303-620(4)(i) that he is no longer required by WAC 173-303-620(4) to maintain financial assurance for closure of the facility.

(b) Surety bond guaranteeing payment into a closure trust fund:

(i) An owner or operator may satisfy the requirements of WAC 173-303-620(4) by obtaining a surety bond which conforms to the requirements of WAC 173-303-620(4)(b) and by having the bond delivered to the department by certified mail. An owner or operator of a new facility must have the surety bond delivered to the department by certified mail at least sixty days before the date on which dangerous waste is first received for transfer, treatment, storage, or disposal. The surety bond must be effective before this initial receipt of dangerous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

(ii) The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(b).

(iii) The owner or operator who uses a surety bond to satisfy the requirements of WAC 173-303-620(4)(b) must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the requirements specified in WAC 173-303-620(4)(a) except that:

(A) An originally signed duplicate of the trust agreement must be delivered to the department with the surety bond; and

(B) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in WAC 173-303-620(4)(a) are not required until the standby trust fund is funded pursuant to the requirements of WAC 173-303-620(4)(b).

(iv) The bond must guarantee that the owner or operator will:

(A) Fund the standby trust fund in an amount equal to the penal sum of the bond at least sixty days prior to the expected date of the beginning of final closure of the facility; or

(B) Fund the standby trust fund in an amount equal to the penal sum within fifteen days after an order to begin closure is issued by a court or within fifteen days after issuance of a notice of termination of the permit pursuant to WAC 173-303-840(10); or

(C) Provide alternate financial assurance as specified in WAC 173-303-620 within thirty days after receipt by the department of a notice of cancellation of the bond from the surety.

(v) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(vi) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted closure cost estimate except as provided in WAC 173-303-620(4)(g).

(vii) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator must, within sixty days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in WAC 173-303-620(4) to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the new estimate following written approval by the department. Notice of an increase or decrease in the penal sum must be sent to the department by certified mail within sixty days after the change.

(viii) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the department. Cancellation cannot occur, however:

(A) During the ninety days beginning on the date of receipt of the notice of cancellation by the department as shown on the signed return receipt; or

(B) While a compliance procedure is pending, as defined in WAC 173-303-040.

(ix) The surety bond no longer satisfies the requirements of WAC 173-303-620(4)(b) subsequent to the receipt by the department of a notice of cancellation of the surety bond. Upon receipt of such notice the department will issue a compliance order, unless the owner or operator has demonstrated alternate financial assurance as specified in WAC 173-303-620(4). In the event the owner or operator does not correct the violation by demonstrating such alternative financial assurance within thirty days after issuance of the compliance order, the department may direct the surety to place the penal sum of the bond in the standby trust fund:

(x) The owner or operator may cancel the bond if the department has given prior written consent based on receipt of evidence of alternate financial assurance as specified in WAC 173-303-620(4).

(xi) The department will notify the surety when the owner or operator funds the standby trust fund in the amount guaranteed by the surety bond or if he provides alternate financial assurance as specified in WAC 173-303-620(4).

(c) Surety bond guaranteeing performance of closure.

(i) An owner or operator may satisfy the requirements of WAC 173-303-620(4) by obtaining a surety bond which conforms to the requirements of this paragraph and by having the bond delivered to the department by certified mail. An owner or operator of a new facility must have the surety bond delivered to the department by certified mail at least sixty days before the date on which dangerous waste is first received for treatment, storage, or disposal. The surety bond must be effective before this initial receipt of dangerous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 or the United States Department of the Treasury.

(ii) The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(c).

(iii) The owner or operator who uses a surety bond to satisfy the requirements of WAC 173-303-620(4) must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the requirements specified in WAC 173-303-620(4)(a), except that:

(A) An originally signed duplicate of the trust agreement must be delivered to the department with the surety bond; and

(B) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in WAC 173-303-620(4)(a) are not required unless the standby trust fund is funded pursuant to the requirements of WAC 173-303-620(4)(c).

(iv) The bond must guarantee that the owner or operator will:

(A) Perform final closure in accordance with the closure plan and other requirements in the permit for the facility; or

(B) Perform final closure in accordance with WAC 173-303-610 following an order to begin closure issued by a court, or following issuance of a notice of termination of the permit pursuant to WAC 173-303-840(10); or

(C) Provide alternative financial assurance as specified in WAC 173-303-620(4) within thirty days after receipt by the department of a notice of cancellation of the bond from the surety.

(v) The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(vi) The penal sum of the bond must be in an amount at least equal to the amount of the adjusted closure cost estimate.

(vii) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator must, within sixty days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in WAC 173-303-620(4), to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the adjusted closure cost estimate following written approval by the department. Notice of an increase or decrease in the penal sum must be sent to the department by certified mail within sixty days after the change.

(viii) The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the department. Cancellation cannot occur, however:

(A) During the ninety days beginning on the date of receipt of the notice of cancellation by the department as shown on the signed return receipt; or

(B) While a compliance procedure is pending, as defined in WAC 173-303-040.

(ix) Following a determination pursuant to chapter 173-303 WAC that the owner or operator has failed to

perform final closure in accordance with the closure plan and other permit requirements or closure order, then as an alternative the surety may deposit the amount of the penal sum into the standby trust fund:

(x) The surety bond no longer satisfies the requirements of WAC 173-303-620(4)(c) subsequent to the receipt by the department of a notice of cancellation of the surety bond. Upon receipt of such cancellation notice, the department will issue a notice of violation pursuant to chapter 70.105 RCW, unless the owner or operator has demonstrated alternate financial assurance as specified in WAC 173-303-620(4). In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within thirty days after issuance of the notice of violation, the department may direct the surety to place the penal sum of the bond in the standby trust fund:

(xi) The owner or operator may cancel the bond if the department has given prior written consent based on receipt of evidence of alternate financial assurance as specified in WAC 173-303-620(4):

(xii) The department will notify the surety if the owner or operator provides alternate financial assurance as specified in WAC 173-303-620(4):

(xiii) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the department in accordance with WAC 173-303-620(4)(i), that it is no longer required by WAC 173-303-620(4) to maintain financial assurance for closure of the facility:

(d) Closure letter of credit:

(i) An owner or operator may satisfy the requirements of WAC 173-303-620(4) by obtaining an irrevocable standby letter of credit which conforms to the requirements of WAC 173-303-620(4)(d) and by having it delivered to the department by certified mail. An owner or operator of a new facility must have the letter of credit delivered to the department by certified mail at least sixty days before the date on which dangerous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of dangerous waste. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency:

(ii) The wording of the letter of credit must be identical to the wording specified in 40 CFR 264.151(f):

(iii) An owner or operator who uses a letter of credit to satisfy the requirements of WAC 173-303-620(4) must also establish a standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the department will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the requirements of the trust fund specified in WAC 173-303-620(4)(a), except that:

(A) An originally signed duplicate of the trust agreement must be delivered to the department with the letter of credit, and

(B) After a nominal initial payment agreed upon between the trustee and the owner or operator, payments as specified in WAC 173-303-620(4)(a) are not required unless the standby trust fund is funded pursuant to the requirements of WAC 173-303-620(4)(d):

(iv) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date it must, at least ninety days before that date, notify both the owner or operator and the department by certified mail of that decision. The ninety-day period will begin on the date of receipt by the department as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending as defined in WAC 173-303-040:

(v) The letter of credit must be issued for at least the amount of the adjusted closure cost estimate except as provided in WAC 173-303-620(4)(g):

(vi) Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator must, within sixty days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in WAC 173-303-620(4) to cover the increase. Whenever the adjusted closure cost estimate decreases during the operating life of the facility the letter of credit may be reduced to the amount of the new estimate following written approval by the department. Notice of an increase or decrease in the amount of the credit must be sent to the department by certified mail within sixty days of the change:

(vii) Following a notice pursuant to chapter 70.105 RCW that the owner or operator has failed to perform closure in accordance with the closure plan or other permit requirements, the department may draw on the letter of credit:

(viii) The letter of credit no longer satisfies the requirements of WAC 173-303-620(4)(d) subsequent to the receipt by the department of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the department will issue a notice of violation pursuant to chapter 70.105 RCW, unless the owner or operator has demonstrated alternate financial assurance as specified in WAC 173-303-620(4). In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within thirty days of issuance of the notice of violation, the department may draw on the letter of credit:

(ix) The department will return the original letter of credit to the issuing institution for termination when:

(A) The owner or operator substitutes alternate financial assurance for closure as specified in WAC 173-303-620(4); or

(B) The department notifies the owner or operator, in accordance with WAC 173-303-620(4)(i) that he is no longer required by WAC 173-303-620(4) to maintain financial assurance for closure of the facility:

(e) Reserved.

(f) Reserved.

(g) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of WAC 173-303-620(4) by establishing more than one financial mechanism. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a closure trust fund, and letters of credit. The mechanisms must be as specified in WAC 173-303-620(4)(a), (b), and (d) respectively, except that it is the combination of mechanisms, rather than each single mechanism, which must provide financial assurance for an amount at least equal to the adjusted closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust fund for the bond or letter of credit. If the multiple mechanisms include only surety bonds and letters of credit, a single standby trust may be established for all these mechanisms. The department may invoke use of any or all of the mechanisms, in accordance with the requirements of WAC 173-303-620(4)(a), (b) and (d) to provide for closure of the facility.

(h) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in WAC 173-303-620(4) to meet the requirements of WAC 173-303-620(4) for more than one facility of which he is the owner or operator. Evidence of financial assurance submitted to the department must include a list showing, for each facility, the EPA/State identification number, name, address, and the amount of funds for closure assured by the mechanism. If the list is changed by addition or subtraction of a facility or by an increase or decrease in the amount of funds assured for closure of one or more facilities, a corrected list must be sent to the department within sixty days of such change. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

(i) Release of the owner or operator from the requirements of WAC 173-303-620(4). Within sixty days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan (see WAC 173-303-610(6)), the department will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for closure of the particular facility, unless the department has reason to believe that closure has not been in accordance with the closure plan:))

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.143.

(5) Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a ((disposal)) facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in WAC 173-303-610(7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). ((The owner or operator must keep this estimate, and all subsequent estimates required in WAC 173-303-620(5), at the facility)) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required by WAC 173-303-610.

(b) The owner or operator must prepare a new annual post-closure cost estimate whenever a change in the post-closure plan ((affects)) increases the cost of post-closure care ((see WAC 173-303-610(8)(b)). The latest post-closure cost estimate is calculated by multiplying the latest annual post-closure cost estimate by the number of years of post-closure care required in the latest post-closure plan approved for the facility by the department)).

(c) ((On each anniversary of the date on which the first estimate was prepared as specified in WAC 173-303-620(5)(a), during the operating life of the facility, the owner or operator must adjust the latest post-closure cost estimate using the inflation factor calculated in accordance with WAC 173-303-620(3)(c). The adjusted post-closure cost estimate must equal the latest post-closure cost estimate (see WAC 173-303-620(5)(b)) times the inflation factor.)) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within thirty days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made as specified in (c)(i) and (ii) of this subsection using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(6) Financial assurance for post-closure monitoring and maintenance. ((An owner or operator of each disposal facility must establish financial insurance for post-closure care in accordance with the approved post-closure plan for the facility. He must choose from among the following options:

(a) Post-closure trust fund. The post-closure trust fund requirements shall be identical to the closure trust fund requirements of WAC 173-303-620(4)(a) except for the following:

(i) The words "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(a); and

(ii) The following requirement shall be used in place of WAC 173-303-620(4)(a) in order for facilities to meet the requirement of WAC 173-303-620(6)(a):

An owner or operator or any other person authorized to conduct post-closure may request reimbursement for post-closure expenditures by submitting itemized bills to the department. Within sixty days after receiving bills for post-closure activities, the department will instruct the trustee to make reimbursements in those amounts as the department specifies in writing, if the department determines that the post-closure expenditures are in accordance with the post-closure plan or otherwise justified.

(b) Surety bond guaranteeing payment into a post-closure trust fund. The surety bond guaranteeing payment into a post-closure trust fund shall be identical to the surety bond requirements of WAC 173-303-620(4)(b), except for the following:

(i) The word "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(b);

(ii) The words "treatment and storage" in WAC 173-303-620(4), shall not apply to the post-closure requirements of WAC 173-303-620(6)(b);

(iii) The following requirement shall be used in place of WAC 173-303-620(4) in order for facilities to meet the requirements of WAC 173-303-620(6)(b): The bond must guarantee that the owner or operator will:

(A) Fund the standby trust fund in an amount equal to the penal sum of the bond by the beginning of final closure of the facility; or

(B) Fund the standby trust fund in an amount equal to the penal sum within fifteen days after an order to begin closure is issued by a court, or within fifteen days after issuance of a notice of termination of the permit pursuant to WAC 173-303-840(10); or

(C) Provide alternate financial assurance as specified in WAC 173-303-620(6) within thirty days after receipt by the department of a notice of cancellation of the bond from the surety;

(iv) And, the wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(d).

(c) Surety bond guaranteeing performance of post-closure care. The surety bond guaranteeing performance of post-closure care shall be identical to the surety bond requirements of WAC 173-303-620(4)(c), except for the following:

(i) The words "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(c);

(ii) The words "treatment and storage" in WAC 173-303-620(4) shall not apply to the post-closure requirements of WAC 173-303-620(6)(c);

(iii) The following requirement shall be used in place of WAC 173-303-620(4)(c)(ii) in order for facilities to meet the requirements of WAC 173-303-620(6)(c):

The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(c);

(iv) WAC 173-303-620(4)(c) shall not apply to post-closure financial requirements of WAC 173-303-620(6)(c);

(v) The following requirement shall be added to WAC 173-303-620(4)(c):

During the period of post-closure care, the department may approve a decrease in the penal sum of the surety bond if the owner or operator demonstrates to the department that the amount exceeds the remaining cost of post-closure care;

(vi) And the words "or closure order" in WAC 173-303-620(4)(c)(ix) shall not apply to the requirements of WAC 173-303-620(6)(c).

(d) Post-closure letter of credit. The post-closure letter of credit requirements shall be identical to the letter of credit requirements of WAC 173-303-620(4)(d), except for the following:

(i) The words "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(d);

(ii) The words "treatment and storage" in WAC 173-303-620(4)(d)(i) shall not apply to the post-closure requirements of WAC 173-303-620(6)(d); and

(iii) The following requirement shall be added to WAC 173-303-620(4)(d):

During the period of post-closure care, the department may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the department that the amount exceeds the remaining cost of post-closure care.

(e) (Reserved.)

(f) (Reserved.)

(g) Use of multiple financial mechanisms. The use of multiple financial mechanisms shall be identical to the multiple financial mechanisms of WAC 173-303-620(4)(g), except that the words "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(g):

(h) Use of a financial mechanism for multiple facilities. The use of a financial mechanism for multiple facilities shall be identical to the financial mechanism for multiple facilities of WAC 173-303-620(4)(h), except for the following:

(i) The words "post-closure" will be used wherever "closure" appears in WAC 173-303-620(4)(h); and

(ii) WAC 173-303-620(4)(h)(i) shall be deleted and replaced with the following requirements:

Release of the owner or operator from the requirements of WAC 173-303-620(6). When an owner or operator has completed, to the satisfaction of the department, all post-closure care requirements for the period of post-closure care specified in the permit for the facility or the period specified by the department after closure, whichever period is shorter, the department will, at the request of the owner or operator, notify him in

writing that he is no longer required by WAC 173-303-620(6) to maintain financial assurance for post-closure care of the particular facility:))

(a) An owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure care plan. He must choose from the following options or combination of options:

- (i) Post-closure trust fund;
- (ii) Surety bond guaranteeing payment into a post-closure trust fund;
- (iii) Surety bond guaranteeing performance of post-closure care;
- (iv) Post-closure letter of credit;
- (v) Post-closure insurance; or
- (vi) Financial test and corporate guarantee for post-closure care.

(b) In satisfying the requirements of financial assurance for facility post-closure care in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.145.

(7) Use of a mechanism for financial assurance of both closure and post-closure care. An owner or operator may ((use one of the following financial assurance mechanisms to provide financial assurance for both closure and post-closure care of one or more facilities of which he is the owner or operator:

(a) A trust fund that meets the specifications of both WAC 173-303-620(4)(a) and (6)(a); or

(b) A letter of credit that meets the specifications of both WAC 173-303-620(4)(d) and (6)(d). The amount of funds available under the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care of each facility)) satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

(8) Liability requirements.

((An owner or operator of a dangerous waste treatment, storage or disposal facility must maintain sufficient liability insurance in force in such amounts as determined by the department to be reasonably necessary to protect the environment and the health, safety and welfare of the people of the state:

(9) Incapacity of institutions issuing letters of credit, surety bonds, or insurance policies. An owner or operator who fulfills the requirements of WAC 173-303-620(4), (6), or (8) by obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy, insolvency, or a suspension or

revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance or liability coverage within sixty days of such events:))

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) or, when applicable, (f).

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040(75)) used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b) or, when applicable, (f).

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040(75)), it may require that the owner or operator of the facility comply with (b) of this subsection. An

owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section shall contain the wording specified by 40 CFR 264.151, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the word "department;"

(b) The words "hazardous waste" must be replaced with the words "dangerous waste;" and

(c) Any other words specified by the department shall be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-630 USE AND MANAGEMENT OF CONTAINERS. (1) Applicability. The regulations in ((WAC 173-303-630)) this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe

rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC.

(3) Identification of containers. The owner or operator must ((mark and/or)) label containers in a manner which ((is equivalent to the procedures of 49 CFR Part 172 Subpart E, and shall mark each container with its accompanying manifest document number)) adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels ((or properly mark containers)) upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels ((or markings)) from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels ((or markings)) are not obscured, removed, or otherwise ((made)) unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills((; leaks, and for uncovered storage areas)) and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum 25 year storm of 24 hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids(;) and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain (~~one hundred~~) ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (~~WAC 173-303-630(7)~~)(a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) (~~Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.~~) Storage areas that store containers holding only wastes that both, do not contain free liquids, and do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), need not have a containment system as described in this subsection: PROVIDED, That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) (~~Extremely hazardous wastes~~) EHW in containers must be protected from the elements by means of a building or other protective covering that otherwise allows adequate inspection under (~~WAC 173-303-630~~) subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090(7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1979 Edition.

(b) The owner or operator shall design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, "Flammable and Combustible Liquids Code," shall be used. The owner/operator shall also comply with the requirements of WAC 173-303-395(1)(d) (~~and 173-303-630(7)~~).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395(1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes shall be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-640 TANKS. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tanks to treat or store dangerous waste, except as (~~WAC 173-303-640(1)~~)(b) and (c) of this subsection provides otherwise.

(b) (~~The regulations in WAC 173-303-640 prohibit facilities that~~) Facilities shall not treat or store dangerous waste in covered underground tanks that cannot be entered for inspection, unless such tanks are used for treating or storing only moderate risk wastes (as defined in WAC 173-303-040(55)) and can be externally inspected or (~~they~~) have secondary containment structures that allow for monitoring, containment and removal of leaks or (~~such tanks~~) can be tested for leakage using methods and testing frequencies approved by the department.

(~~c~~) ~~The regulation in WAC 173-303-640 does not apply to owners and operators of an elementary neutralization unit or a waste water treatment unit, as defined in WAC 173-303-040.~~

(2) Design of tanks.

(a) The owner or operator shall design tanks including the foundation, structural support, seams and pressure controls to assure that they will not collapse or rupture, by providing sufficient shell strength, pressure controls for closed tanks, earthquake resistance etc. The owner/operator shall submit a statement with his permit application specified in WAC (~~173-303-815~~) 173-303-806(4), stating the basis for selecting minimum shell thickness, such as:

- (i) Underwriters Laboratories Inc. standards;
- (ii) American Petroleum Institute standards;
- (iii) American Concrete Institute standards; or
- (iv) American Society of Mechanical Engineers standards.

The statement shall be certified by (~~an independent~~) a licensed professional engineer. The department will review and approve tank design.

(b) (~~All tanks holding extremely hazardous waste which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.~~) New tanks holding (~~extremely~~

~~hazardous waste~~) dangerous waste shall be constructed above ground and ~~((have))~~ shall be protected against spills, leaks, and precipitation by a containment system which must include an impervious base underlying the tanks in the storage area, unless state or local fire codes require otherwise. The containment system shall have adequate capacity to contain 110 percent of the volume of the largest tank in the storage area and, for uncovered areas, have sufficient capacity to contain additionally the precipitation of a maximum 25 year storm of 24 hours duration.

(c) All tanks holding dangerous ~~((or extremely hazardous))~~ waste shall be marked with labels or signs to identify the waste contained in the tank. The label or sign shall be legible at a distance of at least ~~((twenty-five))~~ fifty feet, and shall bear a legend which identifies the waste in a manner ~~((consistent with United States Department of Transportation regulations 49 CFR 172. In lieu of this requirement, an owner/operator may demonstrate to the department that he uses an identification system for the tanks))~~ which adequately warns employees, emergency response personnel, and the public of the ~~((hazards))~~ major risk(s) associated with the waste being stored or treated in the tanks (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate).

(d) All tanks holding EHW which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(3) General operating requirements.

(a) Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion, or abrasion through the use of:

(i) An inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes, or other deterioration; or

(ii) Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).

(b) The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:

(i) Controls to prevent overfilling (e.g., waste feed cut-off system or by-pass system to a standby tank); and

(ii) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or precipitation.

(4) Inspections.

(a) The owner or operator must inspect:

(i) Overfilling control equipment (e.g., waste feed cut-off systems and by-pass systems) at least once each operating day to ensure that it is in good working order;

(ii) Data gathered from monitoring equipment (e.g., pressure, level, volume, and temperature gauges) where present, at least once each operating day to ensure that the tank is being operated according to its design;

(iii) For uncovered tanks, the level of waste in the tank, at least once each operating day or before each

filling to ensure compliance with ~~((WAC 173-303-640(3)(b)))~~ subsection (3)(b) of this section;

(iv) The construction materials of the above-ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and

(v) The area immediately surrounding the tank, at least weekly, to detect obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) As part of the inspection schedule required in WAC 173-303-320(2)~~((b))~~, and the specific requirements of ~~((WAC 173-303-640(4)(a)))~~ this subsection, the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion, or erosion which may lead to cracks or leaks, or wall thinning to less than the thickness specified in ~~((WAC 173-303-640(2)))~~ subsection (2) of this section. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the ~~((characteristics))~~ nature of the waste being treated or stored.

(c) As part of the contingency plan required under WAC 173-303-350, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.

(5) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from tanks, discharge control equipment, containment systems and underlying bases (where present), and discharge confinement structures. Any tanks, bases, liners and soils containing or contaminated with dangerous waste or dangerous waste residues must be removed or decontaminated.

(6) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in a tank unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395(1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the "Flammable and Combustible Liquids Code - 1981", or as required by state and local fire codes when such codes are more stringent. The owner or operator shall also

comply with the requirements of WAC 173-303-395(1)(d).

(7) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless WAC 173-303-395(1)(b) is complied with.

(b) Dangerous waste must not be placed in an un-washed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1)(b) is complied with.

NEW SECTION

WAC 173-303-645 GROUND WATER PROTECTION. (1) Applicability.

(a) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator must satisfy the requirements of this section for all wastes (or constituents thereof) contained in any such waste management unit at the facility that is a "regulated unit" (as defined in WAC 173-303-040(75)). Any waste or waste constituent migrating beyond the waste management area under subsection (6)(b) of this section, is assumed to originate from a regulated unit unless the owner or operator can prove to the satisfaction of the department that such waste or waste constituent originated from another source.

(b) The owner or operator is not subject to regulation under this section if:

(i) He designs and operates a surface impoundment in compliance with WAC 173-303-650(3) (except as provided for surface impoundments treating or storing EHW), a pile in compliance with WAC 173-303-660(1)(c), (3), or (4), or a landfill in compliance with WAC 173-303-665(3);

(ii) The department finds, pursuant to WAC 173-303-655(8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iii) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610(2)(b);

(ii) Apply during the post-closure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section;

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, entering the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the

waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the groundwater protection standard in the facility permit when dangerous constituents have entered the groundwater from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a WAC 173-303-9905 or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1. Maximum Concentration of Constituents for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004

Constituent	Maximum Concentration ¹
Methoxychlor _____	0.1
Toxaphene _____	0.005
2,4-D _____	0.1
2,4,5-TP Silvex _____	0.01

¹Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b) (i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period.)

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate

that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit; and

(ii) Represent the quality of ground water passing the point of compliance.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata.

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of groundwater quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) Where appropriate, the ground water monitoring program must establish background ground water quality for each of the dangerous constituents or monitoring parameters or constituents specified in the permit.

(i) In the detection monitoring program under subsection (9) of this section, background ground water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

(ii) In the compliance monitoring program under subsection (10) of this section, background ground water

quality for a dangerous constituent must be based on data from upgradient wells that:

(A) Is available before the permit is issued;

(B) Accounts for measurement errors in sampling and analysis; and

(C) Accounts, to the extent feasible, for seasonal fluctuations in background ground water quality if such fluctuations are expected to affect the concentration of the dangerous constituent.

(iii) Background ground water quality may be based on sampling of wells that are not upgradient from the waste management area where:

(A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

(B) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.

(iv) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background ground water quality, each time the system is sampled.

(h) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(i) If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 1.00:

(A) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's *t*-test as described in Appendix IV of 40 CFR Part 264. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(B) The owner or operator may use an equivalent statistical procedure for determining whether a statistically significant change has occurred. The department will specify such a procedure in the facility permit if it finds that the alternative procedure reasonably balances the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in (h)(i)(A) of this subsection; and

(ii) In all other situations in a detection monitoring program and in a compliance monitoring program, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of dangerous constituents from a regulated unit into and

through the aquifer will be indicated. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(B) Provides a reasonable balance between the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to (a) of this subsection. The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values. The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values. The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section. In taking samples used in the determination of background values, the owner or operator must use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section.

(d) The owner or operator must determine ground water quality at each monitoring well at the compliance point at least semiannually during the active life of a regulated unit (including the closure period) and the post-closure care period. The owner or operator must express the ground water quality at each monitoring well in a form necessary for the determination of statistically

significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8) (d) and (e) of this section.

(g) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to (a) of this subsection, each time he determines ground water quality at the compliance point under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each parameter or constituent, according to the statistical procedure specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(h) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase for parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;

(ii) Immediately sample the ground water in all monitoring wells and determine the concentration of all constituents identified in WAC 173-303-9905, and all other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that are present in ground water;

(iii) Establish a background value for each constituent identified in WAC 173-303-9905, and all other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that has been found at the compliance point under (h)(ii) of this subsection, as follows:

(A) The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) In taking samples used in the determination of background values, the owner or operator must use a

ground water monitoring system that complies with subsection (8) (a)(i), (b), and (c) of this section;

(iv) Within a maximum of forty-five days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration of any constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, found in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent found at the compliance point, a proposed concentration limit under subsection (5)(a) (i) or (ii) of this section, or a notice of intent to seek a variance under subsection (5)(b) of this section; and

(v) Within ninety days, submit to the department:

(A) All data necessary to justify any variance sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan necessary to meet the requirements of subsection (11) of this section, unless:

(I) All dangerous constituents identified under (h)(ii) of this subsection, are listed in Table 1 of subsection (5) of this section, and their concentrations do not exceed the respective values given in that table; or

(II) The owner or operator has sought a variance under subsection (5)(b) of this section, for every dangerous constituent identified under (h)(ii) of this subsection.

(i) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase of parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (h)(iv) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (h)(iv) of this subsection, unless the demonstration made under this subsection successfully shows that a source other than his regulated unit(s) caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase at the compliance point that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and

(iv) Continue to monitor in accordance with the detection monitoring program established under this section.

(j) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(k) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8) (a)(ii), (b), and (c) of this section.

(c) Where a concentration limit established under (a)(ii) of this subsection, is based on background ground water quality, the department will specify the concentration limit in the permit as follows:

(i) If there is a high temporal correlation between upgradient and compliance point concentrations of the dangerous constituents and parameters, the owner or operator may establish the concentration limit through sampling at upgradient wells each time ground water is sampled at the compliance point. The department will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the dangerous constituent or parameter;

(ii) If a dangerous constituent from Table 1 under subsection (5) of this section is identified and the difference between the respective concentration limit in Table 1 and the background value of that constituent under subsection (8)(g) of this section is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use an approved statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

(A) Be appropriate for the distribution of the data used to establish background values; and

(B) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference; and

(iii) The owner or operator must:

(A) Comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) Express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) Use a ground water monitoring system that complies with subsection (8) (a)(i), (b), and (c) of this section.

(d) The owner or operator must determine the concentration of dangerous constituents and parameters in ground water at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The owner or operator must analyze samples from all monitoring wells at the compliance point for constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer. If the owner or operator finds constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section in the ground water that are not identified in the permit as dangerous constituents, he must report the concentrations of these additional constituents to the department within seven days after completion of the analysis.

(g) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8) (d) and (e) of this section.

(h) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any dangerous constituents specified

in the permit each time he determines the concentration of dangerous constituents in ground water at the compliance point.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each dangerous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point, within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(i) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection standard is being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(j) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection standard is being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source

other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (i)(ii) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (i)(ii) of this subsection, unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(k) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(l) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating

them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary. The permit will specify the measures to be taken.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

~~WAC 173-303-650 SURFACE IMPOUNDMENTS. ((1) Applicability. The regulations in WAC 173-303-650 apply to owners and operators of facilities that use surface impoundments to treat or store (but not dispose of) dangerous waste.~~

~~(2) General design requirements. A surface impoundment must be designed and built to provide at least the following:~~

~~(a) A surface impoundment must be designed to provide:~~

~~(i) At least sixty centimeters (two feet) of freeboard; or~~

~~(ii) An amount of freeboard less than sixty centimeters based on documentation, acceptable to the department, that the specified amount of freeboard will prevent overtopping including the protection from a maximum 24 hour duration, 25 year storm.~~

~~(b) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.~~

~~(c) A surface impoundment must be designed to prevent discharge into the land and ground water, and to surface water (except discharges authorized by an NPDES permit) during the life of the impoundment by use of a containment system which complies with WAC 173-303-650(4).~~

~~(d) Dikes must be designed with sufficient structural integrity to prevent massive failure without dependence on any liner system included in the surface impoundment design.~~

~~(e) A leachate detection, collection, and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible and to avoid unnecessary buildup of hydrostatic pressure in the system.~~

~~(f) Surface impoundments may be located so as to meet the buffer zone requirements of WAC 173-303-520.~~

~~(g) Surface impoundments must be designed to repel birds.~~

~~(3) General operating requirements.~~

~~(a) A surface impoundment must be operated to prevent any overtopping due to wind and wave action, overfilling, precipitation, or any combination thereof.~~

~~(b) A surface impoundment must be operated to maintain at least the amount of freeboard specified by the department in the permit.~~

~~(c) A leachate detection, collection, and removal system installed to comply with WAC 173-303-650(4)(b) must be operated so that leachate flows freely from the collection system and is removed as it accumulates or with sufficient frequency to prevent backwater within the collection system.~~

~~(d) Earthen dikes must be kept free of:~~

(i) Perennial woody plants with root systems which could displace the earthen materials upon which the structural integrity of the dike is dependent; and

(ii) Burrowing mammals which could remove earthen materials upon which the structural integrity of the dike is dependent or create leaks through burrows in the dike.

(c) Run-on must be diverted away from a surface impoundment:

(4) Containment systems:

(a) Earthen dikes must have a protective cover, such as grass, shale, or rock, to minimize wind and water erosion and to preserve the structural integrity of the dike:

(b) A liner system designed to prevent discharge into the land during the life of the surface impoundment must:

(i) Be constructed with a highly impermeable liner system in contact with the waste which will prevent discharge of the waste or leachate through the liner(s) during the life of the surface impoundment based on the liner(s) thickness, the saturated permeability of the liner(s) and the pressure head or waste or leachate to which the liner(s) will be exposed;

(ii) Be constructed with a leachate detection, collection, and removal system beneath the liner(s) in contact with the waste to detect, contain, collect, and remove any discharge from the liner system in contact with the waste; and

(iii) Be constructed above the water table to ensure the detection of any discharge of waste or leachate through the liner system in contact with the waste, prevent the discharge of ground water to the leachate detection, collection, and removal system; and to protect the structural integrity of the liner(s):

(c) A containment system must have a containment life equal to or greater than the life of the surface impoundment:

(d) Liner systems must be constructed:

(i) Of materials which have appropriate chemical properties and strength and of sufficient thickness to prevent failure due to pressure head, physical contact with the waste or leachate to which they are exposed, climatic conditions, and the stress of installation; and

(ii) On a foundation capable of providing support to the liner(s) and resistance to pressure head above the liner(s) to prevent failure of the liner(s) due to settlement or compression:

(c) For extremely hazardous wastes, the owner/operator shall submit a statement with his permit application specified in WAC 173-303-815, stating the basis for selecting the liner system required in WAC 173-303-650(4)(d)(i), and the statement shall be certified by an independent professional engineer:

(5) Inspections and testing:

(a) During construction or installation, liner systems must be inspected for uniformity, damage, and imperfections (e.g. holes, cracks, thin spots, and foreign materials). A static test using water may be run to check for leaks:

(b) Earth material liner systems must be tested for compaction density, moisture content, and permeability after placement:

(c) Manufactured liner materials (e.g., membranes, sheets, and coatings) must be inspected to ensure tight seams and joints and the absence of tears or blisters:

(d) The owner or operator must inspect:

(i) A surface impoundment which contains free liquids at least once each operating day to ensure compliance with WAC 173-303-650(3)(a), (b), and (c), and to detect any leaks or other failures of the impoundment; and

(ii) Each surface impoundment, including dikes, berms, and vegetation surrounding the dike, at least once a week and after storms to detect any evidence of or potential for leaks from the impoundment, erosion of dikes; and to ensure compliance with WAC 173-303-650(3)(d):

(c) The structural integrity of any dike, including that portion of any dike which provides freeboard, must be certified against massive failure by a qualified engineer prior to the issuance or reissuance of a permit; or if the impoundment is not in service, prior to being placed in service after construction, or prior to being returned to service:

In certifying the structural integrity of the dike it must be established that the dike will withstand:

(i) The stress of the pressure head of liquids placed into the impoundment;

(ii) The weakening effect of earth materials being scoured due to leakage from the impoundment through and under the dike without relying on any liner system; and

(iii) The weakening effect of earth materials being scoured due to leakage from the impoundment through and under the dike assuming leaks develop in the liner system:

(6) Containment system repairs, contingency plans:

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by WAC 173-303-650(6)(d). Indications of possible failure of the containment system include at least an unplanned and nonsudden drop in liquid level in the impoundment; liquid detected in the leachate detection system; evidence of leakage or the potential for leakage in the dike; erosion of the dike; apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials; any mishandling of wastes placed in the impoundment; and foreign objects in the impoundment:

(b) Whenever there is indication of a failure of the containment system, the impoundment must be removed from service. Indications of failure of the containment system include an unplanned sudden drop in liquid level in the impoundment; waste detected in the leachate detection system; active leakage through the dike; or a breach (e.g., a hole, tear, crack, or separation) in the liner system:

(c) If the surface impoundment must be removed from service as required by WAC 173-303-650(6)(b), the owner or operator must:

(i) Immediately shut off the flow of or stop the addition of wastes into the impoundment;

~~(ii) Immediately contain any leakage which has occurred or is occurring;~~

~~(iii) Immediately cause the leak to be stopped; and~~

~~(iv) If the leak cannot be stopped by any other means, empty the impoundment to a secure facility, or manage the contained waste in a manner that eliminates the environmental impact of the leak, as approved by the department.~~

~~(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:~~

~~(i) A procedure for complying with the requirements of WAC 173-303-650(6)(c); and~~

~~(ii) A containment system evaluation and repair plan describing testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.~~

~~(e) No surface impoundment that has been removed from service in accordance with WAC 173-303-650(6)(b) may be restored to service unless:~~

~~(i) The containment system has been repaired; and~~

~~(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.~~

~~(f) A surface impoundment that has been removed from service in accordance with WAC 173-303-650(6)(b) and that will not be repaired must be closed in accordance with WAC 173-303-650(7).~~

~~(7) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the impoundment. Any component of the containment system or any appurtenant structure or equipment (e.g., discharge platforms and pipes, and baffles, skimmers, aerators, or other equipment) containing or contaminated with dangerous waste or waste residues must be decontaminated or removed.~~

~~(8) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:~~

~~(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:~~

~~(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and~~

~~(ii) WAC 173-303-395(1)(b) is complied with; or~~

~~(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or~~

~~(c) The surface impoundment is used solely for emergencies.~~

~~(9) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395(1)(b) is complied with.) (1) Applicability. The regulations in this section apply to~~

owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report shall be certified by a licensed professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment shall be located so as to meet the buffer zone requirements of WAC 173-303-440.

(g) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(h) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(i) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(j) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

- (i) Unexpected changes of liquid levels occur; or
- (ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils,

and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must

include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the post-closure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395(1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395(1)(b) is complied with.

NEW SECTION

WAC 173-303-655 LAND TREATMENT. (1) Applicability. The regulations in this subpart apply to owners and operators of facilities that treat or dispose of dangerous waste in land treatment units, except as WAC 173-303-600 provides otherwise.

(2) Treatment program.

(a) An owner or operator subject to this section must establish a land treatment program that is designed to ensure that dangerous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The department will specify in the facility permit the elements of the treatment program, including:

(i) The wastes that are capable of being treated at the unit based on a demonstration under subsection (3) of this section;

(ii) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with subsection (4)(a) of this section; and

(iii) Unsaturated zone monitoring provisions meeting the requirements of subsection (6) of this section.

(b) The department will specify in the facility permit the dangerous constituents that must be degraded, transformed, or immobilized under this section. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents which, although

not listed in WAC 173-303-9905, cause a waste to be regulated under this chapter, that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The department will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below, and including, the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of dangerous constituents. The maximum depth of the treatment zone must be:

(i) No more than 1.5 meters (5 feet) below the initial soil surface; and

(ii) More than 3 meters (10 feet) above the seasonal high water table; except that the owner or operator may demonstrate to the satisfaction of the department that a distance of less than 3 meters will be adequate. In no case shall the distance be less than 1 meter.

(3) Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that dangerous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under (a) of this subsection, he must obtain a land treatment demonstration permit under WAC 173-303-808. The department will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in (c) of this subsection.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under (a) of this subsection must:

(i) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(A) The characteristics of the waste and of dangerous constituents present;

(B) The climate in the area;

(C) The topography of the surrounding area;

(D) The characteristics and depth of the soil in the treatment zone; and

(E) The operating practices to be used at the unit;

(ii) Be likely to show that dangerous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(iii) Be conducted in a manner that protects human health and the environment considering:

(A) The characteristics of the waste to be tested;

(B) The operating and monitoring measures taken during the course of the test;

(C) The duration of the test;

(D) The volume of waste used in the test; and
 (E) In the case of field tests, the potential for migration of dangerous constituents to ground water or surface water.

(4) Design and operating requirements. The department will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this subsection.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of dangerous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accordance with all design and operating conditions that were used in the treatment demonstration under subsection (3) of this section. At a minimum, the department will specify in the facility permit:

- (i) The rate and method of waste application to the treatment zone;
- (ii) Measures to control soil pH;
- (iii) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and
- (iv) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of dangerous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

- (i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and
- (ii) Improper functioning of wind dispersal control measures.

(5) Food chain crops. The department may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this subsection. The department will specify in the facility permit the specific food chain crops which may be grown.

(a) (i) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that dangerous constituents other than cadmium:

(A) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(B) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(ii) The owner or operator must make the demonstration required under (a)(i) of this subsection prior to the planting of crops at the facility for all dangerous constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(iii) In making such a demonstration, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(A) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(B) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(iv) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone;

(i) (A) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(B) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(C) The cumulative application of cadmium from waste must not exceed 5kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(D) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(ii) (A) Animal feed must be the only food chain crop produced;

(B) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(C) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(D) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with (b)(ii) of this subsection.

(6) Unsaturation zone monitoring. An owner or operator subject to this section must establish an unsaturated zone monitoring program to discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether dangerous constituents migrate out of the treatment zone.

(i) The department will specify the dangerous constituents to be monitored in the facility permit. The dangerous constituents to be monitored are those specified under subsection (2)(b) of this section.

(ii) The department may require monitoring for principal dangerous constituents (PDCs) in lieu of the constituents specified under subsection (2)(b) of this section. PDCs are dangerous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The department will establish PDCs if it finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PDCs will assure treatment at at least equivalent levels for the other dangerous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(i) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(ii) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each dangerous constituent to be monitored under (a) of this subsection. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(i) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(ii) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(iii) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(iv) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with (b)(i) of this subsection.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The department will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

- (i) Sample collection;
- (ii) Sample preservation and shipment;
- (iii) Analytical procedures; and
- (iv) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any dangerous constituent to be monitored under (a) of this subsection, below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under (d) of this subsection, to the background value for that constituent according to the statistical procedure specified in the facility permit under this subsection.

(ii) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(iii) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he must:

(i) Notify the department of his finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

(ii) Within forty-five days, submit to the department an application for a permit modification to amend the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone; and

(iii) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(h) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection, he is not relieved of the requirement to submit concurrently a permit modification application within the forty-five-day period, unless the demonstration made under this subsection successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(iv) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(7) Recordkeeping. The owner or operator must include dangerous waste application dates and rates in the operating record required under WAC 173-303-380.

(8) Closure and post-closure care.

(a) During the closure period the owner or operator must:

(i) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of dangerous constituents within the treatment zone as required under subsection (4)(a) of

this section, except to the extent such measures are inconsistent with (a)(viii) of this subsection;

(ii) Continue all operations in the treatment zone to minimize run-off of dangerous constituents as required under subsection (4)(b) of this section;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section;

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated ninety days after the last application of waste to the treatment zone; and

(viii) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of dangerous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with WAC 173-303-610(6) when closure is completed, the owner or operator may submit to the department a certification by an independent qualified soil scientist, in lieu of a licensed professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the post-closure care period the owner or operator must:

(i) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of dangerous constituents in the treatment zone to the extent that such measures are consistent with other post-closure care activities;

(ii) Maintain a vegetative cover over closed portions of the facility;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste, if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section; and

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated one hundred eighty days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under (a)(viii) and (c) of this subsection, if the department finds that the level of dangerous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in (d)(iii) of this subsection. The owner or operator may submit such a

demonstration to the department at any time during the closure or post-closure care periods. For the purposes of this subsection:

(i) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all dangerous constituents specified in the facility permit under subsection (2)(b) of this section;

(A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone;

(B) The owner or operator must express background values and values for dangerous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under (d)(iii) of this subsection;

(ii) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively;

(iii) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying dangerous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under WAC 173-303-645 if the department finds that the owner or operator satisfies (d) of this subsection, and if unsaturated zone monitoring under subsection (6) of this section, indicates that dangerous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

(9) Special requirements for ignitable or reactive waste. The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(a) The waste is immediately incorporated into the soil so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) and (7); and

(ii) WAC 173-303-395 is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(10) Special requirements for incompatible wastes. The owner or operator must not place incompatible wastes, or incompatible wastes and materials, in or on the same treatment zone, unless WAC 173-303-395(1)(b) is complied with.

(11) Special requirements for extremely hazardous waste. Under no circumstances will EHW be allowed to remain in a closed land treatment unit after concluding the post-closure care period. If EHW remains at the end of the scheduled post-closure care period specified in the permit, then the department will either extend the post-closure care period, or require that all EHW be disposed of off-site or that it be treated. In deciding whether to extend post-closure care or require disposal or treatment, the department will take into account the likelihood that the waste will or will not continue to degrade in the land treatment unit to the extent that it is no longer EHW. For the purposes of this subsection, EHW will be considered to remain in a land treatment unit if representative samples of the treatment zone are designated as EHW. Procedures for representative sampling and testing will be specified in the permit.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

~~WAC 173-303-660 WASTE PILES. ((†) Applicability. The regulations of WAC 173-303-660 apply to owners and operators of facilities that store or treat dangerous waste in piles.~~

~~(2) General design requirements.~~

~~(a) A waste pile must be designed to control dispersal of the waste by wind, where necessary, or by water erosion.~~

~~(b) A waste pile must be designed to prevent discharge into the land, surface water, or ground water during the life of the pile by use of a containment system which complies with WAC 173-300-660(4).~~

~~(c) All extremely hazardous and all respiratory carcinogens designated by WAC 173-303-103 stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).~~

~~(3) General operating requirements.~~

~~(a) The department shall specify control practices (e.g., cover or frequent wetting) where necessary to ensure that wind dispersal of dangerous waste from piles is controlled.~~

~~(b) Run-on must be diverted away from a waste pile.~~

~~(c) Leachate and run-off from a waste pile must be collected and controlled in accordance with chapter 173-303 WAC and chapter 90.48 RCW, the Water Pollution Control Act.~~

~~(4) Containment systems.~~

~~(a) A containment system must be designed, constructed, maintained, and operated to prevent discharge onto or into the land, surface water, or ground water during the life of the waste pile. The system must consist of:~~

~~(i) A leachate and run-off collection and control system; and either~~

~~(ii) A base underlying and in contact with the waste pile that is made of a liner (or liners) which will prevent discharge onto or into the land, surface water, or ground water during the life of the pile based on the liner(s) thickness, the permeability of the liner(s), and the characteristics of the waste or leachate to which the liner(s) will be exposed. The liner(s) must be of sufficient~~

strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile, or to clean and expose the liner surface for inspection; or

(iii) A base as in WAC 173-303-660(4)(a)(ii) (except that the liner(s) need not be of sufficient strength and thickness to prevent failure due to physical damage from equipment used to clean and expose the liner surface for inspection) and a leachate detection, collection, and removal system beneath the base to detect, contain, collect, and remove any discharge from the base. The leachate detection, collection, and removal system must be placed above the water table to ensure the detection of any discharge through the base; to prevent the discharge of ground water into the leachate detection, collection, and removal system; and to protect the structural integrity of the base.

(b) A waste pile base must be constructed:

(i) Of materials that have appropriate chemical properties and strength and of sufficient thickness to prevent failure due to pressure of and physical contact with the waste to which they are exposed, climatic conditions, and the stress of installation; and

(ii) On a foundation capable of providing support to the liner(s) and to loads placed or moving above the liner(s) to prevent failure of the liner(s) due to settlement or compression.

(c) A containment system must be protected from plant growth which could puncture any component of the system.

(d) A containment system must have a containment life equal to or greater than the life of the pile.

(e) For extremely hazardous waste, the owner or operator shall submit an engineering report with his permit application specified in WAC 173-303-815, stating the basis for selecting the containment system required in WAC 173-303-660(4)(b). The statement shall be certified by an independent professional engineer.

(5) Inspections and testing. During construction or installation of the waste pile base:

(a) Liner systems must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, and foreign materials); and

(b) Manufactured liner materials (e.g., membranes, sheets, and coatings) must be inspected to ensure tight seams and joints and the absence of tears or blisters.

(6) Containment system repairs, contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by WAC 173-303-660(6)(d). Indications of possible failure of the containment system include liquid detected in the leachate detection system (where applicable), evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the

containment system include waste detected in the leachate detection system (where applicable), or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by WAC 173-303-660(6)(d), the owner or operator must:

(i) Immediately stop adding wastes to the pile;

(ii) Immediately contain any leakage which has occurred or is occurring;

(iii) Immediately cause the leak to be stopped; and

(iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of WAC 173-303-660(6)(c); and

(ii) A containment system evaluation and repair plan describing testing and monitoring techniques, procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW waste piles, owner/operators must submit with their permit application a statement signed by an independent professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service in accordance with WAC 173-303-660(6)(b) may be restored to service unless:

(i) The containment system has been repaired; and

(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service in accordance with WAC 173-303-660(6)(b) and will not be repaired, must be closed in accordance with WAC 173-303-660(9).

(7) Special requirements for ignitable or reactive waste.

(a) Ignitable or reactive waste must not be placed in a pile, unless:

(i) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090; and, complies with WAC 173-303-395(1)(b); or

(ii) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(8) Special requirements for incompatible wastes:

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395(1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by

~~the same containment system required by WAC 173-303-660(4):~~

~~(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395(1)(b).~~

~~(9) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the pile. Any component of the containment system containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.)) (1) Applicability.~~

~~(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.~~

~~(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).~~

~~(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:~~

~~(i) Liquids or materials containing free liquids are not placed in the pile;~~

~~(ii) The pile is protected from surface water run-on by the structure or in some other manner;~~

~~(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and~~

~~(iv) The pile will not generate leachate through decomposition or other reactions.~~

~~(d) All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).~~

~~(2) Design and operating requirements.~~

~~(a) A waste pile (except for an existing portion of a waste pile) must have:~~

~~(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:~~

~~(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;~~

~~(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and~~

~~(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and~~

~~(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:~~

~~(A) Constructed of materials that are:~~

~~(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and~~

~~(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and~~

~~(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.~~

~~(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.~~

~~(c) For EHW management, the owner or operator shall submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement shall be certified by a licensed professional engineer.~~

~~(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:~~

~~(i) The nature and quantity of the wastes;~~

~~(ii) The proposed alternate design and operation;~~

~~(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and~~

~~(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.~~

~~(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.~~

~~(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.~~

~~(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.~~

~~(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.~~

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii) (A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;

(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;

(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to

place waste in or on the pile or to clean and expose the liner surface for inspection; and

(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(i) Notify the department of the condition in writing within seven days after detecting the condition; and

(ii) (A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or

apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

- (i) Immediately stop adding wastes to the pile;
- (ii) Immediately contain any leakage which has occurred or is occurring;
- (iii) Immediately cause the leak to be stopped; and
- (iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

- (i) A procedure for complying with the requirements of (c) of this subsection; and
- (ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by a licensed professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

- (i) The containment system has been repaired; and
- (ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a pile, unless:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395(1)(b); or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395(1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other

containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by the same containment system.

(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395(1)(b).

(9) Closure and post-closure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must close the facility and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills, WAC 173-303-665(6).

(c) (i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620(3) and (5) for closure and post-closure care of a pile must include the cost of complying with the contingent closure plan and the contingent post-closure plan.

NEW SECTION

WAC 173-303-665 LANDFILLS. (1) Applicability. The regulations in this section apply to owners and operators of facilities that dispose of dangerous waste in landfills, except as WAC 173-303-600 provides otherwise. No landfill shall be permitted to dispose of EHW, except for the Hanford facility under WAC 173-303-700.

(2) Design and operating requirements.

(a) A landfill (except for an existing portion of a landfill) must have:

(i) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to

the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The owner or operator must submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by a licensed professional engineer. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent failure under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(B) Designed and operated to function without clogging through the scheduled closure of the landfill.

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill

during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(f) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(g) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined landfills; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined landfill is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The landfill (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners; and

(iv) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within the time period specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the time period specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of landfills exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, or coatings) must be inspected

for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(5) Surveying and recordkeeping. The owner or operator of a landfill must maintain the following items in the operating record required under WAC 173-303-380:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each dangerous waste type within each cell.

(6) Closure and post-closure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(i) Provide long-term minimization of migration of liquids through the closed landfill;

(ii) Function with minimum maintenance;

(iii) Promote drainage and minimize erosion or abrasion of the cover;

(iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10) including maintenance and monitoring throughout the post-closure care period. The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(iv) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of WAC 173-303-645;

(v) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(vi) Protect and maintain surveyed benchmarks used in complying with subsection (5) of this section.

(c) During the post-closure care period, if liquid leaks into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will modify the permit to require compliance with the requirements of WAC 173-303-645.

(7) Special requirements for ignitable or reactive waste.

(a) Except as provided in (b) of this subsection, and in subsection (10) of this section, ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in a landfill so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) and (7); and

(ii) WAC 173-303-395(1)(b) is complied with.

(b) Ignitable wastes in containers may be landfilled without meeting the requirements of (a) of this subsection, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes: Must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

(8) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials must not be placed in the same landfill cell, unless WAC 173-303-395(1)(b) is complied with.

(9) Special requirements for liquid waste.

(a) Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with an absorbent solid), so that free liquids are no longer present.

(b) Containers holding free liquids must not be placed in a landfill unless:

(i) All free-standing liquid:

(A) Has been removed by decanting, or other methods;

(B) Has been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or

(C) Has been otherwise eliminated; or

(ii) The container is very small, such as an ampule; or

(iii) The container is a lab pack as defined in subsection (10) of this section, and is disposed of in accordance with that subsection.

(10) Special requirements for containers.

(a) Unless they are very small, such as an ampule, containers must be either:

- (i) At least ninety percent full when placed in the landfill; or
- (ii) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

(b) Small containers of dangerous waste in overpacked drums (lab packs) may be placed in a landfill if the procedures of WAC 173-303-161 are met.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-670 INCINERATORS. (1) Applicability.

(a) The regulations in WAC 173-303-670 apply to owners and operators of facilities that incinerate dangerous waste.

(b) The department may, in establishing permit conditions, exempt the facility from all requirements of ~~((WAC 173-303-670))~~ this section except ~~((WAC 173-303-670))~~ subsection (2) of this section, waste analysis, and ~~((WAC 173-303-670))~~ subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i) (A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable ~~((Hazard Code 1))~~ or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

~~((That the waste analysis included with Part B of the permit application includes))~~ (ii) Contains none of the dangerous constituents listed in ~~((the appendix))~~ WAC 173-303-9905 above significant concentration limits ~~((designated in WAC 173-303-084))~~; and

~~((That the waste analysis included with Part B of the permit application includes no halogenated hydrocarbon above 0.01 percent and no polycyclic aromatic hydrocarbons above 1.0 percent; and~~

(iv) That the waste feed contains no toxic dangerous wastes designated according to WAC 173-303-084; Is not designated by the dangerous waste criteria of WAC 173-303-101, toxic dangerous wastes, nor of WAC 173-303-102, persistent dangerous wastes, nor of WAC 173-303-103, carcinogenic dangerous wastes.

(c) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC ~~((173-303-805(3)))~~ 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC ~~((173-303-805(3)))~~ 173-303-807, or with Part B of his permit application, the owner or operator must have included an analysis of his waste feed sufficient to provide all information required by WAC ~~((173-303-805(3)(b)))~~ 173-303-807 or ~~((173-303-815(8)))~~ 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit ~~(under ((WAC 173-303-670)) subsection (6)(b) of this section).~~

(3) Designation of principal organic ~~((hazardous))~~ dangerous constituents and ~~((hazardous))~~ dangerous combustion byproducts. Principal organic ~~((hazardous))~~ dangerous constituents ~~((POHCs))~~ PODCs and ~~((hazardous))~~ dangerous combustion byproducts must be treated to the extent required by the performance standards specified in ~~((WAC 173-303-670))~~ subsection (4) of this section. For each waste feed to be burned, one or more ~~((POHCs))~~ PODCs and ~~((hazardous))~~ dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC 173-303-084 or 173-303-101 through 173-303-103. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts~~((;))~~ and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as ~~((POHCs))~~ PODCs and ~~((hazardous))~~ dangerous combustion byproducts. Constituents are more likely to be designated as ~~((POHCs))~~ PODCs or ~~((hazardous))~~ dangerous combustion byproducts if they are present in large quantities or concentrations. Trial ~~((POHCs))~~ PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC ~~((173-303-805(3)))~~ 173-303-807 for obtaining trial burn permits. Trial ~~((hazardous))~~ dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under ~~((WAC 173-303-670(6)))~~ subsection (6) of this section, it will meet the following performance standards:

(a) An incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each ~~((principal organic hazardous constituent (POHC)))~~ PODC designated (under ~~((WAC 173-303-670(3)))~~ subsection (3) of this section) in its permit for each waste feed. DRE is determined for each ~~((POHC))~~ PODC from the following equation:

$$DRE = \frac{w_{in} - w_{out}}{w_{in}} \times 100\%$$

Where:

w_{in} = Mass feed rate of one ~~((principal organic hazardous constituent (POHC)))~~ PODC in the waste stream feeding the incinerator, and

w_{out} = Mass emission rate of the same ~~((POHC))~~ PODC present in exhaust emissions prior to release to the atmosphere.

(b) Incinerators burning dangerous waste must destroy (~~hazardous~~) dangerous combustion byproducts designated under (~~WAC 173-303-670(3)~~) subsection (3) of this section so that the total mass emission rate of these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of (~~POHCs~~) PODCs fed into the incinerator.

(c) (i) An incinerator burning dangerous waste (~~containing more than 0.5 percent chlorine must remove 99 percent of the hydrogen chloride from the exhaust gas;~~) and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) (~~An incinerator burning hazardous waste must not emit particulate matter exceeding 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for 12 percent CO₂ using the procedures presented in the Clean Air Act regulations, "Standards of Performance for Incinerators," 40 CFR 60.50, Subpart E. These particulate~~) The emission standards specified in (c) of this subsection shall be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous (~~or extremely hazardous~~) wastes shall comply with the applicable air pollution control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under (~~WAC 173-303-670~~) subsection (6) of this section), will be regarded as compliance with (~~WAC 173-303-670~~) subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of (~~WAC 173-303-670~~) subsection (4) of this section, may be evidence justifying modification,

revocation, or reissuance of a permit under WAC (~~(173-303-840(10))~~) 173-303-830.

(5) (~~New wastes:~~) Trial burns (~~or~~) and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under (~~WAC 173-303-670~~) subsection (6)(c) of this section, except:

(i) In approved trial burns under WAC (~~(173-303-805(3))~~) 173-303-807; or

(ii) Under exemptions created by WAC 173-303-670(1).

(b) (~~Other~~) New dangerous wastes may be burned only after operating conditions have been specified in a (~~new~~) trial burn permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC (~~(173-303-815(8))~~) 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806(4)(f)(iii)(G), as sufficient to ensure compliance

with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in ~~((WAC 173-303-670))~~ subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of ~~((WAC 173-303-670(4)))~~ subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement of ~~((WAC 173-303-670(4)))~~ subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

(i) Carbon monoxide (CO) level in the stack exhaust gas;

(ii) Waste feed rate;

(iii) Combustion temperature;

(iv) ~~((Air feed rate to the combustion system))~~ An appropriate indicator of combustion gas velocity;

(v) Allowable variations in incinerator system design or operating procedures; and

(vi) Such other operating requirements as are necessary to ensure that the performance standards of ~~((WAC 173-303-670(4)))~~ subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except ~~((ignitable))~~ waste exempted in accordance with ~~((WAC 173-303-670(1)))~~ subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions;

(ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under ~~((WAC 173-303-670(6)))~~(a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

(i) Combustion temperature, waste feed rate, and ~~((air feed rate))~~ the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;

(ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and

(iii) ~~((Upon request))~~ As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of ~~((WAC 173-303-670(4)))~~ subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, ~~((and))~~ fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be ~~((checked daily))~~ tested at least weekly to verify proper operation, unless the owner or operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contaminated with dangerous waste or waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-700 REQUIREMENTS FOR THE WASHINGTON STATE EXTREMELY HAZARDOUS WASTE MANAGEMENT FACILITY AT HANFORD. (1) Purpose and applicability. The purpose of this section is to set forth the requirements for the Washington ~~((extremely hazardous waste))~~ EHW management (EHWM) facility located at Hanford, Washington. It is the only facility within the state that is allowed under law to dispose of ~~((extremely hazardous waste))~~ EHW (RCW 70.105.050).

(2) Waste acceptance at Hanford.

(a) The state operator shall accept ~~((extremely hazardous waste))~~ EHW for treatment, storage, or disposal when:

(i) The waste has been specified in the state operator's permit as not requiring prior approval from the department and the state operator sends a copy of each written request for disposal of waste at the EHWM facility to the department, not later than one week after receiving the request; or

(ii) If the waste has not been specified in the state operator's permit, then the department provides written approval that the waste may be accepted at the EHWM

facility. Notices of approval or disapproval shall be provided as soon as possible, but not later than 15 days, after the state operator has notified the department. Written approval from the department is not required in emergencies, as specified; and

(iii) The generator has obtained prior written approval for waste acceptance from the state operator;

(iv) The waste is accompanied by a manifest specified in the generator requirements of WAC 173-303-180, manifest; and

(v) Waste containers meet the labeling and container condition requirements of WAC 173-303-190.

(b) The state operator may accept (~~dangerous waste~~) DW, as defined in this regulation, for storage, treatment, or disposal when:

(i) All the conditions of (~~extremely hazardous waste~~) EHW acceptance, (~~WAC 173-303-700(2)~~) (a) of this subsection, are met;

(ii) The generator and/or operator shows that no other permitted (~~treatment, storage, or disposal~~) TSD facility in the state will handle such (~~dangerous waste~~) DW. The generator and/or operator shall refer to:

(A) County or municipal ordinances or solid waste permits forbidding (~~dangerous waste~~) DW disposal at nearby sites;

(B) The (~~extremely hazardous waste~~) EHW site being the shortest economical haul distance where other remotely located, (~~dangerous waste~~) DW sites may be available; and

(C) Specific rejection or disapproval, in writing, by nearby (~~dangerous waste~~) DW site operators, public or private; and

(iii) The EHW facility is designed to handle such a request or can be modified to the extent necessary to adequately dispose of the waste.

(c) The state operator, after consulting with the department, may refuse to accept any waste that does not meet the requirements of the (~~extremely hazardous or dangerous waste~~) acceptance procedures of (~~WAC 173-303-700(2)~~) this subsection until the facts are ascertained, including but not limited to:

(i) The requirement that samples of waste be taken and analyzed; or

(ii) The condition of the containers by physical inspection of the delivery load.

(d) The state operator may accept (~~extremely hazardous or~~) dangerous waste under emergency conditions if:

(i) An emergency and potential threat to the public health and safety exists;

(ii) the state operator notifies the department as soon as possible;

(iii) The state operator stores the waste upon delivery until the full manifest has been received and approved by the department; and

(iv) The generator is fully apprised that the waste remains his liability until approved under (~~WAC 173-303-700(2)~~) (d)(iii) of this subsection.

(3) Other applicable requirements. The EHW facility at Hanford shall meet all other requirements of chapter 173-303 WAC, including specific requirements

for storage, treatment, transfer and disposal of (~~extremely hazardous waste~~) EHW, and siting, performance, and operation of (~~EHW~~) facilities. The EHW facility shall also meet the following requirements:

(a) The state operator shall not remove any (~~extremely hazardous~~) dangerous waste from the facility without the department's approval;

(b) The state operator shall maintain facilities for telephone and radio contact with the Hanford Reservation security patrol, and include this information with the contingency plan required in WAC 173-303-350;

(c) As a minimum, the state operator shall provide personnel having knowledge and background in the following areas:

(i) Inspecting and checking manifests for completeness and accuracy;

(ii) Applied chemistry as it relates to reactivity, explosiveness, and flammability; and

(iii) Industrial hygiene and/or toxicology of industrial, commercial, and agricultural chemicals, and emergency procedures;

(d) The state operator shall ensure that new personnel have a complete physical examination and annual checkups thereafter. The physician should be alerted to the kinds of materials the employee has been handling, so that more specific analyses can be made. The medical records shall be made a part of the state operator's records as required in WAC 173-303-380(1); and

(e) The state operator shall submit copies of all fee schedules to the department for yearly review and approval. The state operator shall supply, and the department shall use, the following criteria to review such disposal fees:

(i) Their relationship to other fees charged for similar services;

(ii) Reasonable return on investment and profit for the operator; and

(iii) The cost of administration, development, operation, maintenance, and perpetual management of the EHW facility, including administrative costs and perpetual management costs of the department.

(4) Department surveillance.

(a) In addition to the reports required under WAC 173-303-390, facility reports, the EHW facility operator shall report the following to the department:

(i) Copies of all environmental sampling results during the previous quarter;

(ii) Telephone and written accounts of any accidents or emergencies requiring action under WAC 173-303-360; and

(iii) Complete financial reports during the previous year.

(b) The state operator shall admit the department's duly authorized representative to inspect the site at any reasonable hour of the day. Inspection may cover any of the following:

(i) The site and facilities;

(ii) The waste being delivered, stored, processed, or buried, including the taking of samples, a portion of each sample being given to the operator upon his request;

(iii) The environment, by the drilling of test wells and obtaining of samples; and

(iv) Any records, reports, information, or test results relating to the purpose of this regulation.

The inspection results will be written, filed with the department, and a copy made available to the state operator.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-800 PERMIT REQUIREMENTS FOR DANGEROUS WASTE MANAGEMENT FACILITIES. (1) The purpose of WAC 173-303-800 through ~~((173-303-845))~~ 173-303-840 is to ~~((prevent))~~ establish the requirements for permits which will allow a dangerous waste facility ~~((from))~~ to operate without endangering the public health and the environment ~~((by requiring permits that allow construction and operation in compliance with chapter 173-303 WAC))~~.

(2) ~~((All owners/operators of dangerous waste facilities that treat, store, or dispose (TSD) of dangerous waste or extremely hazardous waste shall obtain a permit in accordance with WAC 173-303-800 through 173-303-845.))~~ The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040(75)), and for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610(2)(b), post-closure care period in accordance with WAC 173-303-800 through 173-303-840.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC ~~((173-303-500 and 173-303-510))~~ 173-303-420 and 173-303-430 are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR ~~((122.3))~~ 270.2.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

~~WAC 173-303-801 ((RELATIONSHIP OF THE DEPARTMENT TO PERMITS ISSUED BY THE ENERGY FACILITY SITE EVALUATION COUNCIL (EFSEC)) TYPES OF DANGEROUS WASTE MANAGEMENT FACILITY PERMITS. ((Permits applicable to energy facilities which are subject to chapter 80.50 RCW shall be issued by EFSEC. Nothing in chapter 173-303 WAC is intended to alter, amend, or supersede the provisions of chapter 80.50 RCW regarding the regulation, certification, construction, or operation of energy facilities as defined therein.)) The~~

following types of permits may be issued by the department to carry out the purpose of this regulation.

(1) Permits by rule:

(a) Ocean disposal – See WAC 173-303-802(2);

(b) Underground injection wells – See WAC 173-303-802(3);

(c) Publicly owned treatment works – See WAC 173-303-802(4); and

(d) Totally enclosed treatment facilities and elementary neutralization and wastewater treatment units – See WAC 173-303-802(5).

(2) Emergency permits – See WAC 173-303-804.

(3) Interim status permits – See WAC 173-303-805.

(4) Final facility permits:

(a) Final status TSD permits – See WAC 173-303-806;

(b) Moderate risk permits – See WAC 173-303-806; and

(c) Recycling permits – See WAC 173-303-806.

(5) Trial burns for dangerous waste incinerator final facility permits – See WAC 173-303-807.

(6) Demonstrations for dangerous waste land treatment final facility permits – See WAC 173-303-808.

(7) Demonstration permit for new chemical, physical or biological treatment processes – See WAC 173-303-809.

NEW SECTION

WAC 173-303-802 PERMITS BY RULE. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380(1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the

conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380(1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities and elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

(i) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380(1)(d), and 173-303-390 of the general facility standards; and

(ii) WAC 173-303-430, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

(i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, State Waste Discharge, Pretreatment, etc.); and

(ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit; or

(iii) The department determines that the general facility or performance requirements specified in (a) of

this subsection, are not sufficient to protect public health or the environment and that additional requirements under chapter 173-303 WAC are necessary to provide such protection.

NEW SECTION

WAC 173-303-804 EMERGENCY PERMITS. Requirements for an emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit shall be given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:

(1) May be oral or written. If oral, it shall be followed within five days by a written emergency permit;

(2) Shall not exceed ninety days in duration;

(3) Shall clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(4) May be terminated by the department at any time without following the decisionmaking procedures of WAC 173-303-840 if the department determines that termination is appropriate to protect public health and the environment;

(5)(a) Shall be accompanied by a public notice that includes:

(i) The name and address of the department;

(ii) The name and location of the permitted TSD facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) The duration of the emergency permit; and

(b) Shall be given public notice by:

(i) Publication in a daily newspaper within the area affected;

(ii) By radio broadcast within the area affected;

(iii) By mailing a copy of the public notice to the persons described in WAC 173-303-840(3)(e)(i); and

(iv) Any other method reasonably determined to give actual notice of the emergency permit to persons potentially affected by it; and

(6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

~~WAC 173-303-805 ((TYPES OF PERMITS AND REQUIREMENTS)) INTERIM STATUS PERMITS. (((†) Permits by rule. This section provides for a permit by rule for facilities accepting dangerous wastes. Owners and operators of facilities with permits by rule~~

are not required to submit an application for a dangerous waste facility permit. The following shall be deemed to have a dangerous waste permit by rule:

(a) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, if the owner or operator:

(i) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(ii) Complies with the conditions of that permit; and

(iii) Complies with the following dangerous waste regulations:

(A) WAC 173-303-060, Notification and identification numbers;

(B) WAC 173-303-370, Manifest system;

(C) WAC 173-303-380(1)(a), Operating record;

(D) WAC 173-303-390(2), Annual report; and

(E) WAC 173-303-390(1), Unmanifested waste report.

(b) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control and complies with the conditions of the permit and requirements of 40 CFR 122.45. However, no permit by rule shall be granted to underground injection wells disposing of extremely hazardous waste.

(c) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, if the owner or operator:

(i) Has a national pollutant discharge elimination system (NPDES) permit;

(ii) Complies with the conditions of that permit;

(iii) Complies with the following regulations:

(A) WAC 173-303-060, Notification and identification numbers;

(B) WAC 173-303-370, Manifest system;

(C) WAC 173-303-380, Operating record;

(D) WAC 173-303-390(2), Annual report; and

(E) WAC 173-303-390(1), Unmanifested waste reports;

(iv) Meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(v) Accepts no extremely hazardous waste for disposal at the POTW.

(d) Totally enclosed treatment facilities and elementary neutralization or wastewater treatment units.

(i) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit, except as provided in WAC 173-303-805(1)(d)(ii), if he complies with:

(A) WAC 173-303-280 through 173-303-395, the general facility standards; and

(B) WAC 173-303-510, performance standards.

(ii) The department may terminate the permit by rule, and require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit to apply for and obtain a final

status permit in accordance with WAC 173-303-800 through 173-303-845, if:

(A) The owner or operator violates the requirements of WAC 173-303-280 through 173-303-395 or WAC 173-303-510;

(B) The owner or operator is conducting other activities which require him to obtain a final status permit; or

(C) The department determines that the requirements of WAC 173-303-280 through 173-303-395 or 173-303-510 are not sufficient to protect public health or the environment and that additional requirements under this chapter 173-303 WAC are necessary to provide such protection.

(2) State permits for UIC wells. The department may issue a state discharge permit to any UIC Class I well under the authority and regulations of chapter 90.45 RCW, Water Pollution Control Act.

(3) Trial burn permits. For the purposes of determining feasibility of compliance with the incinerator performance standard of WAC 173-303-670(4) and of determining adequate incinerator operating conditions under WAC 173-303-670(6), the department may issue a trial burn permit to a facility to allow short-term operation of a dangerous waste incinerator subject to the following conditions:

(a) The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(i) An analysis of each waste or mixture of wastes to be burned which includes:

(A) Heating value of the waste in the form and composition in which it will be burned;

(B) Viscosity (if applicable), or description of physical form of the waste;

(C) An analysis and identification of any hazardous organic constituents listed in WAC 173-303-9905 which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110, or their equivalent;

(D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110; and

(E) A quantification of those hazardous constituents in the waste which may be designated as principle organic hazardous constituents (POHC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(ii) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(A) Manufacturer's name and model number of incinerator (if available);

(B) Type of incinerator;

(C) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

~~(D) Description of the auxiliary fuel system (type/feed);~~

~~(E) Capacity of the prime air mover;~~

~~(F) Description of automatic waste feed cut-off system(s);~~

~~(G) Stack gas monitoring and pollution control equipment;~~

~~(H) Nozzle and burner design;~~

~~(I) Construction materials; and~~

~~(J) Location and description of temperature, pressure, and flow indicating and control devices;~~

~~(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;~~

~~(iv) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under WAC 173-303-805(3)(d);~~

~~(v) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;~~

~~(vi) A description of, and planned operating conditions for, any emission control equipment which will be used;~~

~~(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction; and~~

~~(viii) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of WAC 173-303-805(3).~~

~~(b) The department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of WAC 173-303-805(3).~~

~~(c) Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic hazardous constituents (trial POHC's) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHC's will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified from WAC 173-303-9905.~~

~~(d) Approval of the plan. The department shall approve a trial burn plan if it finds that:~~

~~(i) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;~~

~~(ii) The trial burn itself will not present an imminent hazard to human health or the environment;~~

~~(iii) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-400 and 173-303-670(6); and~~

~~(iv) The information sought in WAC 173-303-805(3)(d)(i) and (iii) cannot reasonably be developed through other means.~~

~~(c) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:~~

~~(i) A quantitative analysis of the trial POHC's in the waste feed to the incinerator;~~

~~(ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHC's, CO₂, O₂, and hazardous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of POHC's fed to the incinerator;~~

~~(iii) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the trial POHC's;~~

~~(iv) A total mass balance of the trial POHC's in the waste;~~

~~(v) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670(4)(a);~~

~~(vi) If the waste feed contains more than 0.5 percent chlorine, a computation of chlorine removal efficiency, in accordance with WAC 173-303-670(4)(c);~~

~~(vii) A computation of particulate emissions, in accordance with WAC 173-303-670(4)(d);~~

~~(viii) An identification of sources of fugitive emissions and their means of control;~~

~~(ix) A measurement of average, maximum, and minimum temperatures, and air feed rates;~~

~~(x) A continuous measurement of carbon monoxide in the exhaust gas; and~~

~~(xi) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).~~

~~(f) The applicant shall submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and to the extent possible, this submission shall be made within thirty days of the completion of the trial burn, or sooner if the department so requests.~~

~~(g) All data collected during any trial burn must be submitted to the department following the completion of the trial burn. The results of the trial burn must be included with Part B of the permit application, if a permit application is submitted.~~

~~(h) All submissions required under WAC 173-303-805(3) shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application.~~

~~(4) Emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit shall be~~

~~given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:~~

~~(a) May be oral or written. If oral, it shall be followed within five days by a written emergency permit;~~

~~(b) Shall not exceed ninety days in duration;~~

~~(c) Shall clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;~~

~~(d) May be terminated by the department at any time without process if the department determines that termination is appropriate to protect human health and the environment;~~

~~(e) Shall be accompanied by a public notice that includes:~~

~~(i) The name and address of the department;~~

~~(ii) The name and location of the permitted TSD facility;~~

~~(iii) A brief description of the wastes involved;~~

~~(iv) A brief description of the action authorized and reasons for authorizing it; and~~

~~(v) The duration of the emergency permit.~~

~~(f) And shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.~~

~~(5) Interim status permits. Any person who owns or operates an existing dangerous waste facility on the effective date of this chapter 173-303 WAC shall comply with WAC 173-303-815(2).~~

~~(6) Final permit. (a) An owner/operator can receive a final permit only after Part A and Part B of the permit application are completed and submitted to the department in compliance with WAC 173-303-815.~~

~~(b) Physical construction of a new TSD facility can only begin after the final permit is issued, except that new TSD facilities for which construction began prior to adoption of chapter 173-303 WAC may continue construction at the owner/operator's own risk while the department is reviewing the final permit application.) (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application.~~

~~(2) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under chapter 173-303 WAC provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.~~

~~(3) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (2) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility is managing a waste that has become designated as~~

a dangerous waste due to amendments to this chapter and the facility was not previously managing dangerous waste subject to this chapter, then the owner/operator of the facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the effective date of the amendments which newly designate his dangerous waste.

(4) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (7) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (7) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (6) of this section. Failure to comply with this updating requirement is a violation of interim status.

(5) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(6) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes (along with a justification explaining the need for the change) and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. All other interim status permit duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirement, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(7) Termination of interim status permit. The following are causes for terminating an interim status permit:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application; or

(d) Violation of applicable interim status standards.

(8) Moderate risk waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a

public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

NEW SECTION

WAC 173-303-806 FINAL FACILITY PERMITS. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities;
- (b) Moderate risk waste management facilities; and
- (c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the application for the permit is submitted to the department. If new regulations become effective between the date that the permit application is submitted and the date that public notice of the draft permit is issued under WAC 173-303-840(3), then the permit applicant may, at his option, request that the final facility permit include the new regulatory requirements and provide the additional information necessary to do so. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order

for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

- (i) A general description of the facility.
- (ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.
- (iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300(5)(g).
- (iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.
- (v) A copy of the general inspection schedule required by WAC 173-303-320(2); Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395(1)(d), 173-303-630(6), 173-303-640(4), 173-303-650(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).
- (vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340.
- (vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-650(5) and 173-303-660(6).
- (viii) A description of procedures, structures, or equipment used at the facility to:
 - (A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);
 - (B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
 - (C) Prevent contamination of water supplies;
 - (D) Mitigate effects of equipment failure and power outages; and
 - (E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).
- (ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395(1)(c).
- (x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate)); describe

access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information;

(A) In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.

(Comment: If the county is not listed in WAC 173-303-420(3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)

(B) If the facility is proposed to be located in a county listed in WAC 173-303-420(3)(c), the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or

(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(C) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the

facility to withstand washout from a one hundred-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)

(D) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

(III) If applicable, and in lieu of (a)(xi)(D) (I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.

(E) Existing facilities not in compliance with WAC 173-303-420(4) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(F) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC 173-303-420(5).

(G) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC 173-303-420(6).

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training

will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330(1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For existing disposal facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by WAC 173-303-610(10).

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) plus a copy of the financial assurance mechanism adopted in compliance with WAC 173-303-620(4).

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the financial assurance mechanism adopted in compliance with WAC 173-303-620(6).

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620(8)(a) and, if applicable, WAC 173-303-620(8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620(8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(A) Map scale and date;

(B) One hundred-year floodplain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary,

and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note – For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(ix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645(1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645(9)(h)(v). To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645(5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the

owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken; and

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630(7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630(9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630(9) (a) and (b), and 173-303-395(1) (b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and the basis for selecting shell thickness, certified by a licensed professional engineer;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones;

(vii) A description of the containment system to demonstrate compliance with WAC 173-303-640(2)(b). Show at least the following:

(A) How the design meets the capacity of containment requirements, and;

(B) How the design contains the precipitation of a maximum twenty-five year storm of twenty-four hours duration;

(viii) A description of the marking and/or labeling of tanks; and

(ix) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650(2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650(2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances

for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650(4) (a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650(4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650(5) (b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650(6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650(6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with; and

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and WAC 173-303-645 as provided by WAC 173-303-660(1)(c), an explanation of how the standards of WAC 173-303-660(1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660(2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660(2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660(4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660(9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670(1)(b) (Ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090(7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii),

(vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as Principal Organic Dangerous Constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the Principal Organic Dangerous Constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit Principal Organic Dangerous Constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for Land Treatment Facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655(4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655(6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description

of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655(5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655(8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665(2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665(2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665(6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665(6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with; and

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(6)), only after submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under WAC 173-303-806(7).

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination.

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final moderate risk and recycling facility permits. In lieu of issuing a final moderate risk or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500

through 173-303-520 for recycling facilities or WAC 173-303-550 through 173-303-560 for moderate risk facilities.

NEW SECTION

WAC 173-303-807 TRIAL BURNS FOR DANGEROUS WASTE INCINERATOR FINAL FACILITY PERMITS. (1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns shall not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The procedures for requesting and approving trial burns are described in:

(a) Subsection (10) of this section for existing incinerators with interim status permits; and

(b) Subsection (11) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110, or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110; and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, shall evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department shall approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O₂, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670(4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670(4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670(4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(7) Certification. The applicant shall submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (6) of this section. This submission shall be made within thirty days of the completion of the trial burn, or later if approved by the department.

(8) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(9) Signatures required. All submissions required under this section shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(10) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator shall prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (9) of this section.

(b) If the department approves the trial burn, it shall issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification shall be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator shall complete the trial burn and submit the information described in subsection (6) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results.

(11) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request shall include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department shall proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit shall include the trial burn plan, and shall establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results shall also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit shall be modified in accordance with WAC 173-303-830 (including minor modifications, if applicable) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval shall be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

NEW SECTION

WAC 173-303-808 DEMONSTRATIONS FOR DANGEROUS WASTE LAND TREATMENT FINAL FACILITY PERMITS. (1) Purpose and applicability. This section is applicable to the owner/operator of a land treatment facility who must demonstrate that his proposed treatment will be successful. The purpose of this section is to allow the department to issue a land treatment demonstration permit.

(2) Permit issuance. The department may issue a land treatment demonstration permit either in advance of or as part of a final facility permit so that the owner/operator of a land treatment facility can make the demonstration required in WAC 173-303-655(3). If issued in advance of the final facility permit, the land treatment demonstration permit shall be issued as described in subsection (3) of this section, as a demonstration permit only. If issued as part of the final facility permit, the land treatment demonstration and final facility permit shall be issued as described in subsection (4) of this section, as a phased permit. The determination for which procedure to follow will be made by the department based on the information submitted by the owner/operator in Part B of the final facility permit application.

(3) Demonstration permit only.

(a) If the department finds that the Part B does not contain enough information regarding the proposed treatment to allow the department to establish permit conditions necessary for compliance with all requirements of WAC 173-303-655, it may issue a land treatment demonstration permit only. The demonstration permit will be issued in accordance with the decision-making procedures of WAC 173-303-840. The demonstration permit may be issued either as a treatment or disposal permit, will cover only the field test or laboratory analyses, shall contain only those requirements necessary to meet the standards in WAC 173-303-655(3), and shall provide a specific time period for the demonstration. The department may extend the demonstration period as a modification (or minor modification, if applicable) to the demonstration permit.

(b) Within thirty days (unless the department approves a later date) of the end of the treatment demonstration, the owner/operator shall submit a revised Part B to the department containing the results of the field tests or laboratory analyses and all data developed during the demonstration period. The department shall then use the information and Part B to determine whether or not there is adequate information to issue a final facility permit which will incorporate conditions sufficient to provide compliance with all requirements of WAC 173-303-655. If the information is adequate, the department

will proceed under WAC 173-303-806 to issue a final facility permit. If the information is not adequate, the department may, as the situation warrants, either issue a modification to the demonstration permit in accordance with the procedures of subsection (3)(a) of this section, or deny the final facility permit application.

(4) Phased permit.

(a) The department may issue a two-phase final facility permit if it finds that, based on information submitted in Part B of the permit application, substantial (although incomplete and inconclusive) information exists upon which to base the issuance of a final facility permit. The phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for making a land treatment demonstration, and a second phase (to become effective after completion of the first phase) for establishing conditions for operation of the land treatment facility.

(b) If the department finds that a phased permit may be issued, it will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the department finds may be necessary under WAC 173-303-655(3)(c). The department will include conditions in the second phase of the facility permit to attempt to meet all WAC 173-303-655 requirements pertaining to unit design, construction, operation, and maintenance. The department will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(i) The first phase of the permit will be effective as provided in WAC 173-303-840(8)(b).

(ii) The second phase of the permit will be effective as provided in (d) of this subsection.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within thirty days of completion of those tests or analyses unless the department approves a later date.

(d) If the department determines that the results of the field tests or laboratory analyses meet the requirements of WAC 173-303-655(3), it will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with WAC 173-303-655, based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed as a minor modification under WAC 173-303-830(4), provided any

such change is minor, or otherwise will proceed as a modification under WAC 173-303-830(3).

(ii) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the department will give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in WAC 173-303-840(8)(b).

(iii) If modifications under WAC 173-303-830(3) are necessary, the second phase of the permit will become effective only after those modifications have been made.

(e) If the department determines that the results of the field tests or laboratory analyses do not meet the requirements of WAC 173-303-655(3), the second phase of the permit will not become effective, and the department will, as the situation warrants, either:

(i) Modify the permit according to WAC 173-303-830(3) to allow for additional field tests or laboratory analyses; or

(ii) Proceed to terminate the permit according to WAC 173-303-840.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-810 GENERAL PERMIT CONDITIONS. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter ((70-105 RCW and chapter 173-303 WAC)). If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee shall take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are

installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records. (a) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(c) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for

continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

(e) The permittee shall maintain all records ((from all ground monitoring wells)) of ground water quality and ((associated)) ground water surface elevations for the active life of the facility, and((, for disposal facilities,)) for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department shall be signed ((and)) in accordance with WAC 173-303-810(12) and shall be certified according to WAC 173-303-810(13).

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, it is the duty of the operator and owner to obtain and cosign the permit application. The permit application shall be signed as follows:

((a)) (i) For a corporation: By a ((principal executive officer of at least the level of vice president, or the chief corporate officer in charge of environmental policy if he is at least the level of vice president)) responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

((b)) (ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

((c)) (iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department shall be signed by a person described in (a) of this subsection, or by a

duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification. Any person identified in ((WAC 173-303-810(12))) subsection (12) of this section as appropriate for signing the documents required for a permit application shall make the following certification:

"I certify under penalty of law that ((I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is)) this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(14) Reporting. The following reports shall be provided:

(a) Planned changes. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the

department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and re-issuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) shall be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule shall be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment. Information shall be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Information which must be reported immediately shall include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility ~~((The description of the occurrence and its cause shall include));~~

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

~~((iii) The department may waive the five-day written notice requirements in favor of a written report within fifteen days.))~~

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under ~~((WAC 173-303-810(14)))~~ (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in ~~((WAC 173-303-810(14)))~~ (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he shall promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if the owner/operator indicates to the department the degree of harm if the information is made to the public.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department shall place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-815 ~~((APPLYING FOR A PERMIT. (1) Purpose and applicability. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the department as described in WAC 173-303-815. Persons currently authorized with an interim status permit shall apply for a written permit when required by the department.~~

~~(2) Existing dangerous waste facilities.~~

~~(a) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under this chapter 173-303 WAC provided that the~~

owner/operator complies with the requirements of WAC 173-303-400. Facilities receiving wastes designated under amendments to 40 CFR Part 261 adopted after November 19, 1980, and which have been incorporated into this chapter 173-303 WAC, must obtain a final status permit in accordance with WAC 173-303-800 through 173-303-845.

(b) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which is managing dangerous wastes which are designated under WAC 173-303-070 through 173-303-103, but which have not been designated by amendments to 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility:

(i) Has complied with the notification requirements of WAC 173-303-060 within ninety days of the promulgation of these regulations, and has submitted Part A of his permit application within one hundred eighty days of the promulgation of these regulations, or amendments to WAC 173-303-070 through 173-303-103 which newly designate wastes he is handling; or

(ii) Has amended Part A of his permit application submitted under the Resource Conservation and Recovery Act to include the state designated dangerous wastes within one hundred eighty days of the promulgation of these regulations, or amendments to WAC 173-303-070 through 173-303-103 which newly designate wastes he is handling;

(c) Timely submission of both notification and submission of Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department makes a final determination of the merits of the completed application.

(d) The owner/operator of an existing TSD facility shall be required to submit Part B of the permit application within six months upon the written request from the department. The owner/operator may voluntarily submit Part B of an application at any time.

(3) New dangerous waste facilities:

(a) A person may begin physical construction of a new TSD facility after submitting Part A and Part B of the permit application and receiving a dangerous waste facility permit, except that new facilities for which construction began prior to adoption of chapter 173-303 WAC may continue construction while the department is reviewing the permit application.

(b) An application for a permit for a new TSD facility may be filed with the department any time after promulgation of applicable final status standards of chapter 173-303 WAC.

(c) All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin, except that new facilities for which construction began prior to adoption of chapter 173-303 WAC shall submit a permit application to the department within ninety days of the adoption of chapter 173-303 WAC.

(4) Updating permit applications for facilities under interim status. Owners or operators of dangerous waste facilities with a filed Part A permit application shall file an amended Part A application to the department as

necessary to comply with provisions of WAC 173-303-820(3) for changes during interim status.

(5) Reapplications. Any dangerous waste facility with an effective final permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date.

(6) Completeness. The department shall not issue a permit before receiving a complete application, except for permits by rule or emergency permits, or unless specifically approved by the department. An application for a permit is complete when the application form and any supplemental information has been completed to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(7) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(8) Part A permit form, and contents of Part B.

(a) The Part A permit form may be obtained from the department.

(b) Contents of Part B. Part B of the permit application shall include the following:

(i) A general description of the facility and an engineering report discussing the basis for the design of the facility and plans and specifications. All reports and plans and specifications shall be prepared under the direction of a registered professional engineer, except the department may waive the requirement upon request of the applicant for minor modifications or projects;

(ii) Chemical and physical analyses of the dangerous wastes to be treated, stored, or disposed at the facility as required under WAC 173-303-300, general waste analysis;

(iii) A copy of the waste analysis plan as required under WAC 173-303-300(5);

(iv) A description of the security procedures required under WAC 173-303-310;

(v) A copy of the general inspection schedule required under WAC 173-303-320;

(vi) A description of the preparedness and prevention measures required under WAC 173-303-340;

(vii) A copy of the contingency plan required under WAC 173-303-350;

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent uncontrolled reaction of incompatible wastes (for example, procedures to avoid fires, explosions, or toxic gases);

(B) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(C) Prevent runoff from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(D) Prevent contamination of water supplies;

(E) Mitigate effects of equipment failure and power outages; and

(F) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing);

(ix) Information sufficient for the department to determine that the facility has been sited in a manner which meets the requirements of WAC 173-303-500;

(x) Traffic pattern, volume and control (for example, show turns across traffic lanes, and stacking lanes, if appropriate; provide access road surfacing and load bearing capacity; show traffic control signals; provide estimates of traffic volume (number, types of vehicles)); and

(xi) Such other information, including that required under 40 CFR 122.25, as may be required by the department.) (Reserved.)

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-820 ((~~INTERIM STATUS PERMITS.~~ (1) Applicability. This section applies to all treatment, storage and disposal (TSD) facilities meeting the requirements set forth in WAC 173-303-805(5).

(2) Facilities with an interim status permit. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(3) Changes during interim status:

(a) Newly regulated dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a permitted facility if the owner/operator submits to the department a revised Part A permit application within ninety days of the promulgation of the amendments which designate and/or regulate the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes (along with a justification explaining the need for the change) and the department approves the change because:

(i) It is necessary to prevent a threat to human health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, and federal regulations.

(d) Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility

occurs, the old owner or operator shall comply with the financial requirements of WAC 173-303-620, until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. All other interim status permit duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with WAC 173-303-620, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status permit requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(4) Termination of interim status permit. The following are causes for terminating an interim status permit:

(a) Final administrative disposition of a permit application is made;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the standards of chapter 173-303 WAC, it may notify the owner or operator that the application is deficient and that the owner or operator is therefore not entitled to the interim status permit. The owner or operator will then be subject to enforcement for operating without a permit; or

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application.) (Reserved.)

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-825 ((~~FINAL PERMITS.~~ (1) Applicability. This section applies to all TSD facilities meeting the requirements set forth in WAC 173-303-805(6).

(2) Permit duration:

(a) Final permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final permit for a duration that is less than the full allowable term.

(c) The term of a final permit shall not be extended by modification beyond ten years, unless otherwise authorized under WAC 173-303-830(3).

(3) Continuation of expiring permits:

(a) When the owner/operator submits a timely application for a final permit, the facility is allowed to continue operating under the expiring permit until the effective date of the new permit.

(b) If the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any or all of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then

~~be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;~~

~~(iii) Issue a new permit with appropriate conditions; or~~

~~(iv) Take other actions authorized by chapter 173-303 WAC.~~

(4) Grounds for termination. The following are causes for terminating a final permit during its term, or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers human health or the environment and the hazard can only be controlled by permit modification or termination.)) (Reserved.)

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-830 PERMIT CHANGES. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under ((WAC 173-303-830(3))) subsection (3) of this section, or a minor modification has been made to identify the new permittee and incorporate such other requirements as stipulated under ((WAC 173-303-830(4))) subsection (4) of this section.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in ((WAC 173-303-830(3)))(a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under ((WAC 173-303-830(3) or (4))) subsection (3) or (4) of this section, the department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in ((WAC 173-303-830(4))) subsection (4) of this section for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840~~((†))~~.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance ~~((other than revised regulations, guidance, or test methods))~~ and which would have justified the application of different permit conditions at the time of issuance;

(iii) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only when:

(A) The permit condition requested to be modified was based on an effective regulation; and

(B) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; ~~((or))~~ and either

~~((C) A permittee requests modification within ninety days after notice of the action on which the request is based;))~~ (I) The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

(II) A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or post-closure. When modification of a closure or post-closure plan is required under WAC 173-303-610 (3) or ~~((173-303-610))~~(8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year post-closure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought

the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the post-closure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC (~~173-303-820(4) for interim status permits, or WAC 173-303-825(4) for final~~) 173-303-806(11) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Minor modifications of permits. Unless the permittee indicates otherwise, the department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without following the procedures of WAC 173-303-840. Any permit modification not processed as a minor modification under this section must be made for cause and with a draft permit and public notice as required in WAC 173-303-840. Minor modifications may only be made to:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department;

(e) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan; ((or))

(f) Change the following:

(i) Estimates of maximum inventory under WAC 173-303-610(3)(a)(ii);

(ii) Estimates of expected year of closure or schedules for final closure under WAC 173-303-610(3)(a)(iv); or

(iii) Approve periods longer than ninety days or one hundred eighty days under WAC 173-303-610(4)(a) or (b);

(g) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor;

(h) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor;

(i) Grant one extension of the time period for determining operational readiness following completion of construction, for up to seven hundred twenty hours operating time for treatment of dangerous waste in an incinerator;

(j) Change the treatment program requirements for land treatment units under WAC 173-303-655(2) to improve treatment of dangerous constituents, provided that the change is minor;

(k) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with WAC 173-303-808, provided that the change is minor; and

(l) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by WAC 173-303-655, provided that the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

(5) Permit termination. The ((director)) department shall follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of

permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows;

(i) The time between interim dates shall not exceed one year; or

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements.

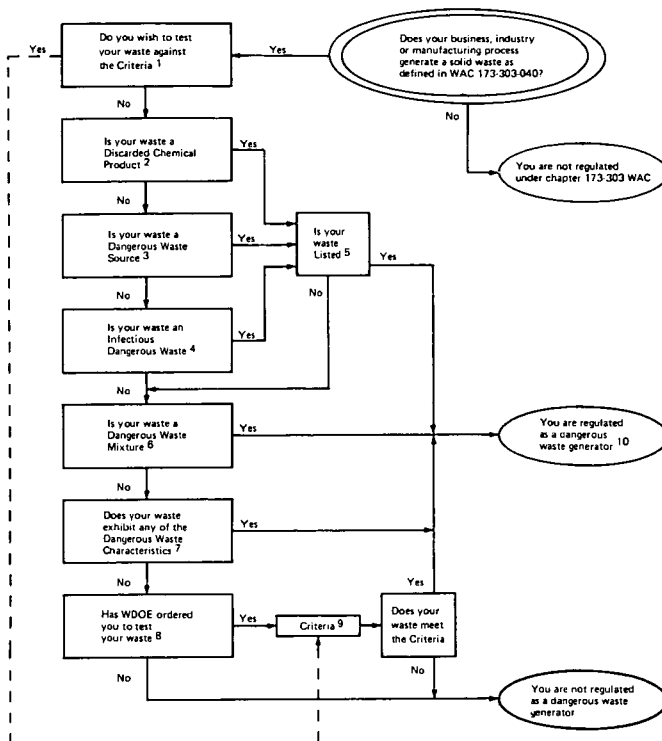
NEW SECTION

WAC 173-303-950 VIOLATIONS AND ENFORCEMENT. Any violation of this chapter may be subject to the enforcement and penalty sanctions of chapter 70.105 RCW. Such violations include, but are not limited to:

- (1) Offering or transporting dangerous waste to a facility which does not have a permit;
- (2) Transferring, treating, storing, or disposing of dangerous waste without a permit; or
- (3) Falsely representing information in any application, label, manifest, record, report, permit, petition, or other document filed, maintained or used for the purpose of compliance with this chapter.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9901 FLOW CHART FOR DESIGNATING DANGEROUS WASTES.



1. Voluntary testing, allowed under WAC 173-303-070(2)(b).
2. See WAC 173-303-081.
3. See WAC 173-303-082.
4. This section, WAC 173-303-083, is reserved, and is not applicable at the publication date of this chapter.
5. The discarded chemical products list appears in WAC ((173-303-1003)) 173-303-9903, and the dangerous waste sources list appears in WAC ((173-303-1004)) 173-303-9904.
6. See WAC 173-303-084.
7. See WAC 173-303-090. The dangerous waste characteristics include the properties of ignitability, corrosivity, reactivity, and EP toxicity.
8. Washington department of ecology may order testing pursuant to WAC 173-303-070(4)((b)).
9. See WAC 173-303-100.
10. As a dangerous waste generator you must comply with the requirements set forth under WAC 173-303-170.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9903 DISCARDED CHEMICAL PRODUCTS LIST.

DISCARDED CHEMICAL PRODUCTS LIST

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
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ACUTELY DANGEROUS CHEMICAL PRODUCTS

P023	Acetaldehyde, chloro-	EHW	B H
U001	Acetaldehyde	EHW	C
U034	Acetaldehyde, trichloro-	EHW	H
P002	Acetamide, N-(aminothioxomethyl)-	EHW	B
P057	Acetamide, 2-fluoro-	EHW	B H
P058	Acetic acid, fluoro-, sodium salt	EHW	A H
U144	Acetic acid, lead salt	EHW	D EP
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester	EHW	B
U003	Acetonitrile	EHW	C I
P001	3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts	EHW	A
P002	1-Acetyl-2-thiourea	EHW	B
U006	Acetyl chloride	EHW	C H O R
P003	Acrolein	EHW	X I
U007	Acrylamide	EHW	C
U008	Acrylic acid	EHW	C O I
U009	Acrylonitrile	EHW	C + I
P070	Aldicarb	EHW	B
P004	Aldrin	EHW	X H
P005	Allyl alcohol	EHW	B I
P006	Aluminum phosphide	EHW	B R
P007	5-(Aminomethyl)-3-isoxazolol	EHW	B
P008	4-Aminopyridine	EHW	B
P009	Ammonium picrate	EHW	R
P119	Ammonium vanadate	EHW	B
U012	Aniline	EHW	C I
P010	Arsenic acid	EHW	B
P012	Arsenic (III) oxide	EHW	B +
P011	Arsenic (V) oxide	EHW	B
P011	Arsenic pentoxide	EHW	B
P012	Arsenic trioxide	EHW	B +
P038	Arsine, diethyl-	EHW	B
U015	Azaserine	EHW	C +
P054	Aziridine	EHW	B +
U010	Azirino(2',3':3,4)pyrrolo(1,2a)indole-4,7-dione, 6-amino-8-((aminocarbonyl)oxy)methyl-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	EHW	B +
P013	Barium cyanide	EHW	A
U157	Benz[<i>j</i>]aceanthrylene, 1,2-dihydro-3-methyl-	EHW	H P
U017	Benzal chloride	EHW	D H
U018	Benz[a]anthracene	EHW	P +
U018	1,2-Benzanthracene	EHW	P +
U094	1,2-Benzanthracene, 7,12-dimethyl-	EHW	C P
U012	Benzenamine	EHW	C I
P024	Benzenamine, 4-chloro-	EHW	C H
U049	Benzenamine, 4-chloro-2-methyl-	EHW	H
U093	Benzenamine, N,N-dimethyl-4-(phenylazo)-	EHW	C +
U158	Benzenamine, 4,4-methylenbis(2-chloro-	EHW	H +
P077	Benzenamine, 4-nitro-	EHW	D ?
P028	Benzene, (chloromethyl)-	EHW	B H +
U019	Benzene	EHW	C + I
U038	Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester	EHW	H
U030	Benzene, 1-bromo-4-phenoxy-	EHW	H
U037	Benzene, chloro-	EHW	B H I
U190	1,2-Benzenedicarboxylic acid anhydride	EHW	C
U070	Benzene, 1,2-dichloro-	EHW	B H
U071	Benzene, 1,3-dichloro-	EHW	B H
U072	Benzene, 1,4-dichloro-	EHW	B H
U017	Benzene, (dichloromethyl)-	EHW	D H
U223	Benzene, 1,3-diisocyanatomethyl-	EHW	B R
U239	Benzene, dimethyl-	EHW	C I
U201	1,3-Benzenediol	EHW	C
U127	Benzene, hexachloro-	EHW	H
U056	Benzene, hexahydro-	EHW	C I
U188	Benzene, hydroxy-	EHW	C
U220	Benzene, methyl-	EHW	C I
U105	Benzene, 1-methyl-1-2,4-dinitro	EHW	C
U106	Benzene, 1-methyl-2,6-dinitro-	EHW	C
U055	Benzene, (1,methylethyl)-	EHW	C I
U169	Benzene, nitro-	EHW	C I
U183	Benzene, pentachloro	EHW	H
U185	Benzene, pentachloronitro-	EHW	D H +

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U020	Benzenesulfonic acid chloride	EHW	D H O R
U020	Benzenesulfonyl chloride	EHW	D H O R
U207	Benzene, 1,2,4,5-tetrachloro-	EHW	D H
U023	Benzene, (trichloromethyl)-	EHW	H O R
P042	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-	EHW	B
P014	Benzenethiol	EHW	A
U021	Benzidine	EHW	B +
U022	Benzo[a]pyrene	EHW	P +
U022	3,4-Benzopyrene	EHW	P +
U197	p-Benzoquinone	EHW	C
U023	Benzotrifluoride	EHW	H O R
U050	1,2-Benzphenanthrene	EHW	P +
P028	Benzyol chloride	EHW	B H +
P015	Beryllium dust	EHW	C +
U085	2,2'-Bioxirane	EHW	B I
U021	'1,1'-Biphenyl)-4,4'-diamine	EHW	B +
U073	(1,1'-Biphenyl-4,4'-diamine, 3,3'-dichloro-	EHW	H +
U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-	EHW	C +
U024	Bis(2-chloroethoxy) methane	EHW	C H
U027	Bis(2-chloroisopropyl) ether	EHW	C H O
P016	Bis(chloromethyl) ether	EHW	B H +
U246	Bromine cyanide	EHW	C H
P017	Bromoacetone	EHW	C H
U225	Bromoform	EHW	H
U030	4-Bromophenyl phenyl ether	EHW	H
P018	Brucine	EHW	A
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	EHW	C H
U035	Butanoic acid, 4-[bis(2-chloroethylamino) benzene-	EHW	H +
U160	2-Butanone peroxide	EHW	B R
U053	2-Butenal	EHW	B I
U074	2-Butene, 1,4-dichloro-	EHW	C H I
U032	Calcium chromate	EHW	C + EP
P021	Calcium cyanide	EHW	B
P123	Camphene, octachloro-	EHW	X H
U178	Carbamic acid, methylnitroso-, ethyl ester	EHW	C +
U176	Carbamide, N-ethyl-N-nitroso-	EHW	C +
U177	Carbamide, N-methyl-N-nitroso-	EHW	C +
U219	Carbamide, thio-	EHW	C +
P103	Carbamimidoseleonic acid	EHW	B
U097	Carbamoyl chloride, dimethyl-	EHW	D H +
P022	Carbon bisulfide	EHW	D I ?
P022	Carbon disulfide	EHW	D I ?
U156	Carbonochloridic acid, methyl ester	EHW	B H I
U033	Carbon oxyfluoride	EHW	B H R
U211	Carbon tetrachloride	EHW	C H +
P095	Carbonyl chloride	EHW	B H
U033	Carbonyl fluoride	EHW	B H R
U035	Chlorambucil	EHW	H +
U036	Chlordane, technical	EHW	X H
P033	Chlorine cyanide	EHW	A H
U026	Chloronaphazine	EHW	H +
P023	Chloroacetaldehyde	EHW	B H
P024	p-Chloroaniline	EHW	C H
U037	Chlorobenzene	EHW	B H I
U039	4-Chloro-m-cresol	EHW	H
U041	1-Chloro-2,3-epoxypropane	EHW	C H + I
U042	2-Chloroethyl vinyl ether	EHW	C H
U044	Chloroform	EHW	C H +
U046	Chloromethyl methyl ether	EHW	D H + I
U047	beta-Chloronaphthalene	EHW	D H
U048	o-Chlorophenol	EHW	D H
P026	1-(o-Chlorophenyl)thiourea	EHW	A H
P027	3-Chloropropionitrile	EHW	B H
U049	4-Chloro-o-toluidine, hydrochloride	EHW	H
U032	Chromic acid, calcium salt	EHW	C ((H)) +
U050	Chrysene	EHW	P +
P029	Copper cyanides	EHW	B
U051	Creosote	EHW	B
U052	Cresols	EHW	B
U052	Cresylic acid	EHW	B
U053	Crotonaldehyde	EHW	B I
U055	Cummene	EHW	C I
P030	Cyanides (soluble cyanide salts), not elsewhere specified	EHW	A
P031	Cyanogen	EHW	B I
U246	Cyanogen bromide	EHW	C H
P033	Cyanogen chloride	EHW	A H

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U197	1,4-Cyclohexadienedione	EHW	C	U076	Ethane, 1,1-dichloro-	EHW	D H
U056	Cyclohexane	EHW	C I	U077	Ethane, 1,2-dichloro-	EHW	D H
U057	Cyclohexanone	EHW	C I	U114	1,2-Ethanediylbis(carbamodithioic acid	EHW	B
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexa-chloro-	EHW	X H	U131	Ethane, 1,1,1,2,2,2-hexachloro-	EHW	H
U058	Cyclophosphamide	EHW	C H + I	U024	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	EHW	C H
U240	2,4-D, salts and esters	EHW	B H	U247	Ethane, 1,1,1-trichloro-2,2-bis(((b))p-methoxy phenyl)	EHW	D H
U060	DDD	EHW	C H +	U003	Ethanenitrile	EHW	C
U061	DDT	EHW	X H +	U025	Ethane, 1,1'-oxybis[2-chloro-	EHW	C H
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one	EHW	X H	U184	Ethane, pentachloro-	EHW	A H
U062	Diallate	EHW	C H +	U208	Ethane, 1,1,1,2-tetrachloro-	EHW	H
U133	Diamine	EHW	B + R	U209	Ethane, 1,1,2,2-Tetrachloro-	EHW	H
U063	Dibenz[a,h]anthracene	EHW	A P +	U227	Ethane, 1,1,2-trichloro-	EHW	C H
U063	1,2,5,6-Dibenzanthracene	EHW	P + A	P084	Ethenamine, N-methyl-N-nitroso	EHW	B +
U064	1,2,7,8-Dibenzopyrene	EHW	P +	U043	Ethene, chloro-	EHW	D H +
U064	Dibenz[a,i]pyrene	EHW	P +	U042	Ethane, 2-chloroethoxy-	EHW	C H
U066	1,2-Dibromo-3-chloropropane	EHW	C H +	U078	Ethene, 1,1-dichloro-	EHW	C H +
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	EHW	C H +	U079	Ethene, trans-1,2-dichloro-	EHW	D H
U070	o-Dichlorobenzene	EHW	C H +	U210	Ethene, 1,1,2,2-tetrachloro-	EHW	C H
U071	m-Dichlorobenzene	EHW	B H	U006	Ethanoyl chloride	EHW	C H O R
U072	p-Dichlorobenzene	EHW	B H	P101	Ethyl cyanide	EHW	B
U073	3,3'-Dichlorobenzidine	EHW	H +	U038	Ethyl 4,4'-dichlorobenzilate	EHW	D H
U074	1,4-Dichloro-2-butene	EHW	C H I	U114	Ethylenebis(dithiocarbamic acid), salts and esters	EHW	B
U075	Dichlorodifluoromethane	EHW	H	U067	Ethylene dibromide	EHW	C H
U060	Dichloro diphenyl dichloroethane	EHW	C H +	U077	Ethylene dichloride	EHW	D H
U061	Dichloro diphenyl trichloroethane	EHW	X H +	U115	Ethylene oxide	EHW	C I
U078	1,1-Dichloroethylene	EHW	C H +	P054	Ethylenimine	EHW	B +
U079	1,2-Dichloroethylene	EHW	D H	U076	Ethylidene dichloride	EHW	D H
U025	Dichloroethyl ether	EHW	C H	P097	Famphur	EHW	A
U081	2,4-Dichlorophenol	EHW	D H	P056	Fluorine	EHW	B
U082	2,6-Dichlorophenol	EHW	D H	P057	Fluoroacetamide	EHW	B H
U240	2,4-Dichlorophenoxyacetic acid, salts and esters	EHW	B H	P058	Fluoroacetic acid, sodium salt	EHW	A H
P036	Dichlorophenylarsine	EHW	B H	U122	Formaldehyde	EHW	C
U083	1,2-Dichloropropane	EHW	C H I	P065	Fulminic acid, mercury (II) salt	EHW	R ?
U084	1,3-Dichloropropane	EHW	C H	U125	2-Furancarboxaldehyde	EHW	C I
((†))P037	Dieldrin	EHW	X H +	U147	2,5-Furandione	EHW	C
U085	1,2,3,4-Diepoxybutane	EHW	B I	U125	Furfural	EHW	C I
P038	Diethylarsine	EHW	B	U126	Guanidylaldehyde	EHW	C +
P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	EHW	A	U163	Guanidine, N-nitroso-N-methyl-N'nitro-	EHW	C +
U087	O,O-Diethyl S-methyl-dithiophosphate	EHW	B	P059	Heptachlor	EHW	X H +
P041	Diethyl-p-nitrophenyl phosphate	EHW	A	U127	Hexachlorobenzene	EHW	H
P040	O,O-Diethyl O-pyrazenyl phosphorothioate	EHW	A	U128	Hexachlorobutadiene	EHW	C H
P043	Diisopropyl fluorophosphate	EHW	B H	U129	Hexachlorocyclohexane (gamma isomer)	EHW	H +
P044	Dimethoate	EHW	A	U130	Hexachlorocyclopentadiene	EHW	X H
U092	Dimethylamine	EHW	C I	P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, endo-1,4,5,8-dimethanonaphthalene	EHW	X H
U093	Dimethylaminoazobenzene	EHW	C +	P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4,5,8-dimethanonaphthalene	EHW	X H +
U094	7,12-Dimethylbenz[a]anthracene	EHW	C P	U131	Hexachloroethane	EHW	H
U095	3,3'-Dimethylbenzidine	EHW	C +	P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, endo-dimethanonaphthalene	EHW	B H
U096	alpha, alpha-Dimethylbenzylhydroperoxide	EHW	C R	P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, exodimethanonaphthalene	EHW	B H
U097	Dimethylcarbamoyl chloride	EHW	D H +	P060	Hexachlorohexahydro-endo, endo-dimethanonaphthalene	EHW	B H
U099	1,2-Dimethylhydrazine	EHW	C + I	U132	Hexachlorophene	EHW	C H
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime	EHW	B	U243	Hexachloropropene	EHW	H
P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	EHW	A	P062	Hexaethyl tetraphosphate	EHW	B
P082	Dimethylnitrosamine	EHW	B +	U133	Hydrazine	EHW	B + R
P046	alpha, alpha-Dimethylphenethylamine	EHW	C	P116	Hydrazinecarbothioamide	EHW	B
U103	Dimethyl sulfate	EHW	C O +	U099	Hydrazine, 1,2-dimethyl-	EHW	C + I
P047	4,6-Dinitro-o-cresol and salts	EHW	B	U109	Hydrazine, 1,2-diphenyl-	EHW	C
P034	4,6-Dinitro-o-cyclohexylphenol	EHW	C	P068	Hydrazine, methyl-	EHW	A I
P048	2,4-Dinitrophenol	EHW	B	P063	Hydrocyanic acid	EHW	A
U105	2,4-Dinitrotoluene	EHW	C	P063	Hydrogen cyanide	EHW	A
U106	2,6-Dinitrotoluene	EHW	C	P096	Hydrogen phosphide	EHW	B I
P020	Dinoseb	EHW	B	U135	Hydrogen sulfide	EHW	B I
U109	1,2-Diphenylhydrazine	EHW	C	U096	Hydroperoxide, 1-methyl-1-phenylethyl-	EHW	C R
P035	Diphosphoramide, octamethyl	EHW	?	U245	Indomethacin	EHW	B H
U110	Dipropylamine	EHW	C I	P064	Isocyanic acid, methyl ester	EHW	I ?
U111	Di-n-propylnitrosamine	EHW	C +	P007	3(2H)-Isoxazolone, 5-(aminomethyl)-	EHW	B
P039	Disulfoton	EHW	A	U142	Kepon	EHW	X H
P049	2,4-Dithiobiuret	EHW	A	U143	Lasiocarpine	EHW	C +
P109	Dithiopyrophosphoric acid, tetraethyl ester	EHW	A	U((††4))	Lead acetate	EHW	D EP
P050	Endosulfan	EHW	X H	144			
P088	Endothall	EHW	B	U129	Lindane	EHW	H +
P051	Endrin	EHW	X H	U147	Maleic anhydride	EHW	C
P042	Epinephrine	EHW	B	U149	Malononitrile	EHW	C
U001	Ethanal	EHW	C				
U174	Ethanamine, N-ethyl-N-nitroso-	EHW	C +				
P046	Ethanamine, 1,1-dimethyl-2-phenyl-	EHW	C				
U067	Ethane, 1,2-dibromo-	EHW	C H +				

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U151	Mercury	EHW	EP		1,4,5,6,7,7-hexachloro, cyclic sulfite		
P092	Mercury, (acetato-O)phenyl-	EHW	B				
P065	Mercury fulminate	EHW	R ?	P085	Octamethylpyrophosphoramide	EHW	A
U152	Methacrylonitrile	EHW	B I	P087	Osmium oxide	EHW	B
U092	Methanamine, N-methyl-	EHW	C I	P087	Osmium tetroxide	EHW	B
P016	Methane, oxybis(chloro)-	EHW	B H +	P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	EHW	B
P112	Methane, tetranitro-	EHW	A R	U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro-ethyl)amino]tetrahydro-, oxide 2-	EHW	C H I ±
U029	Methane, bromo-	EHW	H				
U045	Methane, chloro-	EHW	H I				
U046	Methane, chloromethoxy-	EHW	D H + I	U115	Oxirane	EWH	C I
U068	Methane, dibromo-	EHW	C H +	U041	Oxirane, 2-(chloromethyl)-	EHW	C H + I
U080	Methane, dichloro-	EHW	C H	P089	Parathion	EHW	X
U075	Methane, dichlorodifluoro-	EHW	H	U183	Pentachlorobenzene	EHW	H
U138	Methane, iodo-	EHW	H +	U184	Pentachloroethane	EHW	A H
U211	Methane, tetrachloro-	EHW	C H +	U185	Pentachloronitrobenzene	EHW	D H +
P118	Methanethiol, trichloro-	EHW	H	U242	Pentachlorophenol	EHW	A H
U153	Methanethiol	EHW	B I	U188	Phenol	EHW	C
U225	Methane, tribromo	EHW	H	P034	Phenol, 2-cyclohexyl-4,6-dinitro-	EHW	C
U121	Methane, trichlorofluoro-	EHW	H	P048	Phenol, 2,4-dinitro-	EHW	B
U044	Methane, trichloro-	EHW	C H +	P047	Phenol, 2,4-dinitro-6-methyl-, and salts	EHW	B
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	EHW	X H +	P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	EHW	B
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	EHW	X H	P009	Phenol, 2,4,6-trinitro-, ammonium salt	EHW	R
P066	Methomyl	EHW	B	U048	Phenol, 2-chloro-	EHW	D H
P067	2-((Methylazindime))Methylaziridine	EHW	B + I	U039	Phenol, 4-chloro-3-methyl-	EHW	H
		EHW	A I	U081	Phenol, 2,4-dichloro-	EHW	D H
P068	Methyl hydrazine	EHW	A I	U082	Phenol, 2,6-dichloro-	EHW	D H
P064	Methyl isocyanate	EHW	I ?	U((H?))	Phenol, 4-nitro-170	EHW	C
P069	2-Methylactonitrile	EHW	A	U242	Phenol, pentachloro-	EHW	A H
P071	Methyl parathion	EHW	A	U212	Phenol, 2,3,4,6-tetrachloro-	EHW	C H
U029	Methyl bromide	EHW	H	U230	Phenol, 2,4,5-trichloro-	EHW	A H
U045	Methyl chloride	EHW	H I	U231	Phenol, 2,4,6-trichloro-	EHW	A H
U156	Methyl chlorocarbonate	EHW	B H I	P036	Phenyl dichloroarsine	EHW	B H
U226	Methylchloroform	EHW	C H	P092	Phenylmercuric acetate	EHW	B
U157	3-Methylcholanthrene	EHW	H P	P093	N-Phenylthiourea	EHW	A
U158	4,4'-Methylenebis(2-chloroaniline)	EHW	H +	P094	Phorate	EHW	X
U132	2,2'-Methylenebis(3,4,6-trichlorophenol)	EHW	C H	P095	Phosgene	EHW	B H
U068	Methylene bromide	EHW	C H +	P096	Phosphine	EHW	B I
U080	Methylene chloride	EHW	C H	P041	Phosphoric acid, diethyl p-nitrophenyl ester	EHW	A
U122	Methylene oxide	EHW	C	P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	EHW	A
U160	Methyl ethyl ketone peroxide	EHW	((E)) B R	P043	Phosphorofluoridic acid, bis(1-methyl-ethyl)-ester	EHW	B H
				P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester	EHW	X
U138	Methyl iodide	EHW	H +	P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester	EHW	A
U163	N-Methyl-N'-nitro-N-nitrosoguanidine	EHW	C + R	P089	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester	EHW	X
U010	Mitomycin C	EHW	B +	P040	Phosphorothioic acid, O,O-diethyl O-pyra-zinyl ester	EHW	A
U165	Naphthalene	EHW	B	U189	Phosphorous sulfide	EHW	B I R
U047	Naphthalene, 2-chloro-	EHW	D H	U190	Phthalic anhydride	EHW	C
U166	1,4-Naphthalenedione	EHW	C H	U191	2-Picoline	EHW	C
U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'-diyl)]-bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt	EHW	H +	P110	Plumbane, tetraethyl-	EHW	A
				P098	Potassium cyanide	EHW	A
U166	1,4-Naphthaquinone	EHW	C	P099	Potassium silver cyanide	EHW	A
U167	1-Naphthylamine	EHW	B +	P070	Propanal, 2-methyl-2(methylthio)-O-[(methylamino)carbonyl]oxime	EHW	B
U168	2-Naphthylamine	EHW	B +	U194	1-Propanamine	EHW	C I
U167	alpha-Naphthylamine	EHW	B +	U110	1-Propanamine, N-propyl-	EHW	C I
U168	beta-Naphthylamine	EHW	B +	U066	Propane, 1,2-dibromo-3-chloro-	EHW	C H +
U026	2-Naphthylamine, N,N'-bis(2-chloro-methyl)-	EHW	H +	U149	Propanedinitrile	EHW	C
				P101	Propanenitrile	EHW	B
P072	alpha-Naphthylthiourea	EHW	B	P027	Propanenitrile, 3-chloro-	EHW	B H
P073	Nickel carbonyl	EHW	B	P079	Propanenitrile, 2-hydroxy-2-methyl-	EHW	A
P074	Nickel cyanide	EHW	D R ?	U171	Propane, 2-nitro-	EHW	C I
P074	Nickel (II) cyanide	EHW	D R ?	U027	Propane, 2,2'oxybis[2-chloro-	EHW	C H O
P073	Nickel tetracarbonyl	EHW	B	P081	1,2,3-Propanetriol, trinitrate-	EHW	R ?
P075	Nicotine and salts	EHW	B	U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)	EHW	D H
P076	Nitric oxide	EHW	B				
P077	p-Nitroaniline	EHW	D ?	U126	1-Propanol, 2,3-epoxy-	EHW	C +
U169	Nitrobenzene	EHW	C I	P017	2-Propanone, 1-bromo-	EHW	C H
P078	Nitrogen dioxide	EHW	A	P102	Propargyl alcohol	EHW	X
P076	Nitrogen (II) oxide	EHW	B	P003	2-Propenal	EHW	X
P078	Nitrogen (IV) oxide	EHW	A	U007	2-Propenamide	EHW	C
P081	Nitroglycerine	EHW	R ?	U084	Propene, 1,3-dichloro-	EHW	C H
U170	p-Nitrophenol	EHW	C	U243	1-Propene, 1,1,2,3,3,3-hexachloro-	EHW	H
U171	2-Nitropropane	EHW	C I	U009	2-Propenenitrile	EHW	C + I
U174	N-Nitrosodiethylamine	EHW	C +	U152	2-Propenenitrile, 2-methyl-	EHW	B I
P082	N-Nitrosodimethylamine	EHW	B +				
U176	N-Nitroso-N-ethylurea	EHW	C +				
U177	N-Nitroso-N-methylurea	EHW	C +				
U178	N-Nitroso-N-methylurethane	EHW	C +				
P084	N-Nitrosomethylvinylamine	EHW	B +				
U179	N-Nitrosopiperidine	EHW	C +				
U111	N-Nitroso-N-propylamine	EHW	C +				
P050	5-Norbornene-2,3,-dimethanol,	EHW	X H				

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U008	2-Propenoic acid	EHW	C O I	P122	Zinc phosphide	EHW	B R
P005	2-Propen-1-ol	EHW	B I	MODERATELY DANGEROUS CHEMICAL PRODUCTS			
U233	Propionic acid, 2-(2,4,5-trichlorophenoxy)-	EHW	B H	U187	Acetamide, N-(4-ethoxyphenyl)-	DW	D +
U194	n-Propylamine	EHW	C I	U005	Acetamide, N-9H-fluoren-2-yl-	DW	?
U083	Propylene dichloride	EHW	C H I	U112	Acetic acid, ethyl ester	DW	D I
P067	1,2-Propylenimine	EHW	B + I	U214	Acetic acid, thallium(I) salt	DW	?
P102	2-Propyn-1-ol	EHW	X	U002	Acetone	DW	D I
P008	4-Pyridinamine	EHW	B	U004	Acetophenone	DW	D
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	EHW	B	U005	2-Acetylaminofluorene	DW	?
U196	Pyridine	EHW	C I	U150	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-, L-	DW	+
U179	Pyridine, hexahydro-N-nitroso-	EHW	C +	U011	Amitrole	DW	D +
U191	Pyridine, 2-methyl-	EHW	C	U014	Auramine	DW	+
P111	Pyrophosphoric acid, tetraethyl ester	EHW	A	U016	Benz[c]acridine	DW	+
U201	Resorcinol	EHW	C	U016	3,4-Benzacridine	DW	+
P103	Selenourea	EHW	B	U014	Benzenamine, 4,4-carbonimidoylbis(N,N-dimethyl-	DW	+
U015	L-Serine, diazoacetate (ester)	EHW	C +	U222	Benzenamine, 2-methyl-, hydrochloride	DW	D +
P104	Silver cyanide	EHW	C	U181	Benzenamine, 2-methyl-5-nitro	DW	D
U233	Silvex	EHW	B H	U028	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester	DW	?
P105	Sodium azide	EHW	A	U069	1,2-Benzenedicarboxylic acid, dibutyl ester	DW	D
P106	Sodium cyanide	EHW	((B)) A	U088	1,2-Benzenedicarboxylic acid, diethyl ester	DW	?
P107	Strontium sulfide	EHW	R	U102	1,2-Benzenedicarboxylic acid, dimethyl ester	DW	?
P108	Strychnidin-10-one, and salts	EHW	B	U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester	DW	?
P018	Strychnidin-10-one, 2,3-dimethoxy-	EHW	A	U203	Benzene, 1,2-methylenedioxy-4-allyl-	DW	D +
P108	Strychnine and salts	EHW	B	U141	Benzene, 1,2-methylenedioxy-4-propenyl-	DW	D +
U135	Sulfur hydride	EHW	B I	U090	Benzene, 1,2-methylenedioxy-4-propyl-	DW	D +
U103	Sulfuric acid, dimethyl ester	EHW	C O +	U234	Benzene, 1,3,5-trinitro-	DW	D R
P115	Sulfuric acid, thallium (I) salt	EHW	B	U202	1,2-Benzisothiazolin-3-one, 1,1-dioxide, and salts	DW	+
U189	Sulfur phosphide	EHW	B I R	U120	Benzo[j,k]fluorene	DW	D
U232	2,4,5-T	EHW	B H +	U091	(1,1'-Biphenyl)-4'-diamine, 3,3'-dimethoxy-	DW	D +
U207	1,2,4,5-Tetrachlorobenzene	EHW	D H	U244	Bis(dimethylthiocarbomoyl) disulfide	DW	D
U208	1,1,1,2-Tetrachloroethane	EHW	H	U028	Bis(2-ethoxy) phthalate	DW	?
U209	1,1,2,2-Tetrachloroethane	EHW	H	U172	1-Butanamine, N-butyl-N-nitroso-	DW	D +
U210	Tetrachloroethylene	EHW	C H	U031	1-Butanol	DW	D I
U212	2,3,4,6-Tetrachlorophenol	EHW	C H	U159	2-Butanone	DW	D I
P109	Tetraethyldithiopyrophosphate	EHW	A	U031	n-Butyl alcohol	DW	D I
P110	Tetraethyl lead	EHW	A	U136	Cacodylic acid	DW	D
P111	Tetraethylpyrophosphate	EHW	A	U238	Carbamic acid, ethyl ester	DW	+
P112	Tetranitromethane	EHW	A R	U215	Carbonic acid, dithallium(I) salt	DW	?
P062	Tetraphosphoric acid, hexaethyl ester	EHW	B	U034	Chloral	DW	?
P113	Thallic oxide	EHW	B	U059	Daunomycin	DW	+
P113	Thallium (III) oxide	EHW	B	U221	Diaminotoluene	DW	?
P114	Thallium (I) selenide	EHW	C	U069	Dibutyl phthalate	DW	D
P115	Thallium (I) sulfate	EHW	B	U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide	DW	?
P045	Thiofanox	EHW	B	U108	1,4-Diethylene dioxide	DW	D +
P049	Thioimidodicarbonic diamide	EHW	A	U086	N,N-Diethylhydrazine	DW	+
U153	Thiomethanol	EHW	B I	U088	Diethyl phthalate	DW	?
P014	Thiophenol	EHW	A	U089	Diethylstilbestrol	DW	+
P116	((Thiosemicarbozide))Thiosemicarbazide	EHW	B H +	U148	1,2-Dihydro-3-,6-pyridizinedione	DW	D
U219	Thiourea	EHW	C +	U090	Dihydrosafrole	DW	D +
P026	Thiourea, (2-chlorophenyl)-	EHW	A H	U091	3,3'-Dimethoxybenzidine	DW	D +
P072	Thiourea, 1-naphthalenyl-	EHW	B	U098	1,1-Dimethylhydrazine	DW	+
P093	Thiourea, phenyl-	EHW	A	U101	2,4-Dimethylphenol	DW	D
U220	Toluene	EHW	C I	U102	Dimethyl phthalate	DW	?
U((233))	Toluene diisocyanate	EHW	B R	U107	Di-n-octyl phthalate	DW	?
P123	Toxaphene	EHW	X H	U108	1,4-Dioxane	DW	D +
U226	1,1,1-Trichloroethane	EHW	C H	U117	Ethane, 1,1'-oxybis-	DW	D I
U227	1,1,2-Trichloroethane	EHW	C H	U218	Ethanethioamide	DW	+
U228	Trichloroethene	EHW	C H +	U173	Ethanol, 2,2-(nitrosoimino)bis-	DW	+
U228	Trichloroethylene	EHW	C H +	U004	Ethanone, 1-phenyl-	DW	D
P118	Trichloromethanethiol	EHW	H	U112	Ethyl acetate	DW	D I
U121	Trichloromonofluoromethane	EHW	H	U113	Ethyl acrylate	DW	D I
U230	2,4,5-Trichlorophenol	EHW	A H	U238	Ethyl carbamate (urethan)	DW	+
U231	2,4,6-Trichlorophenol	EHW	A H	U116	Ethylene thiourea	DW	D +
U232	2,4,5-Trichlorophenoxyacetic acid	EHW	B H +	U117	Ethyl ether	DW	D I
U235	Tris(2,3-disbromopropyl) phosphate	EHW	D H	U118	Ethyl methacrylate	DW	I
U236	Trypan blue	EHW	H +	U119	Ethyl methanesulfonate	DW	+
U237	Uracil, 5[bis(2-chloromethyl)amino]-	EHW	B H +	U139	Ferric dextran	DW	+
U237	Uracil mustard	EHW	B H +	U120	Fluoranthene	DW	D
P119	Vanadic acid, ammonium salt	EHW	B	U123	Formic Acid	DW	D O
P120	Vanadium pentoxide	EHW	B				
P120	Vanadium (V) oxide	EHW	B				
U043	Vinyl chloride	EHW	D H +				
P001	Warfarin	EHW	A				
U239	Xylene	EHW	C I				
P121	Zinc cyanide	EHW	C				

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U124	Furan	DW	I
U213	Furan, tetrahydro-	DW	I
U124	Furfuran	DW	I
U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-	DW	+
U086	Hydraxine, 1,2-diethyl-	DW	+
U098	Hydrazine, 1,1-dimethyl-	DW	+ I
U134	Hydrofluoric acid	DW	D O
U134	Hydrogen fluoride	DW	D O
U136	Hydroxydimethylarsine oxide	DW	D
U116	2-Imidazolidinethione	DW	D +
U137	Indeno[1,2,3-cd]pyrene	DW	+
U139	Iron dextran	DW	+
U140	Isobutyl alcohol	DW	D I
U141	Isosafrole	DW	D +
U145	Lead phosphate	DW	+
U146	Lead subacetate	DW	+
U148	Maleic hydrazide	DW	D
U150	Melphalan	DW	+
U119	Methanesulfonic acid, ethyl ester	DW	+
U123	Methanoic acid	DW	D O
U154	Methanol	DW	D I
U155	Methapyrilene	DW	D
U154	Methyl alcohol	DW	D I
U186	1-Methylbutadiene	DW	D I
U159	Methyl ethyl ketone	DW	D I
U161	Methyl isobutyl ketone	DW	D I
U162	Methyl methacrylate	DW	D I
U161	4-Methyl-2-pentanone	DW	+
U164	Methylthiouracil	DW	+
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	DW	+
U172	N-Nitrosodi-n-butylamine	DW	D +
U173	N-Nitrosodiethanolamine	DW	+
U180	N-Nitrosopyrrolidine	DW	D +
U181	5-Nitro-o-toluidine	DW	D
U139	1,2-Oxathiolane, 2,2-dioxide	DW	+
U182	Paraldehyde	DW	D I
U186	1,3-Pentadiene	DW	D I
U187	Phenacetin	DW	D+
U101	Phenol, 2,4-dimethyl-	DW	D
U137	1,10-(1,2-phenylene)pyrene	DW	+
U145	Phosphoric acid, Lead salt	DW	+
U087	Phosphorodithioic acid, O,O-diethyl-,S-methyl ester	DW	?
U192	Pronamide	DW	?
U193	1,3-Propane sultone	DW	+
U140	1-Propanol, 2-methyl-	DW	D I
U002	2-Propanone	DW	D I
U113	2-Propenoic acid, ethyl ester	DW	D I
U118	2-Propenoic acid, 2-methyl-, ethyl ester	DW	I
U162	2-Propenoic acid, 2-methyl-, methyl ester	DW	D I
U155	Pyridine, 2-[(2dimethylamino)-2-thenylamino]-	DW	D
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	DW	+
U180	Pyrrole, tetrahydro-N-nitroso-	DW	D +
U200	Reserpine	DW	?
U202	Saccharin and salts	DW	+
U203	Safrole	DW	D +
U204	Selenious acid	DW	O
U204	Selenium dioxide	DW	O
U205	Selenium disulfide	DW	R
U089	4,4'-Stilbenediol, alpha, alpha'-diethyl-	DW	+
U206	Streptozotocin	DW	+
U205	Sulfur selenide	DW	R
U213	Tetrahydrofuran	DW	I
U214	Thallium(I) acetate	DW	?
U215	Thallium(I) carbonate	DW	?
U216	Thallium(I) chloride	DW	?
U217	Thallium(I) nitrate	DW	?
U218	Thioacetamide	DW	+
U244	Thiran	DW	D
U221	Toluenediamine	DW	?
U222	O-Toluidine hydrochloride	DW	D +
U011	1H-1,2,4-Triazol-3-amine	DW	D +
U234	sym-Trinitrobenzene	DW	D R

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U182	1,3,5-Trioxane, 2,4,5-((trimethyl=)trimethyl)-	DW	D I
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester	DW	?

* EHW = Extremely Hazardous Waste
 DW = Dangerous Waste
 X = Toxic, Category X
 A = Toxic, Category A
 B = Toxic, Category B
 C = Toxic, Category C
 D = Toxic, Category D
 H = Persistent, Halogenated Hydrocarbon
 O = Corrosive
 P = Persistent, Polycyclic Aromatic Hydrocarbon
 + = ((ARC-Positive or Suspended)) IARC Animal or Human, Positive or Suspected Carcinogen
 I = Ignitable
 R = Reactive
 EP = Extraction Procedure Toxicity

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9904 DANGEROUS WASTE SOURCES LIST.

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
Nonspecific Sources	
Generic:	
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, ((trichloroethylene)) trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and the chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-((+,+)) 1,2,2-trifluoroethane, o-dichlorobenzene, trichlorofluoromethane; and the still bottoms from the recovery of these solvents. (See footnote 1, below.)
F003	The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.
F004	The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene((:)); and the still bottoms from the recovery of these solvents.

Dangerous
Waste No.

Sources

- F005 The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine; and the still bottoms from the recovery of these solvents.
- F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
- F019 Wastewater treatment sludges from the chemical conversion coating of aluminum.
- F007 Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).
- F008 Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating bath sludges).
- F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).
- F010 Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges).
- F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat-treating spent cyanide solutions from salt bath pot cleaning).
- F012 Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process (except for precious metals heat-treating quenching wastewater treatment sludges).

¹ Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste F001 or F002 contains greater than one percent of these listed halogenated solvents to designate their waste EHW.

Dangerous
Waste No.

Sources

Specific Sources

Wood Preservation:

- K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (See footnote 2, below.)

Inorganic Pigments:

- K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.
- K003 Wastewater treatment sludge from the production of molybdate orange pigments.
- K004 Wastewater treatment sludge from the production of zinc yellow pigments
- K005 Wastewater treatment sludge from the production of chrome green pigments.
- K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
- K007 Wastewater treatment sludge from the production of iron blue pigments.
- K008 Oven residue from the production of chrome oxide green pigments.

Organic Chemicals:

- K009 Distillation bottoms from the production of acetaldehyde from ethylene.
- K010 Distillation side cuts from the production of acetaldehyde from ethylene.
- K011 Bottom stream from the wastewater stripper in the production of acrylonitrile.
- K013 Bottom stream from the acetonitrile column in the production of acrylonitrile.
- K014 Bottoms from the ((acetonitrile)) acetonitrile purification column in the production of acrylonitrile.
- K015 Still bottoms from the distillation of benzyl chloride. (See footnote 2, below.)
- K016 Heavy ends or distillation residues from the production of carbon tetrachloride. (See footnote 2, below.)
- K017 Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (See footnote 2, below.)
- K018 Heavy ends from the fractionation column in ethyl chloride production. (See footnote 2, below.)

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. <u>(See footnote 2, below.)</u>	K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. <u>(See footnote 2, below.)</u>
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. <u>(See footnote 2, below.)</u>	Explosives:	
K021	Aqueous spent antimony catalyst waste from fluoromethanes production. <u>(See footnote 2, below.)</u>	K044	Wastewater treatment sludges from the manufacturing and processing of explosives.
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	K045	Spent carbon from the treatment of wastewater containing explosives.
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	K047	Pink/red water from TNT operations.
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	Inorganic Chemicals:	
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. <u>(See footnote 2, below.)</u>
K026	Stripping still tails from the production of methyl ethyl pyridines.	K106	Wastewater treatment sludge from the mercury cell process in chlorine production.
K027	Centrifuge and distillation residues from toluene diisocyanate production.	Petroleum Refining:	
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. <u>(See footnote 2, below.)</u>	K048	Dissolved air flotation (DAF) float from the petroleum refining industry.
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. <u>(See footnote 2, below.)</u>	K049	Slop oil emulsion solids from the petroleum refining industry.
K095	Distillation bottoms from the production of 1,1,1-trichloroethane. <u>(See footnote 2, below.)</u>	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K096	Heavy ends from the heavy ends column from the production of ((+ + +)) 1,1,1-trichloroethane. <u>(See footnote 2, below.)</u>	K051	API separator sludge from the petroleum refining industry.
K030	Column bottoms or heavy ends from the combined production of ((trichloroethylene)) trichloroethylene and perchloroethylene. <u>(See footnote 2, below.)</u>	K052	Tank bottoms (leaded) from the petroleum refining industry.
K083	Distillation bottoms from aniline production.	Iron and Steel:	
K103	Process residues from aniline extraction from the production of aniline.	K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K104	Combined wastewater streams generated from nitrobenzene/aniline production.	K062	Spent pickle liquor from steel finishing operations.
K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. <u>(See footnote 2, below.)</u>	Pesticides:	
		K031	By-product salts generated in the production of MSMA and cacodylic acid.
		K032	Wastewater treatment sludge from the production of chlordane. <u>(See footnote 3, below.)</u>
		K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. <u>(See footnote 3, below.)</u>

Dangerous Waste No.	Sources
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (See footnote 3, below.)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (See footnote 3, below.)
K035	Wastewater treatment sludges generated in the production of creosote.
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.
K037	Wastewater treatment sludges from the production of disulfoton.
K038	Wastewater from the washing and stripping of phorate production. (See footnote 3, below.)
K039	Filter cake from the filtration of ((diethylphosphorodithioric)) diethylphosphorodithioic acid in the production of phorate. (See footnote 3, below.)
K040	Wastewater treatment sludge from the production of phorate. (See footnote 3, below.)
K041	Wastewater treatment sludge from the production of toxaphene. (See footnote 3, below.)
K098	Untreated process wastewater from the production of toxaphene. (See footnote 3, below.)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (See footnote 2, below.)
K043	2,6-Dichlorophenol waste from the production of 2,4-D. (See footnote 2, below.)
K099	Untreated wastewater from the production of 2,4-D. (See footnote 2, below.)
Secondary Lead:	
K069	Emission control dust/sludge from secondary lead smelting.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.
Veterinary Pharmaceuticals:	
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K102	Residue from the use of activated carbon for decolorization in the production of veterinary

Dangerous Waste No.	Sources
	pharmaceuticals from arsenic or organo-arsenic compounds.
Ink Formulation:	
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.
Coking:	
K060	Ammonia still-lime sludge from coking operations.
K087	Decanter tank tar sludge from coking operations.
2	<u>These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.</u>
3	<u>These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste EHW.</u>

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9905 DANGEROUS WASTE CONSTITUENTS LIST.

Acetonitrile [Ethanenitrile]
 Acetophenone (Ethanone, 1-phenyl)
 3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
 2-Acetylaminofluorene (Acetamide, N-9H-fluoren-2-yl)-
 Acetyl chloride (Ethanoyl chloride)
 1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-
 Acrolein (2-Propenal)
 Acrylamide (2-Propenamide)
 Acrylonitrile (2-Propenenitrile)
 Aflatoxins
 Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo,exo-1,4:5,8-Dimethanonaphthalene)
 Allyl alcohol (2-Propen-1-ol)
 Aluminum phosphide

- 4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
 6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8[(amino-carbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8amethoxy-5-methyl-)
 5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxazolone, 5-(aminomethyl)-)-4 Aminopyridine (4-Pyridinamine)¹
 Amitrole (1H-1,2,4-Triazol-3-amine)
 Aniline (Benzenamine)
 Antimony and compounds, N.O.S.*
 Aramite (Sulfurous acid, 2-chloroethyl- 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester)
 Arsenic and compounds, N.O.S.*
 Arsenic acid (Orthoarsenic acid)
 Arsenic pentoxide (Arsenic (V) oxide)
 Arsenic trioxide (Arsenic (III) oxide)
 Auramine (Benzenamine, 4,4-carbonimidoylbis[N,N-Dimethyl-monohydrochloride])
 Azaserine (L-Serine, diazoacetate (ester))
 Barium and compounds, N.O.S.*
 Barium cyanide
 Benz[c]acridine (3,4-Benzacridine)
 Benz[a]anthracene (1,2-Benzanthracene)
 Benzene (Cyclohexatriene)
 Benzenearsonic acid (Arsonic acid, phenyl-)
 Benzene, dichloromethyl- (Benzal chloride)
 Benzenethiol (Thiophenol)
 Benzidine ([1,1'-Biphenyl]-4,4'diamine)
 Benzo[b]fluoranthene (2,3-Benzofluoranthene)
 Benzo[j]fluoranthene (7,8-Benzofluoranthene)
 Benzo[a]pyrene (3,4-Benzopyrene)
 p Benzoquinone (1,4-Cyclohexadienedione)
 Benzotrichloride (Benzene, trichloromethyl-)
 Benzyl chloride (Benzene, (chloromethyl)-)
 Beryllium and compounds, N.O.S.*
 Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
 Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
 N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
 Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
 Bis(chloromethyl) ether (Methane, oxybis[chloro-])
 Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
 Bromoacetone (2-Propanone, 1-bromo-)
 Bromomethane (Methyl bromide)
 4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
 Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
 2-Butanone peroxide (Methyl ethyl ketone, peroxide)
 Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
 2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
 Cadmium and compounds, N.O.S.*
 Calcium chromate (Chromic acid, calcium salt)
 Calcium cyanide
 Carbon disulfide (Carbon bisulfide)
 Carbon oxyfluoride (Carbonyl fluoride)
 Chloral (Acetaldehyde, trichloro-)
 Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
 Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
 Chlorinated benzenes, N.O.S.*
 Chlorinated ethane, N.O.S.*
 Chlorinated fluorocarbons, N.O.S.*
 Chlorinated naphthalene, N.O.S.*
 Chlorinated phenol, N.O.S.*
 Chloroacetaldehyde (Acetaldehyde, chloro-)
 Chloroalkyl ethers, N.O.S.*
 p-Chloroaniline (Benzenamine, 4-chloro-)
 Chlorobenzene (Benzene, chloro-)
 Chlorobenzilate (Benzenoacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester)
 p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
 2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
 Chloroform (Methane, trichloro-)
 Chloromethane (Methyl chloride)
 Chloromethyl methyl ether (Methane, chloromethoxy-)
 2-Chloronaphthalene (Naphthalene, beta-chloro-)
 2-Chlorophenol (Phenol, o-chloro-)
 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
 3-Chloropropionitrile (Propanenitrile, 3-chloro-)
 Chromium and compounds, N.O.S.*
 Chrysene (1,2-Benzphenanthrene)
 Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
 Coal tars
 Copper cyanide
 Creosote (Creosote, wood)
 Cresols (Cresylic acid) (Phenol, methyl-)
 Crotonaldehyde (2-Butenal)
 Cyanides (soluble salts and complexes), N.O.S.*
 Cyanogen (Ethanedinitrile)
 Cyanogen bromide (Bromine cyanide)
 Cyanogen chloride (Chlorine cyanide)
 Cycasin (beta-D-Glucopyranoside, (methyl-

- ONN-azoxy)methyl-)
- 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
- Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
- Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
- DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
- DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
- DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
- Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
- Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
- Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
- Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
- 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
- Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
- Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
- Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
- 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
- 1,2-Dibromoethane (Ethylene dibromide)
- Dibromomethane (Methylene bromide)
- Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
- o-Dichlorobenzene (Benzene, 1,2-dichloro-)
- m-Dichlorobenzene (Benzene, 1,3-dichloro-)
- p-Dichlorobenzene (Benzene, 1,4-dichloro-)
- Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
- 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
- 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
- Dichlorodifluoromethane (Methane, dichlorodifluoro-)
- 1,1-Dichloroethane (Ethylidene dichloride)
- 1,2-Dichloroethane (Ethylene dichloride)
- trans-1,2-Dichloroethene (1,2-Dichloroethylene)
- Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
- 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
- Dichloromethane (Methylene chloride)
- 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
- 2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
- 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
- Dichlorophenylarsine (Phenyl dichloroarsine)
- Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
- 1,2-Dichloropropane (Propylene dichloride)
- Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
- Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
- 1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)
- Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
- 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
- Diethylarsine (Arsine, diethyl-)
- N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
- O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
- O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
- Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
- O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
- Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
- Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
- 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
- Diisopropylfluorophosphate (DFP) (Phosphorofluoric acid, bis(1-methylethyl) ester)
- Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
- 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
- p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
- 7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
- 3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
- Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
- 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
- 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
- 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
- alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
- 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
- Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
- Dimethyl sulfate (Sulfuric acid, dimethyl ester)

- Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*
 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
 Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
 1,4-Dioxane (1,4-Diethylene oxide)
 Diphenylamine (Benzenamine, N-Phenyl-)
 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
 Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
 Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
 2,4-Dithiobiuret (Thioimidodicarbonic diamide)
 Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
 Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
 Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
 Ethyl cyanide (propanenitrile)
 Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylobiscarbamodithioic acid, salts and esters.
 Ethyleneimine (Aziridine)
 Ethylene oxide (Oxirane)
 Ethylenethiourea (2-Imidazolidinethione)
 Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
 Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
 Fluoranthene (Benzo[j,k]fluorene)
 Fluorine
 2-Fluoroacetamide (Acetamide, 2-fluoro-)
 Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
 Formaldehyde (Methylene, oxide)
 Formic acid (Methanoic acid)
 Glycidylaldehyde (1-Propanol-2-3-epoxy)
 Halomethane, N.O.S.*
 Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
 Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
 Hexachlorobenzene (Benzene, hexachloro-)
 Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)
 Hexachlorocyclohexane (all isomers) (Lindane and isomers)
 Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
 Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)
 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
 Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
 Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
 Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
 Hydrazine (Diamine)
 Hydrocyanic acid (Hydrogen cyanide)
 Hydrofluoric acid (Hydrogen fluoride)
 Hydrogen sulfide (Sulfur hydride)
 Hydroxydimethylarsine oxide (Cacodylic acid)
 Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
 Iodomethane (Methyl iodide)
 Iron Dextran (Ferric dextran)
 Isocyanic acid, methyl ester (Methyl isocyanate)
 Isobutyl alcohol (1-Propanol, 2-methyl-)
 Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
 Kapone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalen-2-one)
 Lasiocarpine (2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
 Lead and compounds, N.O.S.*
 Lead acetate (Acetic acid, lead salt)
 Lead phosphate (Phosphoric acid, lead salt)
 Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
 Maleic anhydride (2,5-Furandione)
 Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
 Malononitrile (Propanedinitrile)
 Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
 Mercury Fulminate (Fulminic acid, mercury salt)
 Mercury and compounds, N.O.S.*
 Methacrylonitrile (2-Propenenitrile, 2-methyl-)
 Methanethiol (Thiomethanol)
 Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
 Metholonyl (Acetimidic acid, N-[(methylcarbamoil)oxy]thio-,methyl ester)
 Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
 2-Methylaziridine (1,2-Propylenimine)
 3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
 Methyl chlorocarbonate (Carbonochloridic

- acid, methyl ester)
 4,4'-Methylenebis(2-chloroaniline)
 (Benzenamine, 4,4'-methylenebis-(2-chloro-)
 Methyl ethyl ketone (MEK) (2-Butanone)
 Methyl ((hydrzin)) hydrazine (Hydrazine, methyl-)
 2-Methylacetonitrile (Propanenitrile, 2-
 hydroxy-2-methyl-)
 Methyl methacrylate (2-Propenoic acid, 2-
 methyl-, methyl ester)
 Methyl methanesulfonate (Methanesulfonic
 acid, methyl ester)
 2-Methyl-2-(methylthio)propionaldehyde-o-
 (methylcarbonyl) oxime (Propanal, 2-
 methyl-2-(methylthio)-, O-
 [(methylamino)carbonyl]oxime)
 N-Methyl-N'-nitro-N-nitrosoguanidine
 (Guanidine, N-nitros-N-methyl-N'nitro-)
 Methyl parathion (O,O-dimethyl O-(4-
 nitrophenyl) phosphorothioate)
 Methylthiouracil (4-1H-Pyrimidinone, 2,3-
 dihydro-6-methyl-2-thioxo-)
 Mustard gas (Sulfide, bis(2-chloroethyl)-)
 Naphthalene
 1,4-Naphthoquinone (1,4-Naphthalenedione)
 1-Naphthylamine (alpha-Naphthylamine)
 2-Naphthylamine (beta-Naphthylamine)
 1-Naphthyl-2-thiourea (Thiourea, 1-
 naphthalenyl-)
 Nickel and compounds, N.O.S.*
 Nickel carbonyl (Nickel tetracarbonyl)
 Nickel cyanide (nickel (II) cyanide)
 Nicotine and salts, Pyridine, (S)-3-(1-methyl-
 2-pyrrolidinyl)-, and salts)
 Nitric oxide (Nitrogen (II) oxide)
 p-Nitroaniline (Benzenamine, 4-nitro-)
 Nitrobenzene (Benzene, nitro-)
 Nitrogen dioxide (Nitrogen (IV) oxide)
 Nitrogen mustard and hydrochloride salt
 (Ethanamine, 2-chloro-, N-(2-chloroethyl)-
 N-methyl-, and hydrochloride salt)
 Nitrogen mustard N-Oxide and hydrochloride
 salt (Ethanamine, 2-chloro-, N-(2-
 chloroethyl)-N-methyl-, and hydrochloride
 salt)
 Nitroglycerine (1,2,3-Propanetriol, trinitrate)
 4-Nitrophenol (Phenol, 4-nitro-)
 4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-
 oxide-)
 Nitrosamine, N.O.S.*
 N-Nitrosodi-n-butylamine (1-Butanamine, N-
 butyl-N-nitroso-)
 N-Nitrosodiethanolamine (Ethanol, 2,2'-
 (nitrosoimino)bis-)
 N-Nitrosodiethylamine (Ethanamine, N-Ethyl-
 N-nitroso-)
 N-Nitrosodimethylamine
 (Dimethylnitrosamine)
 N-Nitroso-N-ethylurea (Carbamide, N-ethyl-
 N-nitroso-)
 N-Nitrosomethylethylamine (Ethanamine, N-
 methyl-N-nitroso-)
 N-Nitroso-N-methylurea (Carbamide, N-
 methyl-N-nitroso-)
 N-Nitroso-N-methylurethane (Carbamic acid,
 methylnitroso-, ethyl ester)
 N-Nitrosomethylvinylamine (Ethenamine, N-
 methyl-N-nitroso-)
 N-Nitrosomorpholine (Morpholine, N-nitroso-)
 N-Nitrosornicotine (Nornicotine, N-
 nitroso-)
 N-Nitrosopiperidine (Pyridine, hexahydro-, N-
 nitroso-)
 Nitrosopyrrolidine (pyrrole, tetrahydro-, N-
 nitroso-)
 N-Nitrososarcosine (Sarcosine, N-nitroso-)
 5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-
 nitro-)
 Octamethylpyrophosphoramidate
 (Diphosphoramidate, octamethyl-)
 Osmium tetroxide (Osmium (VIII) oxide)
 7-Ocabcyclo[2.2.1]heptane-2,3-dicarboxylic
 acid (Endothal)
 Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
 Parathion (Phosphorothioic acid, O,O-diethyl
 O-(p-nitrophenyl) ester)
 Pentachlorobenzene (Benzene, pentachloro-)
 Pentachloroethane (Ethane, pentachloro-)
 Pentachloronitrobenzene (PCNB) (Benzene,
 pentachloronitro-)
 Pentachlorophenol (Phenol, pentachloro-)
 Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
 Phenol (Benzene, hydroxy-)
 Phenylenediamine (Benzenediamine)
 Phenylmercury acetate (Mercury,
 acetatophenyl-)
 N-Phenylthiourea (Thiourea, phenyl-)
 Phosgene (Carbonyl chloride)
 Phosphine (Hydrogen phosphide)
 Phosphorodithioic acid, O,O-diethyl S-
 [(ethylthio)methyl] ester (Phorate)
 Phosphorothioic acid, O,O-dimethyl O-[p-
 ((dimethylamino)sulfonyl)phenyl] ester
 (Famphur)
 Phthalic acid esters, N.O.S.* (Benzene, 1,2-
 dicarboxylic acid, esters, N.O.S.*
 Phthalic anhydride (1,2-Benzenedicarboxylic
 acid anhydride)
 2-Picoline (Pyridine, 2-methyl-)
 Polychlorinated biphenyl, N.O.S.*
 Potassium cyanide
 Potassium silver cyanide (Argentate(1-),
 dicyano-, potassium)
 Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-
 propynyl)benzamide)
 1,3-Propanesultone (1,2-Oxathiolane, 2,2-
 dioxide)
 n-Propylamine (1-Propane)
 Propylthiouracil (Undecamethylenediamine,
 N,N'-bis(2-chlorobenzyl)-, dihydrochloride)
 2-Propyn-1-ol (Propargyl alcohol)
 Pyridine
 Reserpine (Yohimban-16-carboxylic acid,
 11,17-dimethoxy-18-[(3,4,5-
 trimethoxybenzoyl)oxy]-, methyl ester)

- Resorcinol (1,3-Benzenediol)
 Saccharin and salts (1,2-Benzisothiazolin-3-one, 1,1-dioxide, and salts)
 Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
 Selenious acid (Selenium dioxide)
 Selenium and compounds, N.O.S.*
 Selenium sulfide (Sulfur selenide)
 Selenourea (Carbamimidoseleonic acid)
 Silver and compounds, N.O.S.*
 Silver cyanide
 Sodium cyanide
 Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
 Strontium sulfide
 Strychnine and salts (Strychnidin-10-one, and salts)
 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
 Tetrachloroethane, N.O.S.* (Ethane, tetrachloro-, N.O.S.*)
 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
 Tetrachlorethylene (Ethane, 1,1,2,2-tetrachloro-)¹
 Tetrachloromethane (Carbon tetrachloride)
 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
 Tetraethyldithiopyrophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)
 Tetraethyl lead (Plumbane, tetraethyl-)
 Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)
 Tetranitromethane (Methane, tetranitro-)
 Thallium and compounds, N.O.S.*
 Thallous oxide (Thallium (III) oxide)
 Thallium (I) acetate (Acetic acid, thallium (I) salt)
 Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
 Thallium (I) chloride
 Thallium (I) nitrate (Nitric acid, thallium (I) salt)
 Thallium selenite
 Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
 Thioacetamide (Ethanethioamide)
 Thiosemicarbazide (Hydrazinecarbothioamide)
 Thiourea (Carbamide thio-)
 Thiuram (Bis(dimethylthioucarbonyl) disulfide)
 Toluene (Benzene, methyl-)
 Toluenediamine (Diaminotoluene)
 o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
 Tolylene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)
 Toxaphene (Camphene, octachloro-)
 Tribromomethane (Bromoform)
 1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
 1,1,1-Trichloroethane (Methyl chloroform)
 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
 Trichloroethene (Trichloroethylene)
 Trichloromethanethiol (Methanethiol, trichloro-)
 Trichloromonofluoromethane (Methane, trichlorofluoro-)
 2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T) (Acetic acid, 2,4,5-trichlorophenoxy-)
 2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP) (Silvex) (Propionic acid, 2-(2,4,5-trichlorophenoxy)-)
 Trichloropropane, N.O.S.* (Propane, trichloro-, N.O.S.*)
 1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
 O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
 sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
 Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl)-)
 Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
 Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
 Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)
 Vanadic acid, ammonium salt (ammonium vanadate)
 Vanadium pentoxide (Vanadium (V) oxide)
 Vinyl chloride (Ethane, chloro-)
 Zinc cyanide
 Zinc phosphide

*The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
67-35-056	NEW	84-09-048	132I-116-150	AMD-P	84-09-039	137-70-020	AMD-P	84-08-060
67-35-060	REP-P	84-06-055	132I-116-160	AMD-P	84-09-039	137-70-030	AMD-P	84-08-060
67-35-070	AMD-P	84-06-055	132I-116-170	AMD-P	84-09-039	137-70-040	AMD-P	84-08-060
67-35-070	AMD	84-09-048	132I-116-180	REP-P	84-09-039	137-70-050	AMD-P	84-08-060
67-35-072	NEW-P	84-06-055	132I-116-190	AMD-P	84-09-039	137-70-055	NEW-P	84-08-060
67-35-072	NEW	84-09-048	132I-116-210	AMD-P	84-09-039	137-70-057	NEW-P	84-08-060
67-35-075	REP-P	84-06-055	132I-116-220	REP-P	84-09-039	137-70-060	AMD-P	84-08-060
67-35-080	AMD-P	84-06-055	132I-116-222	NEW-P	84-09-039	137-70-070	AMD-P	84-08-060
67-35-080	AMD	84-09-048	132I-116-230	AMD-P	84-09-039	137-70-080	AMD-P	84-08-060
67-35-082	NEW-P	84-06-055	132I-116-240	AMD-P	84-09-039	139-50-030	NEW-P	84-07-041
67-35-082	NEW	84-09-048	132I-116-250	AMD-P	84-09-039	172-148-010	REP-P	84-09-030
67-35-090	REP-P	84-06-055	132I-116-260	AMD-P	84-09-039	172-148-020	REP-P	84-09-030
106-116-201	AMD	84-08-044	132I-116-270	AMD-P	84-09-039	172-148-030	REP-P	84-09-030
106-116-501	AMD	84-08-044	132I-116-280	AMD-P	84-09-039	172-148-040	REP-P	84-09-030
106-116-603	AMD	84-08-044	132I-116-300	AMD-P	84-09-039	172-148-050	REP-P	84-09-030
106-124-700	NEW-P	84-09-040	132J-160-010	AMD-P	84-06-053	172-148-060	REP-P	84-09-030
106-136-411	AMD-P	84-09-040	132J-160-020	AMD-P	84-06-053	172-148-070	REP-P	84-09-030
118-04-010	NEW-P	84-08-074	132J-160-030	AMD-P	84-06-053	172-148-080	REP-P	84-09-030
118-04-030	NEW-P	84-08-074	132J-160-040	REP-P	84-06-053	172-148-090	REP-P	84-09-030
118-04-050	NEW-P	84-08-074	132J-160-045	NEW-P	84-06-053	172-148-100	REP-P	84-09-030
118-04-070	NEW-P	84-08-074	132J-160-050	AMD-P	84-06-053	172-148-110	REP-P	84-09-030
118-04-090	NEW-P	84-08-074	132S-285-010	NEW-C	84-06-033	172-148-120	REP-P	84-09-030
118-04-110	NEW-P	84-08-074	132S-285-010	NEW	84-07-033	172-148-130	REP-P	84-09-030
118-04-130	NEW-P	84-08-074	132S-285-015	NEW-C	84-06-033	172-148-140	REP-P	84-09-030
118-04-150	NEW-P	84-08-074	132S-285-015	NEW	84-07-033	172-148-150	REP-P	84-09-030
118-04-170	NEW-P	84-08-074	137-12-010	REP-P	84-03-014	172-148-160	REP-P	84-09-030
118-04-190	NEW-P	84-08-074	137-12-010	REP	84-06-009	172-148-170	REP-P	84-09-030
118-04-210	NEW-P	84-08-074	137-12-020	REP-P	84-03-014	172-148-180	REP-P	84-09-030
118-04-230	NEW-P	84-08-074	137-12-020	REP	84-06-009	172-148-190	REP-P	84-09-030
118-04-250	NEW-P	84-08-074	137-12-030	REP-P	84-03-014	172-148-200	REP-P	84-09-030
118-04-270	NEW-P	84-08-074	137-12-030	REP	84-06-009	172-148-210	REP-P	84-09-030
131-16-093	AMD-P	84-03-004	137-12-040	REP-P	84-03-014	172-148-220	REP-P	84-09-030
131-16-093	AMD	84-06-052	137-12-040	REP	84-06-009	172-148-230	REP-P	84-09-030
131-28-090	NEW-E	84-08-031	137-12-050	REP-P	84-03-014	172-148-240	REP-P	84-09-030
132A-116-025	AMD-P	84-09-031	137-12-050	REP	84-06-009	172-148-990	REP-P	84-09-030
132A-136-010	AMD-P	84-09-031	137-12-060	REP-P	84-03-014	172-150-010	AMD-P	84-09-030
132F-120-020	AMD	84-03-028	137-12-060	REP	84-06-009	172-150-020	AMD-P	84-09-030
132F-120-030	AMD	84-03-028	137-12-070	REP-P	84-03-014	172-150-035	AMD-P	84-09-030
132F-120-040	AMD	84-03-028	137-12-070	REP	84-06-009	172-150-040	AMD-P	84-09-030
132F-120-041	NEW	84-03-028	137-12-080	REP-P	84-03-014	172-150-050	AMD-P	84-09-030
132F-120-042	NEW	84-03-028	137-12-080	REP	84-06-009	172-150-060	AMD-P	84-09-030
132F-120-043	NEW	84-03-028	137-12-090	REP-P	84-03-014	172-150-070	AMD-P	84-09-030
132F-120-050	AMD	84-03-028	137-12-090	REP	84-06-009	172-150-080	AMD-P	84-09-030
132F-120-060	AMD-P	84-09-061	137-12A-010	NEW-P	84-03-014	172-150-090	AMD-P	84-09-030
132F-120-070	AMD	84-03-028	137-12A-010	NEW	84-06-009	172-150-100	AMD-P	84-09-030
132F-120-080	AMD	84-03-028	137-12A-020	NEW-P	84-03-014	172-150-110	AMD-P	84-09-030
132F-120-090	AMD	84-03-028	137-12A-020	NEW	84-06-009	172-150-120	AMD-P	84-09-030
132F-120-100	AMD	84-03-028	137-12A-030	NEW-P	84-03-014	172-150-130	AMD-P	84-09-030
132F-120-110	AMD	84-03-028	137-12A-030	NEW	84-06-009	172-150-140	AMD-P	84-09-030
132F-120-120	AMD	84-03-028	137-12A-040	NEW-P	84-03-014	172-150-145	AMD-P	84-09-030
132F-120-130	AMD	84-03-028	137-12A-040	NEW	84-06-009	172-150-150	AMD-P	84-09-030
132F-120-150	AMD	84-03-028	137-12A-050	NEW-P	84-03-014	172-150-160	AMD-P	84-09-030
132F-120-160	AMD	84-03-028	137-12A-050	NEW	84-06-009	172-150-170	AMD-P	84-09-030
132F-120-170	AMD	84-03-028	137-12A-060	NEW-P	84-03-014	172-150-180	AMD-P	84-09-030
132F-120-180	AMD	84-03-028	137-12A-060	NEW	84-06-009	172-150-190	AMD-P	84-09-030
132F-120-190	AMD	84-03-028	137-12A-070	NEW-P	84-03-014	173-19-1104	AMD	84-02-073
132F-120-200	AMD	84-03-028	137-12A-070	NEW	84-06-009	173-19-130	AMD-C	84-06-042
132F-120-210	NEW	84-03-028	137-12A-080	NEW-P	84-03-014	173-19-130	AMD	84-08-030
132F-120-510	REP	84-03-028	137-12A-080	NEW	84-06-009	173-19-250	AMD-P	84-03-057
132H-116-800	REP-P	84-04-062	137-12A-090	NEW-P	84-03-014	173-19-250	AMD	84-07-025
132H-116-800	REP	84-07-040	137-12A-090	NEW	84-06-009	173-19-260	AMD-P	84-03-058
132H-160-180	AMD-P	84-09-050	137-48-020	AMD-P	84-04-045	173-19-260	AMD	84-08-042
132H-200-110	NEW-P	84-04-049	137-48-020	AMD-E	84-04-046	173-19-280	AMD	84-06-043
132H-200-110	NEW	84-07-039	137-48-020	AMD	84-08-011	173-19-330	AMD-W	84-02-072
132I-116-010	AMD-P	84-09-039	137-48-060	AMD-P	84-04-045	173-19-3514	AMD	84-06-043
132I-116-020	AMD-P	84-09-039	137-48-060	AMD-E	84-04-046	173-19-3514	AMD-P	84-07-055
132I-116-030	AMD-P	84-09-039	137-48-060	AMD	84-08-011	173-19-370	AMD-P	84-04-079
132I-116-040	AMD-P	84-09-039	137-57	AMD-P	84-08-023	173-19-370	AMD	84-08-003
132I-116-050	AMD-P	84-09-039	137-57-005	AMD-P	84-08-023	173-19-390	AMD	84-02-074
132I-116-060	REP-P	84-09-039	137-57-010	AMD-P	84-08-023	173-19-3903	AMD-P	84-07-054
132I-116-070	AMD-P	84-09-039	137-57-020	AMD-P	84-08-023	173-19-3903	AMD-E	84-07-060
132I-116-080	REP-P	84-09-039	137-57-040	AMD-P	84-08-023	173-19-3908	AMD	84-02-075
132I-116-090	AMD-P	84-09-039	137-57-050	AMD-P	84-08-023	173-19-400	AMD-P	84-03-057
132I-116-100	AMD-P	84-09-039	137-57-060	AMD-P	84-08-023	173-19-400	AMD	84-07-025
132I-116-110	AMD-P	84-09-039	137-57-070	AMD-P	84-08-023	173-19-4203	AMD-P	84-04-078
132I-116-120	REP-P	84-09-039	137-70	AMD-P	84-08-060	173-19-4203	AMD-C	84-06-041
132I-116-140	AMD-P	84-09-039	137-70-010	AMD-P	84-08-060	173-19-4203	AMD-P	84-07-059

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173-19-4501	AMD-P	84-03-057	173-303-190	AMD	84-09-088	173-305-090	NEW	84-05-012
173-19-4501	AMD-W	84-04-074	173-303-200	AMD-P	84-09-083	173-400-075	AMD-P	84-04-076
173-19-4501	AMD-P	84-04-077	173-303-210	AMD	84-09-088	173-422-050	AMD-P	84-03-056
173-19-4501	AMD	84-08-029	173-303-220	AMD	84-09-088	173-422-050	AMD	84-09-087
173-19-4502	AMD-P	84-09-086	173-303-230	AMD	84-09-088	173-514-010	NEW	84-04-014
173-19-4704	AMD-P	84-04-079	173-303-240	AMD-P	84-09-083	173-514-020	NEW	84-04-014
173-19-4704	AMD	84-08-003	173-303-250	AMD	84-09-088	173-514-030	NEW	84-04-014
173-216-010	AMD-P	84-02-070	173-303-260	AMD	84-09-088	173-514-040	NEW	84-04-014
173-216-010	AMD	84-06-023	173-303-270	AMD	84-09-088	173-514-050	NEW	84-04-014
173-216-020	AMD-P	84-02-070	173-303-275	REP-P	84-09-083	173-514-060	NEW	84-04-014
173-216-020	AMD	84-06-023	173-303-280	AMD	84-09-088	173-514-070	NEW	84-04-014
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173-218-010	NEW	84-06-023	173-303-300	AMD	84-09-088	173-514-090	NEW	84-04-014
173-218-020	NEW-P	84-02-070	173-303-310	AMD	84-09-088	173-549-010	AMD-P	84-07-056
173-218-020	NEW	84-06-023	173-303-320	AMD	84-09-088	173-549-015	NEW-P	84-07-056
173-218-030	NEW-P	84-02-070	173-303-330	AMD	84-09-088	173-549-020	AMD-P	84-07-056
173-218-030	NEW	84-06-023	173-303-340	AMD	84-09-088	173-549-025	NEW-P	84-07-056
173-218-040	NEW-P	84-02-070	173-303-350	AMD	84-09-088	173-549-027	NEW-P	84-07-056
173-218-040	NEW	84-06-023	173-303-360	AMD	84-09-088	173-549-030	REP-P	84-07-056
173-218-050	NEW-P	84-02-070	173-303-370	AMD	84-09-088	173-549-035	NEW-P	84-07-056
173-218-050	NEW	84-06-023	173-303-380	AMD	84-09-088	173-549-040	REP-P	84-07-056
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173-218-060	NEW	84-06-023	173-303-395	AMD-P	84-09-083	173-549-060	AMD-P	84-07-056
173-218-070	NEW-P	84-02-070	173-303-400	AMD	84-09-088	173-549-070	AMD-P	84-07-056
173-218-070	NEW	84-06-023	173-303-420	NEW	84-09-088	173-549-080	NEW-P	84-07-056
173-218-080	NEW-P	84-02-070	173-303-430	NEW	84-09-088	173-549-090	NEW-P	84-07-056
173-218-080	NEW	84-06-023	173-303-440	NEW	84-09-088	173-549-100	NEW-P	84-07-056
173-218-090	NEW-P	84-02-070	173-303-500	AMD-P	84-09-083	173-549-900	NEW-P	84-07-056
173-218-090	NEW	84-06-023	173-303-505	NEW	84-09-088	173-801-010	REP-P	84-09-081
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173-218-110	NEW-P	84-02-070	173-303-520	AMD-P	84-09-083	173-801-040	REP-P	84-09-081
173-218-110	NEW	84-06-023	173-303-550	NEW	84-09-088	173-801-045	REP-P	84-09-081
173-220-030	AMD-E	84-07-058	173-303-560	NEW	84-09-088	173-801-050	REP-P	84-09-081
173-220-030	AMD-P	84-08-078	173-303-575	AMD	84-09-088	173-801-060	REP-P	84-09-081
173-220-130	AMD-E	84-07-058	173-303-600	AMD	84-09-088	173-801-070	REP-P	84-09-081
173-220-130	AMD-P	84-08-078	173-303-610	AMD-P	84-09-083	173-801-080	REP-P	84-09-081
173-220-150	AMD-E	84-07-058	173-303-620	AMD	84-09-088	173-801-090	REP-P	84-09-081
173-220-150	AMD-P	84-08-078	173-303-630	AMD	84-09-088	173-801-100	REP-P	84-09-081
173-220-210	AMD-E	84-07-058	173-303-640	AMD	84-09-088	173-801-110	REP-P	84-09-081
173-220-210	AMD-P	84-08-078	173-303-645	NEW	84-09-088	173-801-120	REP-P	84-09-081
173-220-220	AMD-E	84-07-058	173-303-650	AMD	84-09-088	173-801-130	REP-P	84-09-081
173-220-220	AMD-P	84-08-078	173-303-655	NEW	84-09-088	173-802-010	NEW-P	84-09-081
173-303	AMD-C	84-04-075	173-303-660	AMD	84-09-088	173-802-020	NEW-P	84-09-081
173-303	AMD-C	84-07-057	173-303-665	NEW	84-09-088	173-802-030	NEW-P	84-09-081
173-303-010	AMD	84-09-088	173-303-670	AMD	84-09-088	173-802-040	NEW-P	84-09-081
173-303-016	NEW-P	84-09-083	173-303-700	AMD	84-09-088	173-802-050	NEW-P	84-09-081
173-303-017	NEW-P	84-09-083	173-303-800	AMD	84-09-088	173-802-060	NEW-P	84-09-081
173-303-020	AMD	84-09-088	173-303-801	AMD	84-09-088	173-802-070	NEW-P	84-09-081
173-303-030	AMD	84-09-088	173-303-802	NEW	84-09-088	173-802-080	NEW-P	84-09-081
173-303-040	AMD	84-09-088	173-303-804	NEW	84-09-088	173-802-090	NEW-P	84-09-081
173-303-045	AMD	84-09-088	173-303-805	AMD	84-09-088	173-802-100	NEW-P	84-09-081
173-303-050	AMD	84-09-088	173-303-806	NEW	84-09-088	173-802-110	NEW-P	84-09-081
173-303-060	AMD	84-09-088	173-303-807	NEW	84-09-088	173-802-120	NEW-P	84-09-081
173-303-070	AMD-P	84-09-083	173-303-808	NEW	84-09-088	173-802-130	NEW-P	84-09-081
173-303-071	AMD	84-09-088	173-303-809	NEW-P	84-09-083	173-802-140	NEW-P	84-09-081
173-303-072	NEW-P	84-09-083	173-303-810	AMD	84-09-088	173-802-150	NEW-P	84-09-081
173-303-075	AMD	84-09-088	173-303-815	AMD	84-09-088	173-802-190	NEW-P	84-09-081
173-303-081	AMD	84-09-088	173-303-820	AMD	84-09-088	174-104-010	AMD-C	84-04-017
173-303-082	AMD	84-09-088	173-303-825	AMD	84-09-088	174-104-010	AMD-C	84-09-051
173-303-084	AMD	84-09-088	173-303-830	AMD	84-09-088	174-109-010	NEW-P	84-08-064
173-303-090	AMD-P	84-09-083	173-303-840	AMD-P	84-09-083	174-109-020	NEW-P	84-08-064
173-303-100	AMD	84-09-088	173-303-910	AMD-P	84-09-083	174-109-030	NEW-P	84-08-064
173-303-101	AMD	84-09-088	173-303-950	NEW	84-09-088	174-109-040	NEW-P	84-08-064
173-303-102	AMD	84-09-088	173-303-9901	AMD	84-09-088	174-109-050	NEW-P	84-08-064
173-303-103	AMD-P	84-09-083	173-303-9903	AMD	84-09-088	174-109-060	NEW-P	84-08-064
173-303-104	AMD-P	84-09-083	173-303-9904	AMD	84-09-088	174-109-070	NEW-P	84-08-064
173-303-110	AMD-P	84-09-083	173-303-9905	AMD	84-09-088	174-109-080	NEW-P	84-08-064
173-303-120	AMD-P	84-09-083	173-305-010	NEW	84-05-012	174-109-090	NEW-P	84-08-064
173-303-121	NEW	84-09-088	173-305-015	NEW	84-05-012	174-109-100	NEW-P	84-08-064
173-303-140	AMD	84-09-088	173-305-020	NEW	84-05-012	174-109-200	NEW-P	84-08-064
173-303-141	AMD	84-09-088	173-305-030	NEW	84-05-012	174-109-300	NEW-P	84-08-064
173-303-145	AMD	84-09-088	173-305-040	NEW	84-05-012	174-109-400	NEW-P	84-08-064
173-303-160	AMD	84-09-088	173-305-050	NEW	84-05-012	174-109-500	NEW-P	84-08-064
173-303-161	NEW	84-09-088	173-305-060	NEW	84-05-012	174-148-010	REP-P	84-08-064

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174-148-030	REP-P	84-08-064	180-23-090	NEW-P	84-08-050	196-20-030	AMD	84-04-027
174-148-040	REP-P	84-08-064	180-23-095	NEW-P	84-08-050	196-24-030	AMD	84-04-027
174-148-050	REP-P	84-08-064	180-23-100	NEW-P	84-08-050	196-24-040	AMD	84-04-027
174-148-060	REP-P	84-08-064	180-23-105	NEW-P	84-08-050	196-24-050	AMD	84-04-027
174-148-070	REP-P	84-08-064	180-23-110	NEW-P	84-08-050	196-24-080	AMD	84-04-027
174-148-080	REP-P	84-08-064	180-23-115	NEW-P	84-08-050	196-27-010	NEW	84-04-027
174-148-085	REP-P	84-08-064	180-23-120	NEW-P	84-08-050	196-27-020	NEW	84-04-027
174-148-090	REP-P	84-08-064	180-26-025	AMD-P	84-08-049	197-10-010	REP	84-05-021
174-148-100	REP-P	84-08-064	180-27-035	AMD-P	84-08-048	197-10-020	REP	84-05-021
174-148-110	REP-P	84-08-064	180-27-040	AMD-P	84-08-048	197-10-025	REP	84-05-021
174-148-120	REP-P	84-08-064	180-27-053	NEW-P	84-08-048	197-10-030	REP	84-05-021
180-16-002	NEW-P	84-08-051	180-27-054	NEW-P	84-08-048	197-10-040	REP	84-05-021
180-16-003	REP-P	84-08-051	180-27-060	AMD-P	84-08-048	197-10-050	REP	84-05-021
180-16-006	NEW-P	84-08-051	180-27-070	AMD-P	84-04-084	197-10-055	REP	84-05-021
180-16-191	AMD-P	84-08-051	180-27-070	AMD	84-07-036	197-10-060	REP	84-05-021
180-16-195	AMD-P	84-08-051	180-51-005	NEW-P	84-08-076	197-10-100	REP	84-05-021
180-16-200	AMD-P	84-08-051	180-51-010	NEW-P	84-08-076	197-10-150	REP	84-05-021
180-16-205	AMD-P	84-08-051	180-51-015	NEW-P	84-08-076	197-10-160	REP	84-05-021
180-16-210	AMD-P	84-08-051	180-51-020	NEW-P	84-08-076	197-10-170	REP	84-05-021
180-16-220	AMD-P	84-08-051	180-51-025	NEW-P	84-08-076	197-10-175	REP	84-05-021
180-16-225	AMD-P	84-08-051	180-51-030	NEW-P	84-08-076	197-10-177	REP	84-05-021
180-16-240	AMD-P	84-08-051	180-51-035	NEW-P	84-08-076	197-10-180	REP	84-05-021
180-22-100	NEW-P	84-08-047	180-51-040	NEW-P	84-08-076	197-10-190	REP	84-05-021
180-22-100	NEW-W	84-08-058	180-51-045	NEW-P	84-08-076	197-10-200	REP	84-05-021
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180-22-140	NEW-P	84-08-047	180-51-060	NEW-P	84-08-076	197-10-210	REP	84-05-021
180-22-140	NEW-W	84-08-058	180-51-065	NEW-P	84-08-076	197-10-215	REP	84-05-021
180-22-150	AMD-P	84-08-047	180-51-070	NEW-P	84-08-076	197-10-220	REP	84-05-021
180-22-150	AMD-W	84-08-058	180-51-075	NEW-P	84-08-076	197-10-225	REP	84-05-021
180-22-200	REP-P	84-08-047	180-51-080	NEW-P	84-08-076	197-10-230	REP	84-05-021
180-22-200	REP-W	84-08-058	180-51-085	NEW-P	84-08-076	197-10-235	REP	84-05-021
180-22-250	REP-P	84-08-047	180-51-100	NEW-P	84-08-076	197-10-240	REP	84-05-021
180-22-250	REP-W	84-08-058	180-51-105	NEW-P	84-08-076	197-10-245	REP	84-05-021
180-22-250	REP-P	84-08-059	180-51-110	NEW-P	84-08-076	197-10-260	REP	84-05-021
180-22-255	REP-P	84-08-047	180-51-115	NEW-P	84-08-076	197-10-270	REP	84-05-021
180-22-255	REP-W	84-08-058	180-55-010	AMD-P	84-08-075	197-10-300	REP	84-05-021
180-22-255	REP-P	84-08-059	180-55-015	AMD-P	84-08-075	197-10-305	REP	84-05-021
180-22-260	REP-P	84-08-047	180-55-020	AMD-P	84-08-075	197-10-310	REP	84-05-021
180-22-260	REP-W	84-08-058	180-55-050	AMD-P	84-08-075	197-10-320	REP	84-05-021
180-22-260	REP-P	84-08-059	182-08-140	REP-E	84-04-063	197-10-330	REP	84-05-021
180-22-265	REP-P	84-08-047	182-08-140	REP-P	84-05-029	197-10-340	REP	84-05-021
180-22-265	REP-W	84-08-058	182-08-140	REP	84-09-043	197-10-345	REP	84-05-021
180-22-265	REP-P	84-08-059	182-08-140	REP-E	84-09-060	197-10-350	REP	84-05-021
180-22-270	REP-P	84-08-047	182-08-150	REP-E	84-04-063	197-10-355	REP	84-05-021
180-22-270	REP-W	84-08-058	182-08-150	REP-P	84-05-029	197-10-360	REP	84-05-021
180-22-270	REP-P	84-08-059	182-08-150	REP	84-09-043	197-10-365	REP	84-05-021
180-22-275	REP-P	84-08-047	182-08-150	REP-E	84-09-060	197-10-370	REP	84-05-021
180-22-275	REP-W	84-08-058	182-08-195	NEW-E	84-04-063	197-10-375	REP	84-05-021
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180-22-280	REP-P	84-08-047	182-08-195	NEW	84-09-043	197-10-390	REP	84-05-021
180-22-280	REP-W	84-08-058	182-08-195	NEW-E	84-09-060	197-10-400	REP	84-05-021
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251-18-030	REP-P	84-06-065	251-18-050	AMD-P	84-06-065
251-18-050	AMD-P	84-06-065	251-18-060	AMD-P	84-06-065
251-18-060	AMD-P	84-06-065	251-18-070	AMD-P	84-06-065
251-18-070	AMD-P	84-06-065	251-18-080	REP-P	84-06-065
251-18-080	REP-P	84-06-065	251-18-100	REP-P	84-06-065
251-18-100	REP-P	84-06-065	251-18-110	AMD-P	84-06-065
251-18-110	AMD-P	84-06-065	251-18-115	REP-P	84-06-065
251-18-115	REP-P	84-06-065	251-18-120	AMD-P	84-06-065
251-18-120	AMD-P	84-06-065	251-18-130	AMD-P	84-06-065
251-18-130	AMD-P	84-06-065	251-18-140	AMD-P	84-06-065
251-18-140	AMD-P	84-06-065	251-18-145	NEW-P	84-06-065
251-18-145	NEW-P	84-06-065	251-18-150	REP-P	84-06-065
251-18-150	REP-P	84-06-065	251-18-155	REP-P	84-06-065
251-18-155	REP-P	84-06-065	251-18-160	AMD-P	84-06-065
251-18-160	AMD-P	84-06-065	251-18-170	REP-P	84-06-065
251-18-170	REP-P	84-06-065	251-18-175	REP-P	84-06-065
251-18-175	REP-P	84-06-065	251-18-180	AMD-P	84-04-070
251-18-180	AMD-P	84-04-070	251-18-180	AMD-E	84-04-071
251-18-180	AMD-E	84-04-071	251-18-180	AMD-P	84-06-065
251-18-180	AMD-P	84-06-065	251-18-180	AMD	84-08-032
251-18-180	AMD	84-08-032	251-18-181	REP-P	84-06-065
251-18-181	REP-P	84-06-065	251-18-190	AMD-P	84-06-065
251-18-190	AMD-P	84-06-065	251-18-200	AMD-P	84-06-065
251-18-200	AMD-P	84-06-065	251-18-230	REP-P	84-06-065
251-18-230	REP-P	84-06-065	251-18-240	AMD-P	84-06-065
251-18-240	AMD-P	84-06-065	251-18-260	AMD-P	84-06-065
251-18-260	AMD-P	84-06-065	251-18-265	AMD-P	84-06-065
251-18-265	AMD-P	84-06-065	251-18-270	AMD-P	84-06-065
251-18-270	AMD-P	84-06-065	251-18-315	NEW-P	84-02-067
251-18-315	NEW-P	84-02-067	251-18-315	NEW-C	84-06-004
251-18-315	NEW-C	84-06-004	251-18-320	AMD-P	84-04-070
251-18-320	AMD-P	84-04-070	251-18-320	AMD-E	84-04-071
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251-18-320	AMD	84-08-032	251-18-330	AMD-P	84-02-067
251-18-330	AMD-P	84-02-067	251-18-330	AMD-P	84-04-070
251-18-330	AMD-P	84-04-070	251-18-330	AMD-E	84-08-032
251-18-330	AMD-E	84-08-032	251-18-340	AMD-P	84-04-070
251-18-340	AMD-P	84-04-070	251-18-340	AMD-E	84-04-071
251-18-340	AMD-E	84-04-071	251-18-340	AMD	84-08-032
251-18-340	AMD	84-08-032	251-18-350	AMD-P	84-02-067
251-18-350	AMD-P	84-02-067	251-18-350	AMD-C	84-06-004
251-18-350	AMD-C	84-06-004	251-18-355	NEW-P	84-02-067
251-18-355	NEW-P	84-02-067	251-18-355	NEW-C	84-06-004
251-18-355	NEW-C	84-06-004	251-18-361	NEW-P	84-02-067
251-18-361	NEW-P	84-02-067	251-18-361	NEW-C	84-06-004
251-18-361	NEW-C	84-06-004	251-22-070	AMD-P	84-04-070
251-22-070	AMD-P	84-04-070	251-22-070	AMD-E	84-04-071
251-22-070	AMD-E	84-04-071	251-22-070	AMD	84-08-032
251-22-070	AMD	84-08-032	251-22-090	AMD-P	84-09-068
251-22-090	AMD-P	84-09-068	251-22-091	REP-P	84-09-068
251-22-091	REP-P	84-09-068	251-22-200	AMD-P	84-09-068
251-22-200	AMD-P	84-09-068	260-70-010	AMD-P	84-04-061
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260-70-021	AMD-P	84-04-061	260-70-021	AMD	84-06-061
260-70-021	AMD	84-06-061	260-70-025	NEW-P	84-04-061
260-70-025	NEW-P	84-04-061			

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260-70-026	NEW-P	84-04-061	284-44-410	NEW	84-08-001	296-46-335	REP-P	84-07-010
260-70-026	NEW	84-06-061	284-46-010	NEW-P	84-04-033	296-46-336	NEW-P	84-07-010
260-70-027	NEW-P	84-04-061	284-46-010	NEW	84-08-002	296-46-350	AMD-P	84-07-010
260-70-027	NEW	84-06-061	284-46-020	NEW-P	84-04-033	296-46-355	REP-P	84-07-010
260-70-028	NEW-P	84-04-061	284-46-020	NEW	84-08-002	296-46-360	AMD-P	84-07-010
260-70-028	NEW	84-06-061	289-02-020	AMD-P	84-09-065	296-46-370	AMD-P	84-07-010
260-70-029	NEW-P	84-04-061	289-15-130	AMD-P	84-09-066	296-46-380	REP-P	84-07-010
260-70-029	NEW	84-06-061	289-15-225	AMD-P	84-09-067	296-46-390	REP-P	84-07-010
260-70-031	NEW-P	84-04-061	289-15-230	AMD-P	84-09-066	296-46-420	AMD-P	84-07-010
260-70-031	NEW	84-06-061	289-16-100	AMD-P	84-09-065	296-46-424	REP-P	84-07-010
260-70-032	NEW-P	84-04-061	289-16-200	AMD-P	84-09-065	296-46-426	REP-P	84-07-010
260-70-032	NEW	84-06-061	296-04-500	REP	84-04-024	296-46-480	AMD-P	84-07-010
260-70-090	AMD-P	84-04-061	296-04-501	REP	84-04-024	296-46-490	AMD-P	84-07-010
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260-70-100	AMD-P	84-04-061	296-04-503	REP	84-04-024	296-46-500	REP-P	84-07-010
260-70-100	AMD	84-06-061	296-04-504	REP	84-04-024	296-46-501	REP-P	84-07-010
261-20	AMD-P	84-09-021	296-04-505	REP	84-04-024	296-46-535	REP-P	84-07-010
262-01-010	NEW	84-04-042	296-04-506	REP	84-04-024	296-46-540	REP-P	84-07-010
262-01-020	NEW	84-04-042	296-14-010	AMD-P	84-02-059	296-46-545	REP-P	84-07-010
262-01-030	NEW	84-04-042	296-14-010	AMD	84-06-018	296-46-550	REP-P	84-07-010
262-01-040	NEW	84-04-042	296-15-02601	AMD-P	84-02-078	296-46-555	REP-P	84-07-010
262-01-050	NEW	84-04-042	296-15-02601	AMD	84-06-031	296-46-560	REP-P	84-07-010
263-12-115	AMD-C	84-04-025	296-15-21001	REP-P	84-02-078	296-46-565	REP-P	84-07-010
263-12-115	AMD-C	84-04-058	296-15-21001	REP	84-06-031	296-46-590	REP-P	84-07-010
263-12-115	AMD-E	84-04-059	296-17-350	AMD-P	84-08-077	296-46-59005	REP-P	84-07-010
263-12-115	AMD	84-08-036	296-17-35101	NEW-P	84-02-059	296-46-59010	REP-P	84-07-010
275-27-500	AMD-P	84-08-015	296-17-35101	NEW	84-06-018	296-46-900	REP-P	84-07-010
275-27-800	NEW-P	84-04-009	296-17-765	AMD-P	84-09-035	296-46-905	REP-P	84-07-010
275-27-800	NEW-E	84-04-010	296-17-765	AMD-E	84-09-036	296-62-054	NEW-P	84-09-029
275-27-800	NEW	84-07-018	296-17-779	NEW-P	84-08-077	296-62-05403	NEW-P	84-09-029
275-27-810	NEW-P	84-04-009	296-17-895	AMD-P	84-09-035	296-62-05405	NEW-P	84-09-029
275-27-810	NEW-E	84-04-010	296-17-895	AMD-E	84-09-036	296-62-05407	NEW-P	84-09-029
275-27-810	NEW	84-07-018	296-17-905	AMD-P	84-02-060	296-62-05409	NEW-P	84-09-029
275-27-820	NEW-P	84-04-009	296-17-905	AMD	84-06-024	296-62-05411	NEW-P	84-09-029
275-27-820	NEW-E	84-04-010	296-17-910	AMD-P	84-02-060	296-62-05413	NEW-P	84-09-029
275-27-820	NEW	84-07-018	296-17-910	AMD	84-06-024	296-62-05415	NEW-P	84-09-029
275-31-005	NEW	84-03-054	296-17-911	AMD-P	84-02-060	296-62-05417	NEW-P	84-09-029
275-31-010	NEW	84-03-054	296-17-911	AMD	84-06-024	296-62-05419	NEW-P	84-09-029
275-31-020	NEW	84-03-054	296-17-913	AMD-P	84-02-060	296-62-05421	NEW-P	84-09-029
275-31-030	NEW	84-03-054	296-17-913	AMD	84-06-024	296-62-05423	NEW-P	84-09-029
275-31-040	NEW	84-03-054	296-17-914	AMD-P	84-02-060	296-62-05425	NEW-P	84-09-029
275-31-050	NEW	84-03-054	296-17-914	AMD	84-06-024	296-81-007	AMD-C	84-03-008
275-31-070	NEW	84-03-054	296-17-916	AMD-P	84-02-060	296-81-007	AMD	84-05-005
275-31-080	NEW	84-03-054	296-17-916	AMD	84-06-024	296-81-340	AMD-C	84-03-008
275-31-090	NEW	84-03-054	296-17-917	AMD-P	84-02-060	296-81-340	AMD	84-05-005
275-33-010	NEW-E	84-06-016	296-17-917	AMD	84-06-024	296-81-360	AMD-C	84-03-008
275-33-010	NEW-P	84-06-025	296-17-918	NEW-P	84-02-060	296-81-360	AMD	84-05-005
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275-33-020	NEW-P	84-06-025	296-17-919	AMD-P	84-02-060	296-81-991	NEW	84-05-005
275-33-030	NEW-E	84-06-016	296-17-919	AMD	84-06-024	296-93-010	NEW-P	84-05-032
275-33-030	NEW-P	84-06-025	296-17-91901	AMD-P	84-02-060	296-93-020	NEW-P	84-05-032
275-33-040	NEW-E	84-06-016	296-17-91901	AMD	84-06-024	296-93-030	NEW-P	84-05-032
275-33-040	NEW-P	84-06-025	296-17-91902	AMD-P	84-02-060	296-93-040	NEW-P	84-05-032
275-33-050	NEW-E	84-06-016	296-17-91902	AMD	84-06-024	296-93-050	NEW-P	84-05-032
275-33-050	NEW-P	84-06-025	296-19-010	REP-P	84-02-059	296-93-060	NEW-P	84-05-032
275-33-060	NEW-E	84-06-016	296-19-010	REP	84-06-018	296-93-070	NEW-P	84-05-032
275-33-060	NEW-P	84-06-025	296-46-110	AMD-P	84-07-010	296-93-080	NEW-P	84-05-032
275-38-600	AMD-P	84-05-056	296-46-110	AMD-E	84-08-006	296-93-090	NEW-P	84-05-032
275-38-600	AMD	84-09-018	296-46-120	REP-P	84-07-010	296-93-100	NEW-P	84-05-032
275-38-730	AMD-P	84-04-056	296-46-130	AMD-P	84-07-010	296-93-110	NEW-P	84-05-032
275-38-730	AMD	84-09-032	296-46-140	AMD-P	84-07-010	296-93-120	NEW-P	84-05-032
275-55-020	AMD	84-03-035	296-46-150	AMD-P	84-07-010	296-93-130	NEW-P	84-05-032
275-55-161	AMD	84-03-035	296-46-160	AMD-P	84-07-010	296-93-140	NEW-P	84-05-032
275-55-263	AMD	84-03-035	296-46-170	REP-P	84-07-010	296-93-150	NEW-P	84-05-032
275-55-271	AMD	84-03-035	296-46-180	AMD-P	84-07-010	296-93-160	NEW-P	84-05-032
275-55-281	AMD	84-03-035	296-46-190	REP-P	84-07-010	296-93-170	NEW-P	84-05-032
275-55-291	AMD	84-03-035	296-46-200	AMD-P	84-07-010	296-93-180	NEW-P	84-05-032
275-55-293	AMD	84-03-035	296-46-210	REP-P	84-07-010	296-93-190	NEW-P	84-05-032
275-55-297	AMD	84-03-035	296-46-220	AMD-P	84-07-010	296-93-200	NEW-P	84-05-032
275-55-301	AMD	84-03-035	296-46-230	REP-P	84-07-010	296-93-210	NEW-P	84-05-032
275-55-331	AMD	84-03-035	296-46-240	AMD-P	84-07-010	296-93-220	NEW-P	84-05-032
275-55-371	AMD	84-03-035	296-46-242	REP-P	84-07-010	296-93-230	NEW-P	84-05-032
284-44-020	REP-P	84-04-032	296-46-244	REP-P	84-07-010	296-93-240	NEW-P	84-05-032
284-44-020	REP	84-08-001	296-46-270	REP-P	84-07-010	296-93-250	NEW-P	84-05-032
284-44-400	NEW-P	84-04-032	296-46-280	REP-P	84-07-010	296-93-260	NEW-P	84-05-032
284-44-400	NEW	84-08-001	296-46-290	REP-P	84-07-010	296-93-270	NEW-P	84-05-032

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296-93-290	NEW-P 84-05-032	308-50-010	AMD-P 84-04-048	315-11-110	NEW 84-09-008
296-93-300	NEW-P 84-05-032	308-50-010	AMD 84-08-062	315-11-111	NEW-P 84-05-052
296-93-320	NEW-P 84-05-032	308-50-020	AMD-E 84-03-018	315-11-111	NEW-E 84-05-053
296-93-330	NEW-P 84-05-032	308-50-020	AMD-P 84-04-048	315-11-111	NEW 84-09-008
296-104-200	AMD-P 84-06-010	308-50-050	REP-P 84-04-048	315-11-112	NEW-P 84-05-052
296-104-700	AMD-P 84-06-010	308-50-050	REP 84-08-062	315-11-112	NEW-E 84-05-053
296-116-070	AMD-P 84-07-027	308-50-090	AMD-E 84-03-018	315-11-112	NEW 84-09-008
296-116-300	AMD 84-04-006	308-50-090	AMD-P 84-04-048	315-11-120	NEW-P 84-07-053
296-116-300	AMD-E 84-04-007	308-50-100	AMD-P 84-04-048	315-11-120	NEW-E 84-09-009
296-116-330	REP-P 84-07-028	308-50-100	AMD 84-08-062	315-11-120	NEW-P 84-09-085
296-116-330	REP-E 84-08-013	308-50-110	AMD-P 84-04-048	315-11-121	NEW-P 84-07-053
296-200-300	NEW-E 84-03-003	308-50-120	AMD-P 84-04-048	315-11-121	NEW-E 84-09-009
296-200-300	NEW-P 84-04-072	308-50-120	AMD 84-08-062	315-11-121	NEW-P 84-09-085
296-200-300	NEW-C 84-07-021	308-53-030	AMD-P 84-05-069	315-11-122	NEW-P 84-07-053
296-200-310	NEW-E 84-03-003	308-53-030	AMD 84-09-082	315-11-122	NEW-E 84-09-009
296-200-310	NEW-P 84-04-072	308-53-085	AMD-P 84-05-069	315-11-122	NEW-P 84-09-085
296-200-310	NEW-C 84-07-021	308-53-085	AMD 84-09-082	315-12-030	AMD 84-05-008
296-200-320	NEW-E 84-03-003	308-53-120	AMD-P 84-05-069	315-30-080	NEW 84-05-008
296-200-320	NEW-P 84-04-072	308-53-120	AMD 84-09-082	315-30-090	NEW 84-05-008
296-200-320	NEW-C 84-07-021	308-53-190	REP-P 84-05-069	315-32-010	NEW-P 84-09-084
296-400-300	NEW-P 84-04-072	308-53-190	REP 84-09-082	315-32-020	NEW-P 84-09-084
296-400-300	NEW-C 84-07-021	308-54-140	AMD-P 84-04-086	315-32-030	NEW-P 84-09-084
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304-12-020	NEW-P 84-04-089	308-54-150	AMD 84-07-051	315-32-060	NEW-P 84-09-084
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304-12-025	NEW-P 84-04-089	308-78-040	AMD-P 84-06-066	316-02-001	NEW 84-07-037
304-12-025	NEW 84-07-020	308-78-045	AMD-P 84-06-066	316-02-003	NEW-P 84-04-081
304-12-125	AMD-P 84-04-089	308-78-050	AMD-P 84-06-066	316-02-003	NEW 84-07-037
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304-25-100	REP-P 84-04-089	308-138B-165	NEW 84-05-011	316-02-020	NEW 84-07-037
304-25-100	REP 84-07-020	308-138B-170	AMD 84-05-011	316-02-030	NEW-P 84-04-081
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308-25-020	REP 84-04-088	314-16-110	AMD 84-02-066	316-02-100	NEW-P 84-04-081
308-25-025	NEW 84-04-088	314-16-200	AMD-W 84-03-019	316-02-100	NEW 84-07-037
308-25-025	AMD-P 84-07-049	314-16-200	AMD-P 84-07-052	316-02-103	NEW-P 84-04-081
308-25-030	AMD 84-04-088	314-16-200	AMD-W 84-09-077	316-02-103	NEW 84-07-037
308-25-040	REP 84-04-088	314-16-205	NEW-P 84-06-063	316-02-105	NEW-P 84-04-081
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308-26-015	AMD 84-08-019	314-18-040	AMD 84-09-025	316-02-110	NEW 84-07-037
308-26-017	AMD-P 84-04-085	314-20-010	AMD-P 84-06-062	316-02-120	NEW-P 84-04-081
308-26-017	AMD 84-08-019	314-20-010	AMD 84-09-023	316-02-120	NEW 84-07-037
308-31-015	NEW 84-02-077	314-24-110	AMD-P 84-06-062	316-02-130	NEW-P 84-04-081
308-31-020	AMD 84-02-077	314-24-110	AMD 84-09-023	316-02-130	NEW 84-07-037
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308-31-110	NEW 84-02-077	315-04-070	AMD-E 84-09-009	316-02-140	NEW 84-07-037
308-31-120	NEW 84-02-077	315-04-070	AMD-P 84-09-085	316-02-150	NEW-P 84-04-081
308-31-500	NEW 84-02-077	315-04-120	AMD-P 84-05-050	316-02-150	NEW 84-07-037
308-31-510	NEW 84-02-077	315-04-120	AMD-E 84-06-045	316-02-160	NEW-P 84-04-081
308-31-520	NEW 84-02-077	315-04-120	AMD 84-09-008	316-02-160	NEW 84-07-037
308-31-530	NEW 84-02-077	315-04-120	AMD-P 84-09-085	316-02-170	NEW-P 84-04-081
308-31-540	NEW 84-02-077	315-04-132	NEW-E 84-06-045	316-02-170	NEW 84-07-037
308-31-550	NEW 84-02-077	315-04-132	NEW-P 84-09-085	316-02-180	NEW-P 84-04-081
308-31-560	NEW 84-02-077	315-04-133	NEW-E 84-06-045	316-02-180	NEW 84-07-037
308-31-570	NEW 84-02-077	315-04-133	NEW-P 84-09-085	316-02-200	NEW-P 84-04-081
308-37-150	NEW-P 84-02-076	315-04-134	NEW-P 84-09-085	316-02-200	NEW 84-07-037
308-37-150	NEW 84-05-070	315-04-180	AMD 84-05-008	316-02-210	NEW-P 84-04-081
308-40-102	AMD-P 84-04-087	315-06-120	AMD-P 84-05-050	316-02-210	NEW 84-07-037
308-40-102	AMD 84-07-050	315-06-120	AMD 84-09-008	316-02-220	NEW-P 84-04-081
308-40-104	AMD-P 84-07-048	315-06-130	AMD 84-05-008	316-02-220	NEW 84-07-037
308-42-020	REP 84-03-055	315-10-020	AMD 84-05-008	316-02-230	NEW-P 84-04-081
308-42-030	REP 84-03-055	315-10-030	AMD 84-05-008	316-02-230	NEW 84-07-037
308-42-035	REP 84-03-055	315-10-060	AMD 84-05-008	316-02-300	NEW-P 84-04-081
308-42-040	AMD 84-03-055	315-11-071	AMD 84-05-008	316-02-300	NEW 84-07-037
308-42-050	REP 84-03-055	315-11-081	AMD 84-05-008	316-02-310	NEW-P 84-04-081
308-42-055	REP 84-03-055	315-11-101	AMD-E 84-03-026	316-02-310	NEW 84-07-037
308-42-070	AMD 84-03-055	315-11-101	AMD-P 84-05-051	316-02-320	NEW-P 84-04-081
308-42-120	AMD 84-03-055	315-11-101	AMD 84-09-008	316-02-320	NEW 84-07-037
308-48-145	NEW-P 84-08-061	315-11-110	NEW-P 84-05-052	316-02-330	NEW-P 84-04-081

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
316-45-270	NEW-P 84-04-081	316-65-510	NEW 84-07-037	326-06-080	NEW-P 84-05-033
316-45-270	NEW 84-07-037	316-65-515	NEW-P 84-04-081	326-06-080	NEW-E 84-05-034
316-45-290	NEW-P 84-04-081	316-65-515	NEW 84-07-037	326-06-080	NEW 84-09-002
316-45-290	NEW 84-07-037	316-65-525	NEW-P 84-04-081	326-06-090	NEW-P 84-05-033
316-45-310	NEW-P 84-04-081	316-65-525	NEW 84-07-037	326-06-090	NEW-E 84-05-034
316-45-310	NEW 84-07-037	316-65-530	NEW-P 84-04-081	326-06-090	NEW 84-09-002
316-45-330	NEW-P 84-04-081	316-65-530	NEW 84-07-037	326-06-100	NEW-P 84-05-033
316-45-330	NEW 84-07-037	316-65-535	NEW-P 84-04-081	326-06-100	NEW-E 84-05-034
316-45-350	NEW-P 84-04-081	316-65-535	NEW 84-07-037	326-06-100	NEW 84-09-002
316-45-350	NEW 84-07-037	316-65-540	NEW-P 84-04-081	326-06-110	NEW-P 84-05-033
316-45-370	NEW-P 84-04-081	316-65-540	NEW 84-07-037	326-06-110	NEW-E 84-05-034
316-45-370	NEW 84-07-037	316-65-545	NEW-P 84-04-081	326-06-110	NEW 84-09-002
316-45-390	NEW-P 84-04-081	316-65-545	NEW 84-07-037	326-06-120	NEW-P 84-05-033
316-45-390	NEW 84-07-037	316-65-550	NEW-P 84-04-081	326-06-120	NEW-E 84-05-034
316-45-410	NEW-P 84-04-081	316-65-550	NEW 84-07-037	326-06-120	NEW 84-09-002
316-45-410	NEW 84-07-037	316-65-555	NEW-P 84-04-081	326-06-130	NEW-P 84-05-033
316-45-430	NEW-P 84-04-081	316-65-555	NEW 84-07-037	326-06-130	NEW-E 84-05-034
316-45-430	NEW 84-07-037	316-65-560	NEW-P 84-04-081	326-06-130	NEW 84-09-002
316-45-550	NEW-P 84-04-081	316-65-560	NEW 84-07-037	326-06-140	NEW-P 84-05-033
316-45-550	NEW 84-07-037	316-75-001	NEW-P 84-04-081	326-06-140	NEW-E 84-05-034
316-55-001	NEW-P 84-04-081	316-75-001	NEW 84-07-037	326-06-140	NEW 84-09-002
316-55-001	NEW 84-07-037	316-75-010	NEW-P 84-04-081	326-06-160	NEW-P 84-05-033
316-55-010	NEW-P 84-04-081	316-75-010	NEW 84-07-037	326-06-160	NEW-E 84-05-034
316-55-010	NEW 84-07-037	316-75-030	NEW-P 84-04-081	326-06-160	NEW 84-09-002
316-55-020	NEW-P 84-04-081	316-75-030	NEW 84-07-037	326-08-010	NEW-P 84-05-033
316-55-020	NEW 84-07-037	316-75-050	NEW-P 84-04-081	326-08-010	NEW-E 84-05-034
316-55-030	NEW-P 84-04-081	316-75-050	NEW 84-07-037	326-08-010	NEW 84-09-002
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316-55-050	NEW-P 84-04-081	316-75-070	NEW 84-07-037	326-08-020	NEW-E 84-05-034
316-55-050	NEW 84-07-037	316-75-090	NEW-P 84-04-081	326-08-020	NEW 84-09-002
316-55-070	NEW-P 84-04-081	316-75-090	NEW 84-07-037	326-08-030	NEW-P 84-05-033
316-55-070	NEW 84-07-037	316-75-110	NEW-P 84-04-081	326-08-030	NEW-E 84-05-034
316-55-090	NEW-P 84-04-081	316-75-110	NEW 84-07-037	326-08-030	NEW 84-09-002
316-55-090	NEW 84-07-037	316-75-130	NEW-P 84-04-081	326-08-040	NEW-P 84-05-033
316-55-110	NEW-P 84-04-081	316-75-130	NEW 84-07-037	326-08-040	NEW-E 84-05-034
316-55-110	NEW 84-07-037	316-75-150	NEW-P 84-04-081	326-08-040	NEW 84-09-002
316-55-130	NEW-P 84-04-081	316-75-150	NEW 84-07-037	326-08-050	NEW-P 84-05-033
316-55-130	NEW 84-07-037	316-75-170	NEW-P 84-04-081	326-08-050	NEW-E 84-05-034
316-55-150	NEW-P 84-04-081	316-75-170	NEW 84-07-037	326-08-050	NEW 84-09-002
316-55-150	NEW 84-07-037	316-75-190	NEW-P 84-04-081	326-08-060	NEW-P 84-05-033
316-55-160	NEW-P 84-04-081	316-75-190	NEW 84-07-037	326-08-060	NEW-E 84-05-034
316-55-160	NEW 84-07-037	316-75-210	NEW-P 84-04-081	326-08-060	NEW 84-09-002
316-55-170	NEW-P 84-04-081	316-75-210	NEW 84-07-037	326-08-070	NEW-P 84-05-033
316-55-170	NEW 84-07-037	316-75-230	NEW-P 84-04-081	326-08-070	NEW-E 84-05-034
316-55-500	NEW-P 84-04-081	316-75-230	NEW 84-07-037	326-08-070	NEW 84-09-002
316-55-500	NEW 84-07-037	316-75-250	NEW-P 84-04-081	326-08-080	NEW-P 84-05-033
316-55-505	NEW-P 84-04-081	316-75-250	NEW 84-07-037	326-08-080	NEW-E 84-05-034
316-55-505	NEW 84-07-037	316-75-270	NEW-P 84-04-081	326-08-080	NEW 84-09-002
316-55-510	NEW-P 84-04-081	316-75-270	NEW 84-07-037	326-08-090	NEW-P 84-05-033
316-55-510	NEW 84-07-037	316-75-290	NEW-P 84-04-081	326-08-090	NEW-E 84-05-034
316-55-515	NEW-P 84-04-081	316-75-290	NEW 84-07-037	326-08-090	NEW 84-09-002
316-55-515	NEW 84-07-037	316-75-310	NEW-P 84-04-081	326-08-100	NEW-P 84-05-033
316-55-520	NEW-P 84-04-081	316-75-310	NEW 84-07-037	326-08-100	NEW-E 84-05-034
316-55-520	NEW 84-07-037	326-02-030	AMD-P 84-05-033	326-08-100	NEW 84-09-002
316-55-525	NEW-P 84-04-081	326-02-030	AMD-E 84-05-034	326-08-110	NEW-P 84-05-033
316-55-525	NEW 84-07-037	326-02-030	AMD 84-09-002	326-08-110	NEW-E 84-05-034
316-55-600	NEW-P 84-04-081	326-06-010	NEW-P 84-05-033	326-08-110	NEW 84-09-002
316-55-600	NEW 84-07-037	326-06-010	NEW-E 84-05-034	326-08-120	NEW-P 84-05-033
316-65-001	NEW-P 84-04-081	326-06-010	NEW 84-09-002	326-08-120	NEW-E 84-05-034
316-65-001	NEW 84-07-037	326-06-020	NEW-P 84-05-033	326-08-120	NEW 84-09-002
316-65-010	NEW-P 84-04-081	326-06-020	NEW-E 84-05-034	326-08-130	NEW-P 84-05-033
316-65-010	NEW 84-07-037	326-06-020	NEW 84-09-002	326-08-130	NEW-E 84-05-034
316-65-030	NEW-P 84-04-081	326-06-030	NEW-P 84-05-033	326-08-130	NEW 84-09-002
316-65-030	NEW 84-07-037	326-06-030	NEW-E 84-05-034	326-20-050	AMD-P 84-05-033
316-65-050	NEW-P 84-04-081	326-06-030	NEW 84-09-002	326-20-050	AMD-E 84-05-034
316-65-050	NEW 84-07-037	326-06-040	NEW-P 84-05-033	326-20-050	AMD 84-09-002
316-65-090	NEW-P 84-04-081	326-06-040	NEW-E 84-05-034	326-20-060	AMD-P 84-05-033
316-65-090	NEW 84-07-037	326-06-050	NEW 84-09-002	326-20-060	AMD-E 84-05-034
316-65-110	NEW-P 84-04-081	326-06-050	NEW-P 84-05-033	326-20-060	AMD 84-09-002
316-65-110	NEW 84-07-037	326-06-050	NEW-E 84-05-034	326-20-180	AMD-P 84-05-033
316-65-130	NEW-P 84-04-081	326-06-050	NEW 84-09-002	326-20-180	AMD-E 84-05-034
316-65-130	NEW 84-07-037	326-06-060	NEW-P 84-05-033	326-20-180	AMD 84-09-002
316-65-150	NEW-P 84-04-081	326-06-060	NEW-E 84-05-034	326-20-210	AMD-P 84-05-033
316-65-150	NEW 84-07-037	326-06-060	NEW 84-09-002	326-20-210	AMD-E 84-05-034
316-65-500	NEW-P 84-04-081	326-06-070	NEW-P 84-05-033	326-20-210	AMD 84-09-002
316-65-500	NEW 84-07-037	326-06-070	NEW-E 84-05-034	326-30-010	NEW 84-03-005
316-65-510	NEW-P 84-04-081	326-06-070	NEW 84-09-002	326-30-020	NEW 84-03-005

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326-30-030	NEW	84-03-005	352-60-050	NEW-P	84-08-063	360-19-010	NEW	84-03-016
326-30-035	NEW	84-03-005	352-60-060	NEW-E	84-07-030	360-19-020	NEW	84-03-016
326-30-040	NEW	84-03-005	352-60-060	NEW-P	84-08-063	360-19-030	NEW	84-03-016
326-30-050	NEW	84-03-005	352-60-070	NEW-E	84-07-030	360-19-040	NEW	84-03-016
326-30-060	NEW	84-03-005	352-60-070	NEW-P	84-08-063	360-19-050	NEW	84-03-016
326-30-070	NEW	84-03-005	352-60-080	NEW-E	84-07-030	360-19-060	NEW	84-03-016
326-30-080	NEW	84-03-005	352-60-080	NEW-P	84-08-063	360-19-070	NEW	84-03-016
326-30-090	NEW	84-03-005	352-60-090	NEW-E	84-07-030	360-19-080	NEW	84-03-016
326-30-100	NEW	84-03-005	352-60-090	NEW-P	84-08-063	360-19-090	NEW	84-03-016
326-30-100	AMD-P	84-03-048	352-60-100	NEW-E	84-07-030	360-19-100	NEW	84-03-016
326-30-100	AMD-E	84-03-049	352-60-100	NEW-P	84-08-063	360-36-400	NEW-P	84-06-067
326-30-100	AMD-P	84-05-033	352-60-110	NEW-E	84-07-030	360-36-410	NEW-P	84-06-067
326-30-100	AMD-E	84-05-034	352-60-110	NEW-P	84-08-063	360-36-420	NEW-P	84-06-067
326-30-100	AMD	84-06-017	356-06-010	AMD-E	84-04-021	360-36-430	NEW-P	84-06-067
326-30-100	AMD	84-09-002	356-06-010	AMD-P	84-04-073	360-36-440	NEW-P	84-06-067
326-30-110	NEW	84-03-005	356-06-010	AMD-P	84-06-049	360-36-450	NEW-P	84-06-067
326-40	NEW-C	84-03-002	356-06-010	AMD-C	84-07-003	388-08-00101	REP	84-05-040
326-40-010	NEW-E	84-05-034	356-06-010	AMD-C	84-09-049	388-08-002	REP	84-05-040
326-40-010	NEW	84-05-054	356-06-050	AMD-P	84-06-049	388-08-00201	NEW	84-05-040
326-40-020	NEW-E	84-05-034	356-06-050	AMD-C	84-09-049	388-08-00401	AMD	84-05-040
326-40-020	NEW	84-05-054	356-06-055	AMD-P	84-06-049	388-08-006	AMD	84-05-040
326-40-100	NEW-P	84-05-033	356-06-055	AMD-C	84-09-049	388-08-00601	AMD	84-05-040
326-40-100	NEW-E	84-05-034	356-07-020	AMD	84-04-022	388-08-010	AMD	84-05-040
326-40-100	NEW	84-09-002	356-10-040	AMD-P	84-08-035	388-08-050	REP	84-05-040
330-01	NEW-C	84-07-008	356-15-060	AMD-E	84-04-020	388-08-055	REP	84-05-040
330-01-010	NEW-P	84-03-041	356-15-060	AMD	84-05-024	388-08-080	REP	84-05-040
330-01-010	NEW-E	84-03-042	356-15-100	AMD-P	84-08-035	388-08-083	REP	84-05-040
330-01-010	NEW	84-07-034	356-15-110	AMD-P	84-08-035	388-08-150	REP	84-05-040
330-01-020	NEW-P	84-03-041	356-18-050	AMD	84-04-022	388-08-160	REP	84-05-040
330-01-020	NEW-E	84-03-042	356-18-070	AMD-C	84-04-019	388-08-170	REP	84-05-040
330-01-020	NEW	84-07-034	356-18-070	AMD-C	84-07-003	388-08-180	REP	84-05-040
330-01-030	NEW-P	84-03-041	356-18-070	AMD-C	84-09-049	388-08-190	REP	84-05-040
330-01-030	NEW-E	84-03-042	356-18-090	AMD-P	84-04-073	388-08-200	REP	84-05-040
330-01-030	NEW	84-07-034	356-18-090	AMD-C	84-07-003	388-08-210	REP	84-05-040
330-01-040	NEW-P	84-03-041	356-18-090	AMD-C	84-09-049	388-08-220	REP	84-05-040
330-01-040	NEW-E	84-03-042	356-26-030	AMD-P	84-06-049	388-08-230	REP	84-05-040
330-01-040	NEW	84-07-034	356-26-030	AMD-C	84-09-049	388-08-235	REP	84-05-040
330-01-050	NEW-P	84-03-041	356-26-070	AMD-P	84-06-049	388-08-375	REP	84-05-040
330-01-050	NEW-E	84-03-042	356-26-070	AMD-C	84-09-049	388-08-390	REP	84-05-040
330-01-050	NEW	84-07-034	356-30-065	NEW-C	84-04-019	388-08-400	REP	84-05-040
330-01-060	NEW-P	84-03-041	356-30-065	NEW-C	84-07-003	388-08-405	AMD	84-05-040
330-01-060	NEW-E	84-03-042	356-30-065	NEW-C	84-09-049	388-08-406	AMD	84-05-040
330-01-060	NEW	84-07-034	356-30-080	AMD-P	84-04-073	388-08-407	REP	84-05-040
330-01-070	NEW-P	84-03-041	356-30-080	AMD-C	84-07-003	388-08-408	REP	84-05-040
330-01-070	NEW-E	84-03-042	356-30-080	AMD-C	84-09-049	388-08-409	AMD	84-05-040
330-01-070	NEW	84-07-034	356-30-130	AMD-E	84-04-021	388-08-413	AMD	84-05-040
330-01-080	NEW-P	84-03-041	356-30-130	AMD-P	84-04-073	388-08-414	REP	84-05-040
330-01-080	NEW-E	84-03-042	356-30-130	AMD-C	84-07-003	388-08-416	AMD	84-05-040
330-01-080	NEW	84-07-034	356-30-145	AMD-P	84-08-035	388-08-420	REP	84-05-040
330-01-090	NEW-P	84-03-041	356-30-230	AMD-P	84-06-049	388-08-430	REP	84-05-040
330-01-090	NEW-E	84-03-042	356-30-260	AMD-P	84-06-048	388-08-440	REP	84-05-040
330-01-090	NEW	84-07-034	356-30-260	AMD-C	84-09-049	388-08-450	REP	84-05-040
332-26-010	NEW-E	84-09-014	356-30-305	AMD-P	84-06-049	388-08-470	REP	84-05-040
332-30-108	NEW-P	84-06-068	356-30-305	AMD-C	84-09-049	388-08-480	REP	84-05-040
352-04-010	AMD	84-04-035	356-30-320	AMD-P	84-06-049	388-08-490	REP	84-05-040
352-12-020	AMD-P	84-04-082	356-30-320	AMD-C	84-09-049	388-08-500	REP	84-05-040
352-12-020	AMD	84-09-045	356-46-060	AMD	84-04-022	388-08-503	REP	84-05-040
352-16-020	AMD-C	84-04-036	356-46-130	AMD-P	84-06-049	388-08-510	REP	84-05-040
352-16-020	AMD	84-08-016	356-49-010	NEW-P	84-06-049	388-08-520	REP	84-05-040
352-28	AMD-C	84-04-037	356-49-010	NEW-C	84-09-049	388-08-600	REP	84-05-040
352-28-005	NEW	84-08-017	356-49-020	NEW-P	84-06-049	388-09-010	AMD	84-05-040
352-28-010	AMD	84-08-017	356-49-020	NEW-C	84-09-049	388-09-020	AMD	84-05-040
352-28-020	AMD	84-08-017	356-49-030	NEW-P	84-06-049	388-09-040	NEW	84-05-040
352-32-035	AMD-P	84-04-082	356-49-030	NEW-C	84-09-049	388-15-610	AMD-P	84-09-015
352-32-035	AMD	84-09-045	356-49-040	NEW-P	84-06-049	388-15-620	AMD-P	84-09-015
352-32-250	AMD-P	84-04-082	356-49-040	NEW-C	84-09-049	388-15-630	AMD-P	84-09-015
352-32-250	AMD	84-09-045	360-12-015	AMD	84-04-029	388-24-044	AMD-P	84-06-026
352-44	REVIEW	84-09-046	360-12-065	AMD	84-03-015	388-24-044	AMD	84-09-074
352-60-010	NEW-E	84-07-030	360-16-025	NEW-P	84-08-080	388-28-400	AMD-P	84-04-003
352-60-010	NEW-P	84-08-063	360-16-025	NEW-E	84-08-082	388-28-400	AMD	84-07-019
352-60-020	NEW-E	84-07-030	360-16-150	AMD-P	84-08-081	388-28-410	AMD-P	84-04-003
352-60-020	NEW-P	84-08-063	360-16-230	AMD	84-03-015	388-28-410	AMD	84-07-019
352-60-030	NEW-E	84-07-030	360-16-240	AMD-P	84-08-080	388-28-415	AMD-P	84-04-003
352-60-030	NEW-P	84-08-063	360-16-240	AMD-E	84-08-082	388-28-415	AMD	84-07-019
352-60-040	NEW-E	84-07-030	360-16-260	REP	84-03-016	388-28-420	AMD-P	84-04-003
352-60-040	NEW-P	84-08-063	360-18-020	AMD-E	84-03-017	388-28-420	AMD	84-07-019
352-60-050	NEW-E	84-07-030	360-18-020	AMD	84-04-030	388-28-430	AMD-P	84-04-003

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388-28-430	AMD	84-07-019	388-81-052	AMD	84-04-068
388-28-435	NEW-P	84-04-003	388-82-115	AMD	84-04-069
388-28-435	NEW	84-07-019	388-82-130	AMD	84-02-055
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388-28-438	NEW	84-07-019	388-83-036	AMD-P	84-04-004
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