

FEBRUARY 20, 1991

OLYMPIA, WASHINGTON

ISSUE 91-04



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filed not later than February 6, 1991

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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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

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of February 1991 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1991 pursuant to RCW 63.14.130(1)(a) is thirteen point seven five percent (13.75%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is thirteen point two five percent (13.25%) for the first calendar quarter of 1991.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is twelve point seven five percent (12.75%) for the first calendar quarter of 1991.

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 \$161.85 per year, sales tax included, post-paid to points in the United States. Second-class postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES 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.

Raymond W. Haman
Chairman, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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 34.05 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 are 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 MATERIAL

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

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

6. EDITORIAL CORRECTIONS

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

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.

1990 – 1991

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing 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 on or after
90-14	Jun 7	Jun 21	Jul 5	Jul 18	Aug 7
90-15	Jun 20	Jul 5	Jul 18	Aug 1	Aug 21
90-16	Jul 5	Jul 18	Aug 1	Aug 15	Sep 4
90-17	Jul 25	Aug 8	Aug 22	Sep 5	Sep 25
90-18	Aug 8	Aug 22	Sep 5	Sep 19	Oct 9
90-19	Aug 22	Sep 5	Sep 19	Oct 3	Oct 23
90-20	Sep 5	Sep 19	Oct 3	Oct 17	Nov 6
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90-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 11
90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 8, 1991
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91-01	Nov 21	Dec 5	Dec 19, 1990	Jan 2, 1991	Jan 22
91-02	Dec 5	Dec 19, 1990	Jan 2, 1991	Jan 16	Feb 5
91-03	Dec 26, 1990	Jan 9, 1991	Jan 23	Feb 6	Feb 26
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91-07	Feb 20	Mar 6	Mar 20	Apr 3	Apr 23
91-08	Mar 6	Mar 20	Apr 3	Apr 17	May 7
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91-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1992

¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

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

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

WSR 91-03-084
EMERGENCY RULES
PIERCE COLLEGE
 [Filed January 17, 1991, 4:45 p.m.]

Date of Adoption: January 9, 1991.

Purpose: To protect the welfare of the student population and the college community.

Citation of Existing Rules Affected by this Order: Repealing chapter 132K-16 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Public Law 101-226.

Effective Date of Rule: Immediately.

January 17, 1991
 Frank B. Brouillet
 President

Chapter 132K-16 WAC
STUDENT RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 132K-16-110 INTRODUCTION. Broadly stated, the purpose of Pierce College, District No. 11, is to provide opportunities for all who desire to pursue educational goals. To implement this objective, it is necessary to insure that an environment is created wherein all students may progress in accordance with their capabilities and intensity of interest. The responsibility to create and maintain such an environment is shared by all members of the college; students, faculty and administration.

NEW SECTION

WAC 132K-16-120 DEFINITIONS. As used in this chapter, the following words and phrases shall be defined as follows:

(1) **Academic dishonesty.** "Academic dishonesty" shall mean plagiarism, cheating on examinations, fraudulent representation of student work product or other similar act of academic dishonesty.

(2) **Alcoholic beverages.** "Alcoholic beverages" shall mean the definition of liquor as contained in RCW 66.04.010(15) as now law or hereafter amended.

(3) **Assembly.** "Assembly" shall mean any overt activity engaged in by two (2) or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

(4) **ASPC.** "ASPC" shall mean the associated students of Pierce College as defined in the constitution of that body.

(5) **Board.** "Board" shall mean the Board of Trustees of Community College District No. 11, state of Washington.

(6) **Chief administrative officer.** "Chief administrative officer" shall mean the President of Pierce College and President of Community College District No. 11, state of Washington.

(7) **College.** "College" shall mean Pierce College, and any other community college center or facilities established within Community College District No. 11.

(8) **College facilities.** "College facilities" shall mean and include any and all personal property and real property including all buildings and appurtenances affixed thereon or attached thereto district-wide.

(9) **Dean of Students.** "Dean of Students" shall mean the Dean of Students at Pierce College or his or her designee(s).

(10) **Demonstrations.** "Demonstrations" shall mean any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause of disseminate information to any person, persons, or group of persons.

(11) **Disciplinary action.** "Disciplinary action" shall mean and include the warning, reprimand, probation, suspension, dismissal or expulsion of any student by the Dean of Students or the college disciplinary committee, issued pursuant to this chapter for the violation of any law or designated rule or regulation of college policy or the rules of conduct for which a student is subject to disciplinary action.

(12) **Controlled substance.** "Controlled substance" shall mean and include any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(13) **Faculty.** "Faculty" shall mean and include any full-time or part-time academic employee of the district whose assignment is one of a combination of instruction, counseling, or library services.

(14) **Rules of conduct.** "Rules of conduct" shall mean those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary action.

(15) **Student.** "Student," unless otherwise qualified, shall mean and include any person who is registered for classes at the college.

(16) **College disciplinary committee.** "College disciplinary committee" shall mean the judicial body provided in this chapter.

(17) **Trespass.** "Trespass" shall mean the definition of trespass as contained in chapter 9A.52 RCW as now law or hereafter amended.

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

NEW SECTION

WAC 132K-16-130 JURISDICTION. (1) These rules shall apply to every student who is present in our upon any college facility, or who is present and/or engaged in any college-sponsored activity held on or in non-college facilities.

(2) Anyone who breaches, or who aids or abets another in breaching, any provision of this chapter shall be subject to:

- (a) possible prosecution under the state criminal law;
- (b) any other civil or criminal remedies available to the public; and/or
- (c) appropriate disciplinary action as set forth in this chapter or in other college policies and regulations.

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

NEW SECTION

WAC 132K-16-140 STUDENT RIGHTS. As an institution of higher learning, Pierce College is dedicated to maintaining and expressing a spirit of free inquiry. Accordingly, the following enumerated rights are guaranteed to each student within the limits of law and college policy.

(1) Academic freedom.

(a) The right of free inquiry, expression and assembly upon and within college facilities which are generally open and available to the public.

(b) The right to pursue appropriate educational objectives, subject to applicable statutory limits, from among the college's curricula.

(c) The right to freedom from academic evaluation which is prejudiced, or arbitrary and capricious, although students are individually responsible for meeting the standards of academic performance established by each of their instructors.

(d) The right to freedom from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) The right to be secure in the student's person, quarters, papers and effects against unreasonable searches and seizures.

(b) The right to notice of the nature of any charges against the student prior to imposition of disciplinary sanctions.

(c) The right to procedural due process as described in this chapter, whenever the student is accused of violating any law or a rule or procedure of the college as set forth in the Washington Administrative Code or in other college policies and regulations.

(3) Distribution and posting. The right to distribute or post printed or published material subject to official procedures printed and available in the office of Student Programs and Activities.

(4) Off-campus speakers. The right of recognized student organizations to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures available for inspection in the office of Student Programs and Activities.

NEW SECTION

WAC 132K-16-150 STUDENT RESPONSIBILITIES. Any student may be subject to disciplinary action as described in this chapter if the student, whether as a principle actor or as an aider, abettor or accomplice as defined in RCW 9A.08.020 as now law or hereafter amended, interferes with the personal rights or privileges of others or with the college's educational process; commits any offenses described in this chapter; or otherwise violates any provision of this chapter.

NEW SECTION

WAC 132K-16-160 PERSONAL OFFENSES. (1) Assault, reckless endangerment, etc. Any student who commits the offenses of assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 and 9A.36.070, or in RCW 28B.10.570 through 28B.10.572, as now law or hereafter amended, shall be subject to disciplinary action.

(2) Disorderly, abusive or bothersome conduct. Any student whose conduct interferes with the rights of others or obstructs or disrupts teaching, research or administrative functions shall be subject to disciplinary action.

(3) Inattentiveness/failure to follow instructions. A student's inattentiveness and/or failure to follow an instructor's instructions, when such behavior infringes upon the rights and privileges of other students, is an offense which will subject the violator to disciplinary action.

(4) Illegal assembly, obstruction or disruption. Any assembly or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearing, meetings, the educational and administrative functions of the college, and/or the private rights and privileges of others, is an offense which will subject the violator to disciplinary action.

(5) False complaint. Any student who files a formal complaint, falsely accusing another student or college employee of violating a provision of this chapter, shall be subject to disciplinary action.

(6) False alarm. Any student who falsely sets off or otherwise tampers with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities shall be subject to disciplinary action.

(7) Sexual harassment. Any student who engages in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance, shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-170 PROPERTY OFFENSES. (1) Theft and robbery. Any student who engages in theft or robbery, which is defined as theft of the property of the college or of another as set forth in RCW 9A.56.010 through 9A.56.050 and 9A.56.100, as now law or hereafter amended, shall be subject to disciplinary action.

(2) Malicious mischief. Any student who engages in malicious mischief, which is defined as intentional or negligent damage to or destruction of any college facility or other public or private real or personal property, shall be subject to disciplinary action.

(3) Unauthorized use of college equipment and supplies. Any student who converts college equipment or supplies for personal gain or use, without proper authority, shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-180 CHEATING AND PLAGIARISM. Cheating and plagiarism are offenses which will subject the violator to disciplinary action. Any student who, for the purpose of fulfilling or partially fulfilling any assignment or task required by a college employee as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represented to the college employee as the student's own work product, shall be deemed to have cheated or to have committed plagiarism, and shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-190 FORGERY OR ALTERATION OF COLLEGE RECORDS. Forgery or alteration of college records is an offense which will subject the violator to disciplinary action. Forgery or alteration of college records is defined pursuant to RCW 9A.60.010 through 9A.60.020 as now law or hereafter amended, and is further defined as forging records or tendering forged records (or instruments of any college record) to any college employee or agent acting in his/her official capacity.

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

NEW SECTION

WAC 132K-16-200 REFUSING TO PROVIDE IDENTIFICATION. Any student who refuses to provide identification in appropriate circumstances shall be subject to disciplinary action. Refusing to provide identification in appropriate circumstances is defined as refusing to provide positive identification (e.g., valid driver's license or state identification card) when requested to do so by any college employee acting in the lawful discharge of his/her duties.

NEW SECTION

WAC 132K-16-210 ILLEGAL ENTRY. Illegal entry is an offense which will subject the violator to disciplinary action. Illegal entry is defined as entering, in any manner and at any time, any college administrative or employee's office, or any locked or otherwise closed college facility, without permission of the college employee or agent in charge.

NEW SECTION

WAC 132K-16-220 SMOKING. Smoking in college facilities is prohibited. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-230 ALCOHOL AND CONTROLLED SUBSTANCES. (1) Illicit use of alcohol. Students are prohibited from being under the influence of any form of alcoholic beverage, or from possessing, consuming or distributing any form of alcoholic beverage on college property, with the exception of sanctioned

events, approved by the Dean of Students and in compliance with state law and the college's Alcohol Policy. Violation of this section shall be cause for disciplinary action.

(2) **Controlled substances.** Students are prohibited from using, possessing, being under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use of possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning set forth in RCW 69.50.410 as now law or hereafter amended. Violation of this section shall be cause for disciplinary action.

(3) **Pierce College policy and program.** Pierce College has adopted and implemented a policy and program to prevent the unlawful possession, use or distribution of illicit drugs or alcohol by students. The policy and program statement are on file in the office of the Dean of Students and describe criminal and other sanctions which may be imposed against students and employees for the unlawful possession, use or distribution of illicit drugs or alcohol by students and employees at Pierce College.

NEW SECTION

WAC 132K-16-240 WEAPONS, EXPLOSIVES AND DANGEROUS CHEMICALS. Students are prohibited from the illegal or unauthorized use or possession of any device or substance which can be used to inflict bodily harm or damage to real or personal property. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-250 TRESPASS. (1) Power and authority of Dean of Students. The Dean of Students has the power and authority to withdraw the license or privilege, or prohibit the entry, of any person(s) to enter into or remain in or upon any college property or facility.

(2) **Power and authority—when exercised.** The Dean of Students may exercise his/her power and authority to halt any event which the Dean of Students believes;

(a) is unreasonably disruptive; or

(b) is impeding or will impede the movement of persons or vehicles; or

(c) is disrupting or threatening to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college.

(3) **Sanctions.** Any individual who disobeys a lawful order of the Dean of Students shall be subject to disciplinary action and/or charges of criminal trespass.

NEW SECTION

WAC 132K-16-260 VIOLATION OF OTHER LAWS, RULES OR REGULATIONS. Students are prohibited from violating any other law, rule or regulation of this institution. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-270 DISCIPLINARY ACTION—GENERAL PROVISION. (1) Purpose of disciplinary action. Disciplinary action, up to and including dismissal from the college, may be imposed upon a student for failure to abide by the rules of student conduct as described in this chapter. The form of disciplinary action imposed upon the violator will determine whether and under what conditions the violator may continue as a student at the college.

(2) Delegation of disciplinary authority. The Dean of Students shall have authority to administer the disciplinary action prescribed in this chapter. The college disciplinary committee shall have the authority to review actions taken by the Dean of Students as provided in this chapter. Further administrative review may be taken by the college President as provided in this chapter.

(3) President to be informed. The President shall be informed of all student dismissals, suspensions or probation proceedings undertaken by the Dean of Students or by the college disciplinary committee.

NEW SECTION

WAC 132K-16-280 DISCIPLINARY ACTION—SUMMARY ACTIONS. (1) Summary actions by faculty.

(a) Authority of faculty. Faculty shall have the authority to take such summary actions as may be necessary to maintain order and proper conduct in the classroom, so as to assure the effective cooperation of students in accomplishing the objectives of the course of instruction.

(b) Appeal of summary action by faculty. Summary actions by faculty may be appealed to the Dean of Students within five (5) working days after the contested action(s), and shall be reviewed de novo and informally by the Dean of Students within five (5) working days after the request is submitted. Depending upon the penalty involved, the decision may be further appealed as provided in this chapter.

(2) Summary actions by Dean of Students.

(a) Authority of Dean of Students. The Dean of Students shall have the authority to take such summary actions as may be necessary to maintain order and proper conduct in any college building, on any college site, and in or on any building or premises utilized by the college for a college activity.

(b) Appeal of summary actions by Dean of Students. Summary actions by the Dean of Students may be appealed for reconsideration to the Dean of Students within five (5) working days after the contested action(s), and shall be reviewed within five (5) working days after the request is submitted. Depending upon the penalty involved, the decision may be further appealed as provided in this chapter.

(3) Summary suspension by Dean of Students. The Dean of Students is also authorized to summarily suspend a student under the provisions of this chapter.

NEW SECTION

WAC 132K-16-290 NONSUMMARY DISCIPLINARY ACTION—INITIAL ACTION BY DEAN OF STUDENTS. (1) Written requests referred to Dean of Students.

(a) How and when made. A request for disciplinary action for violating the rules of student conduct may be referred in writing to the Dean of Students within twenty (20) days of discovery of the facts giving rise to the request. Such a request may be made by any member of the administration, faculty, or college personnel or any student. All such requests must be in writing and signed by the individual making the request.

(b) How and when conducted. The Dean of Students shall conduct either an informal conference or a brief adjudicative proceeding, depending upon the contemplated penalties as provided in this chapter, within ten (10) working days after the initial request for disciplinary action has been referred to the Dean of Students, subject to the notice requirements of WAC 132K-16-320.

(2) Initial meeting with Dean of Students. Any student accused of violating any provision of law, college policy, or rules of conduct may be called for an informal conference with the Dean of Students, and shall be informed of the charges and what appear to be the range of penalties, if any, which might result from disciplinary proceedings.

(3) Action to be taken by Dean of Students. If the accused student has appeared at the scheduled conference, after interviewing the accused student and considering the evidence in the case, the Dean of Students may take any of the following actions:

(a) terminate the proceeding, exonerating the student;

(b) dismiss the case after whatever counseling and advice the Dean of Students deems appropriate;

(c) impose verbal warning to the student directly, not subject to the student's right of appeal as provided in this chapter; or

(d) impose additional sanctions of reprimand, probation, limited dismissal or expulsion, subject to the requirements of a brief or full adjudicative proceeding as required by this chapter and subject to the student's right of administrative appeal as provided in this chapter.

(4) Verbal warnings. Prior to taking disciplinary action in a brief adjudicative proceeding, the Dean of Students may, but is not required to, give one or more verbal warning(s) to a student, notifying the student that he or she has violated a law and/or the college's established policy or rules of conduct. Such verbal warning(s) shall imply that continuing or repeated violations, or other misconduct, will result in more serious disciplinary action as provided in this chapter. No formal files or records will be kept on verbal warnings.

NEW SECTION

WAC 132K-16-300 BRIEF ADJUDICATIVE PROCEEDINGS BEFORE DEAN OF STUDENTS.

(1) Penalties triggering need for brief adjudicative proceedings. Brief adjudicative proceedings shall be conducted by the Dean of Students when it is anticipated that the following disciplinary actions, as further described in WAC 132K-16-310, will be imposed upon violators of the rules of conduct established in this chapter or in other laws or college policy, rules or regulations:

- (a) Disciplinary reprimand.
- (b) Disciplinary probation.
- (c) Limited dismissal.

(2) Notice. Notice must be given to the student in writing, pursuant to the requirements of WAC 10-08-040 and WAC 132K-16-320.

(3) Oral decision. At the conclusion of the brief adjudicative proceeding, the Dean of Students shall announce his/her decision, including a brief statement of reasons for the decision.

(4) Initial order and notice of opportunity for review.

(a) Written findings of fact and conclusions of law. Within ten (10) days of the decision taken at the brief adjudicative proceeding, the Dean of Students shall give the parties a brief written statement of findings of fact, conclusions of law and recommendations regarding whether the student violated any law or college policy, rules or regulations, and the imposition of applicable penalties. Such written decision shall constitute an initial order.

(b) Notice of opportunity for administrative review. The initial order shall also advise the student of his/her right to present, within twenty-one (21) calendar days, a written or oral request to the college disciplinary committee appealing the decision of the Dean of Students.

(5) Final order. If no review is taken of the initial order as authorized in this chapter, the initial order shall become a final order.

(6) Refund of fees. There shall be no refund of fees for the quarter in which disciplinary action is taken, but fees paid in advance for a subsequent quarter will be refunded.

(7) Transformation of proceeding—expulsion. If an action is commenced as a lesser disciplinary action in a brief adjudicative proceeding, and it becomes apparent that the recommended discipline will be expulsion from the college, the student shall be entitled to a full adjudicative proceeding before the college disciplinary committee. In such case, the Dean of Students shall, pursuant to the requirements of RCW 34.05.410 *et seq.* and subject to the notice provisions of WAC 10-08-040 and WAC 132K-16-320, reschedule another hearing before the college disciplinary committee for a full adjudicative proceeding.

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

NEW SECTION

WAC 132K-16-310 BRIEF ADJUDICATIVE PROCEEDINGS—PENALTIES WHICH MAY BE IMPOSED. Other than verbal warnings and/or an informal meeting with the Dean of Students, disciplinary

action may result in the following penalties subsequent to a brief adjudicative proceeding:

(1) Disciplinary reprimand. Subsequent to a brief adjudicative proceeding, disciplinary reprimand may be given to a student in writing, with copies placed on file in the office of the Dean of Students. The reprimand shall indicate to the student that continuing or repeating the specific violation involved will result in disciplinary probation, limited dismissal or expulsion, as provided in this chapter.

(2) Disciplinary probation. Subsequent to a brief adjudicative proceeding, disciplinary probation may be imposed upon a student, placing conditions upon the student's continued attendance at the college. The student shall be notified in writing of the disciplinary probation, which writing shall specify the length as well as the conditions of probation, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specific term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college. Copies of the written notification of disciplinary probation shall be placed on file in the office of the Dean of Students.

(3) Limited dismissal. Subsequent to a brief adjudicative proceeding, limited dismissal may be imposed upon a student, temporarily dismissing the student from the college and terminating the person's student status. The student shall be notified in writing of the limited dismissal, which writing shall specify the duration of dismissal shall be placed on file in the office of the Dean of Students.

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

NEW SECTION

WAC 132K-16-320 NOTICE TO PARTIES. Notice to the parties of disciplinary proceedings, other than verbal warnings or an informal conference with the Dean of Students, shall be served in accord with the requirements of WAC 10-08-040, and not less than seven (7) days before the date set for hearing. Said notice shall contain:

(1) a statement of the time, place and nature of the disciplinary proceeding;

(2) a statement of the charges, including reference to the particular sections of the law, college policy, or rules or regulations of student conduct involved;

(3) to the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the proceeding.

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

NEW SECTION

WAC 132K-16-330 BRIEF ADJUDICATIVE PROCEEDINGS—GENERAL. (1) Closed session. All disciplinary proceedings shall generally be held in closed

session except when a student requests that persons other than those directly involved be invited to attend.

(2) Proceedings before Dean of Students and college disciplinary committee. Brief adjudicative proceedings, as described in this chapter and in RCW 34.05.482 through 34.05.485, as now law or hereafter amended, may be heard by the Dean of Students and by the college disciplinary committee. The college disciplinary committee will hear, de novo, all disciplinary cases appealed after a decision by the Dean of Students.

(3) Continuances. In the case of proceedings conducted by the Dean of Students, the time of the hearing may be advanced by the Dean of Students and in his/her discretion, at the request of the student, or may be continued for good cause. In the case of review proceedings conducted by the college disciplinary committee, the time of the hearing may be advanced by the committee's presiding officer, in his/her discretion, at the request of the student, or may be continued for good cause.

(4) Legal representation of student. The student may be represented by counsel of choice at brief adjudicative proceedings. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as counsel, the student must tender four (4) working days' notice to the Dean of Students prior to the proceeding. The time period begins to run on the day following receipt of such notice by the Dean of Students.

(5) Legal representation of college. In all disciplinary proceedings, the college may be represented by a designee appointed by the Dean of Students, provided that in those cases in which the student chooses to be represented by a licensed attorney, the Dean of Students may elect to have the college represented by an assistant attorney general.

(6) Student's failure to cooperate with hearing procedures. An accused student has a right to fair and impartial proceedings when charged with violating the law, college policy, or rules and regulations concerning student conduct. The student's failure to cooperate with the hearing procedures, however, shall not preclude the Dean of Students, and shall not preclude the college disciplinary committee, from making findings of fact, conclusions and recommendations as provided in this chapter. Failure by the student to cooperate may be taken into consideration by the Dean of Students or by the college disciplinary committee.

(7) Disruption of proceeding. If at any time during the conduct of any disciplinary proceeding invited guests are disruptive, the Dean of Students or the presiding officer of the disciplinary committee may ask such persons to cease and desist. Any guest who continues to disrupt the proceedings, after a cease-and-desist request by the Dean of Students or by the presiding officer of the disciplinary committee, shall be subject to disciplinary action.

(8) Right of review. Following brief adjudicative proceedings conducted by the Dean of Students, students shall have the right to a review of such decision by the college disciplinary committee as provided in this chapter and as set forth in RCW 34.05.488 through 34.05.494. Further administrative review of the decision may

be taken by the college President as provided in this chapter.

NEW SECTION

WAC 132K-16-340 BRIEF ADJUDICATIVE PROCEEDINGS—PRESENTATION OF EVIDENCE. (1) Rights of students. At brief adjudicative proceedings, the student shall be entitled to hear and examine the evidence against him/her, to be informed of the identity of the source of evidence against him/her, to present evidence in the student's own behalf, and to explain the student's view of the matter. Presentation of evidence at full adjudicative proceedings shall be governed by the requirements of RCW 34.05.413 through 34.05.476, and by the requirements of chapter 10-08 WAC.

(2) Sufficient cause for finding of guilt.

(a) Presence of accused student. When determining whether there is sufficient cause to believe that the accused student has violated the laws, policy, rules or regulations the student is charge with violating, and except in cases where the student fails to attend the proceeding after receiving proper notice, the Dean of Students or the college disciplinary committee may consider only those mattes presented at the proceeding in the presence of the accused student.

(b) Evidence on which reasonably prudent persons are accustomed to rely. In determining the existence of sufficient cause, the Dean of Students or the college disciplinary committee shall give probative effect to evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

(3) Rulings. The Dean of Students or the presiding officer of the college disciplinary committee, as the case may be, shall make rulings on all evidentiary and procedural matters heard in the course of brief adjudicative proceedings.

(4) Privilege. While presiding at brief adjudicative proceedings, the Dean of Students or the disciplinary committee's presiding officer shall give effect to the rules of privilege recognized by law.

(5) Mitigation. Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented.

(6) Exclusion of evidence. While presiding at brief adjudicative proceedings, the Dean of Students or the disciplinary committee's presiding officer shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

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

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

NEW SECTION

WAC 132K-16-350 RECORD OF PROCEEDINGS. (1) Record at proceedings heard by Dean of Students. At brief adjudicative proceedings conducted

by the Dean of Students, the record shall consist of any documents regarding matters that were considered or prepared by the Dean of Students for the proceedings.

(2) Record at proceedings heard by college disciplinary committee.

(a) Notes of proceeding. At brief adjudicative proceedings conducted by the college disciplinary committee, the presiding officer shall designate a recorder to take notes during the proceedings and to prepare a written summary of all evidence, facts, and testimony presented to the committee during the proceeding. A copy of such summary shall be available at the Office of the Dean of Students.

(b) Tape-recording. Brief adjudicative proceedings before the college disciplinary committee shall also be tape-recorded.

(c) Documentary record. Any documents considered or prepared by the committee's presiding officer for the brief adjudicative proceeding shall be maintained as part of the official record of the proceeding.

(3) Documentary record not exclusive basis for action. Unless otherwise required by a provision of law, the documentary record in brief adjudicative proceedings need not constitute the exclusive basis for action of the Dean of Students or of the college disciplinary committee.

NEW SECTION

WAC 132K-16-360 REVIEW GENERALLY—TYPES OF APPEALS. Appeals contesting any disciplinary action may be taken in the following order:

(1) Appeals from summary actions by faculty. Summary disciplinary actions by faculty may be appealed to the Dean of Students who, at the request of the student(s), will hear the case informally and de nono, pursuant to WAC 132K-16-280. Depending upon the penalty involved, further review proceedings may be taken as provided in this chapter.

(2) Appeals from summary actions by Dean of Student. Summary disciplinary actions by the Dean of Students, pursuant to WAC 132K-16-280. Depending upon the penalty involved, further review proceedings may be taken as provided in this chapter.

(3) Appeals to college disciplinary committee. Disciplinary actions taken at a brief adjudicative proceeding by the Dean of Students may be appealed to the college disciplinary committee which, at the request of the student, will hear the case de nono.

(4) Appeals to college President. Disciplinary actions taken at a brief adjudicative proceeding by the college disciplinary committee may be appealed to the President of the college. The President shall review the record of the proceedings which gave rise to the appeal, as well as the recommendations made by the Dean of Students and the college disciplinary committee. The President's decision shall be final.

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

NEW SECTION

WAC 132K-16-370 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—COMPOSITION OF COMMITTEE. (1) Membership—how selected. The college shall have a college disciplinary committee composed of six members plus the presiding officer who shall be chosen no later than October 15 of each academic year. Members of the college disciplinary committee shall be selected in the following manner:

(a) Two (2) student members and two (2) alternates, each of whom shall be a full-time student who is in good academic standing, appointed by the ASPC Student Senate to serve a one (1) academic year term.

(b) Two (2) faculty members and an alternate chosen by the Faculty Association to serve two (2) year, non-concurrent terms.

(c) One (1) staff member chosen by the classified staff executive committee to serve a two (2) year term.

(d) One (1) administrator appointed by the President to serve a one (1) year term.

(2) Presiding officer. The presiding officer of the college disciplinary committee shall be the Dean of Students or his/her designee.

(3) Vacancies. A vacancy in the college disciplinary committee membership shall be filled by the group affected by the vacancy.

(4) Voting. Each committee member, excluding the presiding officer, shall cast one vote. In case of a tie, the presiding officer shall cast the deciding vote.

(5) Abstaining. If any member of the college disciplinary committee is unable to consider the matters raised in a particular disciplinary proceeding for any reason (including but not limited to conflict of interest and matters of conscience or related reason), such member(s) shall abstain from participation. The members of the college disciplinary committee shall make temporary appointments where members abstain.

(6) Quorum. A quorum consisting of a majority shall be required for all proceedings. For purposes of establishing a quorum, the college disciplinary committee shall consist of the presiding officer, or his/her designee(s), and at least four (4) committee members.

NEW SECTION

WAC 132K-16-380 PROCEEDINGS BEFORE COLLEGE DISCIPLINARY COMMITTEE—GENERALLY. (1) Notice. Notice of proceedings to be held before the college disciplinary committee must be given to the parties in writing, pursuant to the requirements of WAC 10-08-040 and WAC 132K-16-320.

(2) Refund of fees. There shall be no refund of fees for the quarter in which disciplinary action is taken, but fees paid in advance for a subsequent quarter will be refunded.

(3) Brief adjudicative proceedings. Action taken by the Dean of Students may be reviewed by the college disciplinary committee in a brief adjudicative proceeding as provided in RCW 34.05.485 through 34.05.494 and this chapter.

(4) Full adjudicative proceedings—expulsion. Pursuant to the requirements of RCW 34.05.410 et seq. and

chapter 10-08 WAC, a student may be expelled from the college only after the student has had the benefit of a full adjudicative proceeding.

(5) Transformation of proceeding. If the action is commenced a lesser disciplinary action in a brief adjudicative proceeding, the presiding officer shall transform the hearing into a full adjudicative proceeding when it becomes apparent that the recommended discipline will be expulsion from the college.

NEW SECTION

WAC 132K-16-390 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—GENERALLY. (1) Voluntary review. A decision of the Dean of Students may be reviewed by the college disciplinary committee on the committee's own motion within twenty (20) days of the date of an initial order entered by the Dean of Students. However, the college disciplinary committee may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(2) Mandatory review.

(a) Review by college disciplinary committee. A decision by the Dean of Students must be reviewed by the college disciplinary committee upon the accused student's written request, where such request is received by the committee within twenty-one (21) days after service of the Dean of Students' initial order. The college disciplinary committee must conduct a brief adjudicative review proceeding and enter a written order on review within twenty (20) days after the request is submitted to the committee, subject to the notice requirements of chapter WAC 10-08-040 and WAC 132K-16-320.

(3) Conduct of review proceedings. Pursuant to the requirements of this chapter and RCW 34.05.491, the presiding officer of the college disciplinary committee shall give each party an opportunity to explain the party's view of the matter and shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing.

NEW SECTION

WAC 132K-16-400 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—DECISION. (1) Majority vote. Upon conclusion of a brief adjudicative proceeding, the college disciplinary committee shall consider all the evidence therein presented and decide by majority vote whether to:

(a) terminate the proceedings, exonerating the student; or

(b) dismiss the case after whatever counseling and advice the committee deems appropriate; or

(c) impose any disciplinary measure a provided in this chapter.

(2) Written decision. The college disciplinary committee must enter a written order on review within twenty (20) days of the date of the request for review. The order shall also advise the parties of their right to

present, within ten (10) calendar days, a written statement to the college President appealing the decision of the disciplinary committee.

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

NEW SECTION

WAC 132K-16-410 REVIEW BY COLLEGE PRESIDENT. (1) Timely written request. The college President must review a decision of the college disciplinary committee upon a party's written request, where such request is received by the President within ten (10) calendar days after service of the committee's written order on review.

(2) Discretion of President. The college President may, at his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary actions imposed.

(3) Review on the record. When considering an appeal, the college President shall base his/her findings and decision only upon the record which was developed in prior proceedings conducted by the Dean of Students and by the college disciplinary committee.

(4) Completion of review. The college President must complete his/her review within three (3) working days after the request for review is submitted.

NEW SECTION

WAC 132K-16-420 SUMMARY SUSPENSION—EMERGENCY ADJUDICATIVE PROCEEDINGS—WHEN APPROPRIATE. Ordinarily, disciplinary sanctions will be imposed only after the appropriate hearing has taken place and after the student has, if he/she chooses, exercised his/her right to appeal. However, the Dean of Students is authorized, in his/her discretion, to summarily suspend any student under the provisions of this chapter when the Dean of Students has probable cause to believe that immediate action is required because the student presents an immediate danger to the public health, safety or welfare, including danger to the student personally, to others on the college campus, or to the educational process. The college may take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety or welfare that justifies use of the emergency adjudication.

NEW SECTION

WAC 132K-16-430 SUMMARY SUSPENSION—EMERGENCY ADJUDICATIVE PROCEEDINGS—ORDER AND NOTICE TO STUDENTS. (1) Entry of order by Dean of Students. In situations where the Dean of Students has sufficient cause to believe that summary suspension is necessary to prevent or avoid immediate danger to the public health, safety or welfare as described in WAC 132K-16-420, the Dean of Students shall enter an order of summary suspension.

(2) Written order. The order must be in writing and may take the form of a letter. The order shall include the following:

(a) a brief statement of charges against the student including reference to the law or a provision of this chapter,

(b) a brief statement of findings of fact and conclusions of law,

(c) a brief statement of policy reasons which justify the determination of an immediate danger,

(d) a brief statement of the decision to take specific action; and

(e) a brief statement of the duration of the suspension and conditions under which the suspension may be terminated.

(3) When effective. The order is effective when signed by the Dean of Students.

(4) Notice to students. Following summary suspension, the Dean of Students shall give the person(s) required to comply with the order such notice of the order as is practicable. Where possible, the Dean of Students shall provide such person(s) with a copy of the written order.

NEW SECTION

WAC 132K-16-440 BRIEF ADJUDICATIVE PROCEEDING FOLLOWING SUMMARY SUSPENSION. (1) When held. After entering an order of summary suspension, the Dean of Students must proceed as quickly as feasible to hold a brief adjudicative proceeding as described in this chapter.

(2) Record considered. The record to be considered at the brief adjudicative proceeding shall consist of any documents regarding the matter that were considered or prepared in connection with the order of summary suspension. These documents shall be maintained as part of an official record of the proceedings. However, such record need not constitute the exclusive basis for action in emergency adjudicative proceedings or for any review thereof.

(3) Decision to continue suspension or impose other penalty—right to administrative review. At the conclusion of the brief adjudicative proceeding held by the Dean of Students, the Dean of Students shall announce a decision as to whether continued suspension is necessary or whether some other disciplinary action is appropriate, including a brief statement of the reasons for the decision.

(4) Initial order. Pursuant to the requirements of WAC 132K-16-300, within ten (10) days of the decision taken at the brief adjudicative proceeding, the Dean of Students shall give the student a brief written statement of findings of fact, conclusions of law and recommendations regarding whether continued suspension is necessary or whether some other disciplinary action is appropriate. Such written decision shall constitute an initial order, which shall become a final order if no review is taken. The initial order shall also advise the student of his/her right to present, within twenty-one (21) calendar days, a written or oral request to the college disciplinary committee appealing the decision of the Dean of Students.

NEW SECTION

WAC 132K-16-450 APPEALS FROM SUMMARY SUSPENSION FOLLOWING BRIEF ADJUDICATIVE PROCEEDING. (1) Appeal to college disciplinary committee. Following an order of summary suspension and a subsequent decision taken by the Dean of Students at a brief adjudicative proceeding, any student aggrieved by such decision may appeal to the college disciplinary committee under the provisions of this chapter, provided the following conditions are met:

(a) the student must first have appeared before the Dean of Students at the brief adjudicative proceedings, and

(b) the student must have been officially notified of the outcome of the brief adjudicative proceeding; and

(3) the Dean of Students must have upheld the initial summary suspension or must have imposed some other disciplinary sanction.

(2) Priority appeal. Appeals from summary suspension actions take precedence over other matters before the college disciplinary committee.

(3) Appeal to college President. Pursuant to the provisions of WAC 132K-16-360 and 132K-16-410, decisions by the college disciplinary committee may be appealed to the President of the college. The President's decision shall be final.

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

NEW SECTION

WAC 132K-16-460 STUDENT GRIEVANCES—GENERALLY. (1) Statement of purpose. The purpose of this section is to protect each student's freedom of expression in the classroom; to protect each student against improper disclosure of the student's views, beliefs and political associations; to protect each student from improper, arbitrary or capricious academic evaluation as evidenced by the student's final course grade; and to afford each student reasonable protection against arbitrary or capricious actions taken outside the classroom by other members of the college community.

(2) Prohibition against discrimination. Pierce College is committed to protecting the rights and dignity of each individual in the campus community. Therefore the college will not tolerate discrimination of any kind, at any level.

(3) Prohibition against sexual harassment. It is the policy of Pierce College to provide an environment in which students can work and study free from sexual harassment or sexual intimidation. Sexual harassment occurs in a context of unequal power and is a form of sexual discrimination. As such, it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments. Sexual harassment of or by a student is defined as unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct when:

(a) submission to the conduct is either explicitly or implicitly a term or condition of an individual's academic standing; and/or

(c) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

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

NEW SECTION

WAC 132K-16-470 MATTERS NOT GRIEVABLE. (1) Outcome of summary or other disciplinary proceedings. The outcome of summary or other disciplinary proceedings described in earlier sections of this chapter shall not constitute the basis for filing a grievance as described in this chapter.

(2) Federal and state laws and college policies. In addition, the following matters shall not constitute the basis for filing a grievance as described in this chapter:

(a) federal and state laws, rules and regulations; and

(b) policies, regulations and procedures adopted by the State Board for Community College Education or the Board of Trustees of Community College District No. 11.

NEW SECTION

WAC 132K-16-480 ADMINISTRATIVE, FACULTY AND STAFF GRIEVANCES. Any administrator, faculty member or staff member who is the subject of a student's grievance and who is dissatisfied with the results of any level of a student grievance proceeding shall file a grievance under the appropriate grievance procedure established by Pierce College.

NEW SECTION

WAC 132K-16-490 STUDENT GRIEVANCE PROCEDURES—GENERALLY. (1) Types of procedures. If a student believes that he/she has been unfairly treated by an official of the college, the student may pursue the matter on two levels as follows:

(a) First, the student may follow an informal procedure.

(b) Second, if the informal procedure fails to satisfy the grievant, or if the student waives his/her right to have the matter resolved informally, he/she may file an official grievance and request a hearing before the grievance review committee.

(2) Time limit on initiation of proceedings. In either case, the student must initiate grievance proceedings within twenty (20) days of the occurrence which gave rise to the grievance pertaining to grading issues or within one quarter of the occurrence on other student grievance matters.

(3) Closed session. All hearings growing out of a student-initiated grievance, including appeals to the office of the college President, shall remain closed unless all parties to the grievance agree to an open hearing.

(4) Withdrawal of grievance. At any time during the grievance procedure, the grievant may officially withdraw the grievance in writing. In addition, a failure by the grievant or appellant to appear for any scheduled

hearing, without prior notification or evidence of extenuating circumstances, shall constitute withdrawal of the grievance or appeal.

NEW SECTION

WAC 132K-16-500 STUDENT GRIEVANCE PROCEDURES—INFORMAL—STEPS. A grievant wishing to pursue an informal resolution may take the following steps:

(1) First level—direct discussion. As a first step, the student may either:

(a) contact the office of Student Programs and Activities or the Ombudsman (the office of Student Programs and Activities shall serve as a source of information and direction for grievant and shall advise students as to the most effective means of resolving their grievance); or

(b) contact the faculty or staff member with whom the student has a grievance and attempt to resolve the matter through direct discussion.

(2) Second level—mediation by supervisor. If direct discussion does not resolve the grievance to the student's satisfaction, the student shall take the matter to the supervisor (director, department head or division chair), who shall serve as a mediator and shall attempt to resolve the matter promptly and fairly.

(3) Third level—decision by division chair or dean. If the efforts of the supervisor also fail to satisfy the grievant, the supervisor shall forward the complaint to the appropriate division chair or dean who shall, within three (3) working days, decide how best to resolve the grievance and shall issue a written opinion to all parties involved.

(4) Fourth level—appeal to grievance review committee. The informal grievance procedure shall be completed in fifteen (15) working days unless all parties agree to more time. The student shall be informed of his/her right to file a petition to have the grievance heard before the grievance review committee.

NEW SECTION

WAC 132K-16-510 STUDENT GRIEVANCE PROCEDURES—INFORMAL—SEXUAL OR RACIAL HARASSMENT, SEX DISCRIMINATION AND HANDICAPPED DISCRIMINATION. (1) First level—consultation with affirmative action officer. Any student alleging sexual harassment, sex discrimination or handicapped discrimination shall, as a first step in the informal grievance procedure, contact the affirmative action officer or his/her designee. If needed, the student may contact the office of Student Programs and Activities for the name and location of the Ombudsman. The affirmative action officer or his/her designee shall:

(a) provide information about informal and formal options within and outside the college, and/or

(b) intervene, if requested by either party, in order to resolve the problem to the satisfaction of all. Consultations with the affirmative action officer shall be strictly confidential until the affirmative action officer begins to act as mediator.

(2) Second level—hearing before grievance review committee. If the affirmative action officer is unable to

resolve the grievance, the student may file an official grievance requesting a hearing before the grievance review committee, and is entitled to appeal the decision of that committee.

NEW SECTION

WAC 132K-16-520 STUDENT GRIEVANCE PROCEDURES—HEARING BEFORE GRIEVANCE REVIEW COMMITTEE. (1) Composition of committee. The Registrar shall chair the grievance review committee. Members of the committee shall be chosen as follows:

- (a) two (2) faculty members appointed by the Executive Dean of Instruction;
- (b) two (2) students appointed by the President of the Associated Students of Pierce College;
- (c) one (1) classified staff member appointed by the Classified Staff Executive Committee; and
- (d) one (1) administrative staff member.

(2) Petition to grievance review committee. Any grievance not resolved informally may be appealed to the grievance review committee for a hearing. The grievant shall petition the committee by submitting an official grievance form obtainable from the office of Student Programs and Activities. The Petition shall be made to the Dean of Students or to the Executive Dean of Instruction within five (5) working days of any appealable decision taken in informal proceedings. The Dean of Students or the Executive Dean of Instruction shall distribute a copy of the petition to all members of the grievance review committee.

(3) Procedure at hearing.

(a) Legal representation. When a petition is filed, the student shall:

- (i) be assigned an advocate; or
- (ii) waive his/her right to an advocate; or
- (iii) notify the college of his/her retention of an attorney. Where the student is represented by an attorney, the college may be represented by an Assistant Attorney General.

(b) Witnesses. The grievance review committee may call any witnesses and hear any testimony needed to reach a prompt, fair resolution of the grievance. The grievance hearing before the committee shall not be considered a brief adjudicative proceeding. However, where requested by the student and approved by the college President, a brief adjudicative proceeding may be granted and conducted in accordance with the provisions of this chapter.

(4) Decision. Within three (3) working days of the conclusion of the hearing, the grievance review committee shall issue a written recommendation. All parties shall receive a copy of such recommendation.

NEW SECTION

WAC 132K-16-530 REVIEW OF COMMITTEES DECISION. (1) Review by dean. In the case of

instructional grievances, the recommendations of the grievance review committee shall be sent to the Executive Dean of Instruction. In all other cases, the committee's recommendations shall be sent to the Dean of Students. The appropriate dean or his/her designee shall, within three (3) working days, accept, modify or reject the recommendations of the grievance review committee. All parties shall be notified of the dean's decision within five (5) working days.

(2) Review by college President.

(a) Appeal within five days. Where the student is not satisfied with the dean's decision, he/she may appeal that decision to the President of the college in writing, provided that such appeal is made within five (5) working days of the student's receipt of notice of the decision.

(b) President's decision within ten days. Within ten (10) working days after receiving the written request for appeal, the President shall review the record of the case prepared by the committee, together with any appeal statement, and shall deliver to both the dean and the student a written acceptance of the dean's decision, or directions as to what other course of action shall be taken. The President's decision shall constitute final agency action by the college.

(3) Further review of sexual, racial or handicapped discrimination cases. For further review of sexual or handicapped discrimination cases, the grievant may send appeals or inquiries to:

- (a) Regional Director
Office of Civil Rights, HEW
29011 3rd Avenue, M.S. 510
Seattle, Washington 98121
- (b) The Equal Opportunity Commission
1321 2nd Avenue
Seattle, Washington 98101
- (c) Human Rights Commission
402 Evergreen Plaza Building
7th and Capitol Way
Olympia, Washington 98504

NEW SECTION

WAC 132K-16-540 PRIOR RULES. The rules contained in this chapter supersede all former rules relating to student conduct and student grievances.

NEW SECTION

WAC 132K-16-550 SEVERABILITY. If any provision of this chapter is adjudged by a court of law to be unconstitutional, the remaining provisions shall continue in effect.

NEW SECTION

WAC 132K-16-560 EFFECTIVE DATE. The rules contained in this chapter shall become effective

**WSR 91-03-150
PROPOSED RULES
PIERCE COLLEGE**

[Filed January 23, 1991, 5:00 p.m.]

Original Notice.

Title of Rule: Chapter 132K-16 WAC, Students rights and responsibilities.

Purpose: To protect the welfare of the student population and the college community.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: To allow the college community an opportunity for input into the student rights and responsibilities.

Reasons Supporting Proposal: On advice of Attorney General's Office; and to comply with RCW 28B.50.140.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kay Rhoads, Dean of Student Services, (206) 964-6534.

Name of Proponent: Pierce College, public.

Rule is necessary because of state court decision, WAC 131-12-050 Rules defining student rights and responsibilities required to be adopted.

Explanation of Rule, its Purpose, and Anticipated Effects: To implement and maintain procedures that will protect students rights and responsibilities to insure their safety and equitable treatment towards their educational goals.

Proposal Changes the Following Existing Rules: To include WAC 132K-16-120 Definitions; 132K-16-230 Alcohol and controlled substances; and 132K-16-280 through 132K-16-520, Disciplinary procedures.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Pierce College, 9401 Farwest Drive S.W., Tacoma, WA 98498, on March 27, 1991, at 1:00 p.m.

Submit Written Comments to: Kay Rhoads, Dean of Student Services, by March 13, 1991.

Date of Intended Adoption: April 10, 1991.

January 23, 1991

Frank B. Brouillet
President

**Chapter 132K-16 WAC
STUDENT RIGHTS AND RESPONSIBILITIES**

NEW SECTION

WAC 132K-16-110 INTRODUCTION. Broadly stated, the purpose of Pierce College, District No. 11, is to provide opportunities for all who desire to pursue educational goals. To implement this objective, it is necessary to insure that an environment is created wherein all students may progress in accordance with their capabilities and intensity of interest. The responsibility to create and maintain such an environment is shared by all members of the college; students, faculty and administration.

NEW SECTION

WAC 132K-16-120 DEFINITIONS. As used in this chapter, the following words and phrases shall be defined as follows:

(1) Academic dishonesty. "Academic dishonesty" shall mean plagiarism, cheating on examinations, fraudulent representation of student work product or other similar act of academic dishonesty.

(2) Alcoholic beverages. "Alcoholic beverages" shall mean the definition of liquor as contained in RCW 66.04.010(15) as now law or hereafter amended.

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

(4) ASPC. "ASPC" shall mean the associated students of Pierce College as defined in the constitution of that body.

(5) Board. "Board" shall mean the Board of Trustees of Community College District No. 11, state of Washington.

(6) Chief administrative officer. "Chief administrative officer" shall mean the President of Pierce College and President of Community College District No. 11, state of Washington.

(7) College. "College" shall mean Pierce College, and any other community college center or facilities established within Community College District No. 11.

(8) College facilities. "College facilities" shall mean and include any and all personal property and real property including all buildings and appurtenances affixed thereon or attached thereto district-wide.

(9) Dean of Students. "Dean of Students" shall mean the Dean of Students at Pierce College or his or her designee(s).

(10) Demonstrations. "Demonstrations" shall mean any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause of disseminate information to any person, persons, or group of persons.

(11) Disciplinary action. "Disciplinary action" shall mean and include the warning, reprimand, probation, suspension, dismissal or expulsion of any student by the Dean of Students or the college disciplinary committee, issued pursuant to this chapter for the violation of any law or designated rule or regulation of college policy or the rules of conduct for which a student is subject to disciplinary action.

(12) Controlled substance. "Controlled substance" shall mean and include any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(13) Faculty. "Faculty" shall mean and include any full-time or part-time academic employee of the district whose assignment is one of a combination of instruction, counseling, or library services.

(14) Rules of conduct. "Rules of conduct" shall mean those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary action.

(15) Student. "Student," unless otherwise qualified, shall mean and include any person who is registered for classes at the college.

(16) College disciplinary committee. "College disciplinary committee" shall mean the judicial body provided in this chapter.

(17) Trespass. "Trespass" shall mean the definition of trespass as contained in chapter 9A.52 RCW as now law or hereafter amended.

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

NEW SECTION

WAC 132K-16-130 JURISDICTION. (1) These rules shall apply to every student who is present in our upon any college facility, or who is present and/or engaged in any college-sponsored activity held on or in non-college facilities.

(2) Anyone who breaches, or who aids or abets another in breaching, any provision of this chapter shall be subject to:

(a) possible prosecution under the state criminal law;

(b) any other civil or criminal remedies available to the public; and/or

(c) appropriate disciplinary action as set forth in this chapter or in other college policies and regulations.

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

NEW SECTION

WAC 132K-16-140 STUDENT RIGHTS. As an institution of higher learning, Pierce College is dedicated to maintaining and expressing a spirit of free inquiry. Accordingly, the following enumerated rights are guaranteed to each student within the limits of law and college policy.

(1) Academic freedom.

(a) The right of free inquiry, expression and assembly upon and within college facilities which are generally open and available to the public.

(b) The right to pursue appropriate educational objectives, subject to applicable statutory limits, from among the college's curricula.

(c) The right to freedom from academic evaluation which is prejudiced, or arbitrary and capricious, although students are individually responsible for meeting the standards of academic performance established by each of their instructors.

(d) The right to freedom from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) The right to be secure in the student's person, quarters, papers and effects against unreasonable searches and seizures.

(b) The right to notice of the nature of any charges against the student prior to imposition of disciplinary sanctions.

(c) The right to procedural due process as described in this chapter, whenever the student is accused of violating any law or a rule or procedure of the college as set forth in the Washington Administrative Code or in other college policies and regulations.

(3) Distribution and posting. The right to distribute or post printed or published material subject to official procedures printed and available in the office of Student Programs and Activities.

(4) Off-campus speakers. The right of recognized student organizations to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures available for inspection in the office of Student Programs and Activities.

NEW SECTION

WAC 132K-16-150 STUDENT RESPONSIBILITIES. Any student may be subject to disciplinary action as described in this chapter if the student, whether as a principle actor or as an aider, abettor or accomplice as defined in RCW 9A.08.020 as now law or hereafter amended, interferes with the personal rights or privileges of others or with the college's educational process; commits any offenses described in this chapter; or otherwise violates any provision of this chapter.

NEW SECTION

WAC 132K-16-160 PERSONAL OFFENSES. (1) Assault, reckless endangerment, etc. Any student who commits the offenses of assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 and 9A.36.070, or in RCW 28B.10.570 through 28B.10.572, as now law or hereafter amended, shall be subject to disciplinary action.

(2) Disorderly, abusive or bothersome conduct. Any student whose conduct interferes with the rights of others or obstructs or disrupts teaching, research or administrative functions shall be subject to disciplinary action.

(3) Inattentiveness/failure to follow instructions. A student's inattentiveness and/or failure to follow an instructor's instructions, when such behavior infringes upon the rights and privileges of other students, is an offense which will subject the violator to disciplinary action.

(4) Illegal assembly, obstruction or disruption. Any assembly or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearing, meetings, the educational and administrative functions of the college, and/or the private rights and privileges of others, is an offense which will subject the violator to disciplinary action.

(5) False complaint. Any student who files a formal complaint, falsely accusing another student or college employee of violating a provision of this chapter, shall be subject to disciplinary action.

(6) False alarm. Any student who falsely sets off or otherwise tampers with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities shall be subject to disciplinary action.

(7) Sexual harassment. Any student who engages in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance, shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-170 PROPERTY OFFENSES. (1) Theft and robbery. Any student who engages in theft or robbery, which is defined as theft of the property of the college or of another as set forth in

RCW 9A.56.010 through 9A.56.050 and 9A.56.100, as now law or hereafter amended, shall be subject to disciplinary action.

(2) Malicious mischief. Any student who engages in malicious mischief, which is defined as intentional or negligent damage to or destruction of any college facility or other public or private real or personal property, shall be subject to disciplinary action.

(3) Unauthorized use of college equipment and supplies. Any student who converts college equipment or supplies for personal gain or use, without proper authority, shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-180 CHEATING AND PLAGIARISM. Cheating and plagiarism are offenses which will subject the violator to disciplinary action. Any student who, for the purpose of fulfilling or partially fulfilling any assignment or task required by a college employee as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represented to the college employee as the student's own work product, shall be deemed to have cheated or to have committed plagiarism, and shall be subject to disciplinary action.

NEW SECTION

WAC 132K-16-190 FORGERY OR ALTERATION OF COLLEGE RECORDS. Forgery or alteration of college records is an offense which will subject the violator to disciplinary action. Forgery or alteration of college records is defined pursuant to RCW 9A.60.010 through 9A.60.020 as now law or hereafter amended, and is further defined as forging records or tendering forged records (or instruments of any college record) to any college employee or agent acting in his/her official capacity.

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

NEW SECTION

WAC 132K-16-200 REFUSING TO PROVIDE IDENTIFICATION. Any student who refuses to provide identification in appropriate circumstances shall be subject to disciplinary action. Refusing to provide identification in appropriate circumstances is defined as refusing to provide positive identification (e.g., valid driver's license or state identification card) when requested to do so by any college employee acting in the lawful discharge of his/her duties.

NEW SECTION

WAC 132K-16-210 ILLEGAL ENTRY. Illegal entry is an offense which will subject the violator to disciplinary action. Illegal entry is defined as entering, in any manner and at any time, any college administrative or employee's office, or any locked or otherwise closed college facility, without permission of the college employee or agent in charge.

NEW SECTION

WAC 132K-16-220 SMOKING. Smoking in college facilities is prohibited. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-230 ALCOHOL AND CONTROLLED SUBSTANCES. (1) Illicit use of alcohol. Students are prohibited from being under the influence of any form of alcoholic beverage, or from possessing, consuming or distributing any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the Dean of Students and in compliance with state law and the college's Alcohol Policy. Violation of this section shall be cause for disciplinary action.

(2) Controlled substances. Students are prohibited from using, possessing, being under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use of possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning set forth in RCW 69.50.410 as now law or hereafter

amended. Violation of this section shall be cause for disciplinary action.

(3) Pierce College policy and program. Pierce College has adopted and implemented a policy and program to prevent the unlawful possession, use or distribution of illicit drugs or alcohol by students. The policy and program statement are on file in the office of the Dean of Students and describe criminal and other sanctions which may be imposed against students and employees for the unlawful possession, use or distribution of illicit drugs or alcohol by students and employees at Pierce College.

NEW SECTION

WAC 132K-16-240 WEAPONS, EXPLOSIVES AND DANGEROUS CHEMICALS. Students are prohibited from the illegal or unauthorized use or possession of any device or substance which can be used to inflict bodily harm or damage to real or personal property. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-250 TRESPASS. (1) Power and authority of Dean of Students. The Dean of Students has the power and authority to withdraw the license or privilege, or prohibit the entry, of any person(s) to enter into or remain in or upon any college property or facility.

(2) Power and authority—when exercised. The Dean of Students may exercise his/her power and authority to halt any event which the Dean of Students believes;

(a) is unreasonably disruptive; or

(b) is impeding or will impede the movement of persons or vehicles; or

(c) is disrupting or threatening to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college.

(3) Sanctions. Any individual who disobeys a lawful order of the Dean of Students shall be subject to disciplinary action and/or charges of criminal trespass.

NEW SECTION

WAC 132K-16-260 VIOLATION OF OTHER LAWS, RULES OR REGULATIONS. Students are prohibited from violating any other law, rule or regulation of this institution. Violation of this section shall be cause for disciplinary action.

NEW SECTION

WAC 132K-16-270 DISCIPLINARY ACTION—GENERAL PROVISION. (1) Purpose of disciplinary action. Disciplinary action, up to and including dismissal from the college, may be imposed upon a student for failure to abide by the rules of student conduct as described in this chapter. The form of disciplinary action imposed upon the violator will determine whether and under what conditions the violator may continue as a student at the college.

(2) Delegation of disciplinary authority. The Dean of Students shall have authority to administer the disciplinary action prescribed in this chapter. The college disciplinary committee shall have the authority to review actions taken by the Dean of Students as provided in this chapter. Further administrative review may be taken by the college President as provided in this chapter.

(3) President to be informed. The President shall be informed of all student dismissals, suspensions or probation proceedings undertaken by the Dean of Students or by the college disciplinary committee.

NEW SECTION

WAC 132K-16-280 DISCIPLINARY ACTION—SUMMARY ACTIONS. (1) Summary actions by faculty.

(a) Authority of faculty. Faculty shall have the authority to take such summary actions as may be necessary to maintain order and proper conduct in the classroom, so as to assure the effective cooperation of students in accomplishing the objectives of the course of instruction.

(b) Appeal of summary action by faculty. Summary actions by faculty may be appealed to the Dean of Students within five (5) working days after the contested action(s), and shall be reviewed de novo and informally by the Dean of Students within five (5) working days after the request is submitted. Depending upon the penalty involved, the decision may be further appealed as provided in this chapter.

(2) Summary actions by Dean of Students.

(a) Authority of Dean of Students. The Dean of Students shall have the authority to take such summary actions as may be necessary to maintain order and proper conduct in any college building, on any college site, and in or on any building or premises utilized by the college for a college activity.

(b) Appeal of summary actions by Dean of Students. Summary actions by the Dean of Students may be appealed for reconsideration to the Dean of Students within five (5) working days after the contested action(s), and shall be reviewed within five (5) working days after the request is submitted. Depending upon the penalty involved, the decision may be further appealed as provided in this chapter.

(3) Summary suspension by Dean of Students. The Dean of Students is also authorized to summarily suspend a student under the provisions of this chapter.

NEW SECTION

WAC 132K-16-290 NONSUMMARY DISCIPLINARY ACTION—INITIAL ACTION BY DEAN OF STUDENTS. (1) Written requests referred to Dean of Students.

(a) How and when made. A request for disciplinary action for violating the rules of student conduct may be referred in writing to the Dean of Students within twenty (20) days of discovery of the facts giving rise to the request. Such a request may be made by any member of the administration, faculty, or college personnel or any student. All such requests must be in writing and signed by the individual making the request.

(b) How and when conducted. The Dean of Students shall conduct either an informal conference or a brief adjudicative proceeding, depending upon the contemplated penalties as provided in this chapter, within ten (10) working days after the initial request for disciplinary action has been referred to the Dean of Students, subject to the notice requirements of WAC 132K-16-320.

(2) Initial meeting with Dean of Students. Any student accused of violating any provision of law, college policy, or rules of conduct may be called for an informal conference with the Dean of Students, and shall be informed of the charges and what appear to be the range of penalties, if any, which might result from disciplinary proceedings.

(3) Action to be taken by Dean of Students. If the accused student has appeared at the scheduled conference, after interviewing the accused student and considering the evidence in the case, the Dean of Students may take any of the following actions:

(a) terminate the proceeding, exonerating the student;

(b) dismiss the case after whatever counseling and advice the Dean of Students deems appropriate;

(c) impose verbal warning to the student directly, not subject to the student's right of appeal as provided in this chapter; or

(d) impose additional sanctions of reprimand, probation, limited dismissal or expulsion, subject to the requirements of a brief or full adjudicative proceeding as required by this chapter and subject to the student's right of administrative appeal as provided in this chapter.

(4) Verbal warnings. Prior to taking disciplinary action in a brief adjudicative proceeding, the Dean of Students may, but is not required to, give one or more verbal warning(s) to a student, notifying the student that he or she has violated a law and/or the college's established policy or rules of conduct. Such verbal warning(s) shall imply that continuing or repeated violations, or other misconduct, will result in more serious disciplinary action as provided in this chapter. No formal files or records will be kept on verbal warnings.

NEW SECTION

WAC 132K-16-300 BRIEF ADJUDICATIVE PROCEEDINGS BEFORE DEAN OF STUDENTS. (1) Penalties triggering need for brief adjudicative proceedings. Brief adjudicative proceedings shall be conducted by the Dean of Students when it is anticipated that the following disciplinary actions, as further described in WAC 132K-16-310, will be imposed upon violators of the rules of conduct established in this chapter or in other laws or college policy, rules or regulations:

(a) Disciplinary reprimand.

(b) Disciplinary probation.

(c) Limited dismissal.

(2) Notice. Notice must be given to the student in writing, pursuant to the requirements of WAC 10-08-040 and WAC 132K-16-320.

(3) Oral decision. At the conclusion of the brief adjudicative proceeding, the Dean of Students shall announce his/her decision, including a brief statement of reasons for the decision.

(4) Initial order and notice of opportunity for review.

(a) Written findings of fact and conclusions of law. Within ten (10) days of the decision taken at the brief adjudicative proceeding, the Dean of Students shall give the parties a brief written statement of findings of fact, conclusions of law and recommendations regarding whether the student violated any law or college policy, rules or regulations, and the imposition of applicable penalties. Such written decision shall constitute an initial order.

(b) Notice of opportunity for administrative review. The initial order shall also advise the student of his/her right to present, within twenty-one (21) calendar days, a written or oral request to the college disciplinary committee appealing the decision of the Dean of Students.

(5) Final order. If no review is taken of the initial order as authorized in this chapter, the initial order shall become a final order.

(6) Refund of fees. There shall be no refund of fees for the quarter in which disciplinary action is taken, but fees paid in advance for a subsequent quarter will be refunded.

(7) Transformation of proceeding—expulsion. If an action is commenced as a lesser disciplinary action in a brief adjudicative proceeding, and it becomes apparent that the recommended discipline will be expulsion from the college, the student shall be entitled to a full adjudicative proceeding before the college disciplinary committee. In such case, the Dean of Students shall, pursuant to the requirements of RCW 34.05.410 *et seq.* and subject to the notice provisions of WAC 10-08-040 and WAC 132K-16-320, reschedule another hearing before the college disciplinary committee for a full adjudicative proceeding.

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

NEW SECTION

WAC 132K-16-310 BRIEF ADJUDICATIVE PROCEEDINGS—PENALTIES WHICH MAY BE IMPOSED. Other than verbal warnings and/or an informal meeting with the Dean of Students, disciplinary action may result in the following penalties subsequent to a brief adjudicative proceeding:

(1) Disciplinary reprimand. Subsequent to a brief adjudicative proceeding, disciplinary reprimand may be given to a student in writing, with copies placed on file in the office of the Dean of Students. The reprimand shall indicate to the student that continuing or repeating the specific violation involved will result in disciplinary probation, limited dismissal or expulsion, as provided in this chapter.

(2) Disciplinary probation. Subsequent to a brief adjudicative proceeding, disciplinary probation may be imposed upon a student, placing conditions upon the student's continued attendance at the college. The student shall be notified in writing of the disciplinary probation, which writing shall specify the length as well as the conditions of probation, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specific term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college. Copies of the written notification of disciplinary probation shall be placed on file in the office of the Dean of Students.

(3) Limited dismissal. Subsequent to a brief adjudicative proceeding, limited dismissal may be imposed upon a student, temporarily dismissing the student from the college and terminating the person's student status. The student shall be notified in writing of the limited dismissal, which writing shall specify the duration of dismissal shall be placed on file in the office of the Dean of Students.

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

NEW SECTION

WAC 132K-16-320 NOTICE TO PARTIES. Notice to the parties of disciplinary proceedings, other than verbal warnings or an informal conference with the Dean of Students, shall be served in accord with the requirements of WAC 10-08-040, and not less than seven (7) days before the date set for hearing. Said notice shall contain:

(1) a statement of the time, place and nature of the disciplinary proceeding;

(2) a statement of the charges, including reference to the particular sections of the law, college policy, or rules or regulations of student conduct involved;

(3) to the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the proceeding.

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

NEW SECTION

WAC 132K-16-330 BRIEF ADJUDICATIVE PROCEEDINGS—GENERAL. (1) Closed session. All disciplinary proceedings shall generally be held in closed session except when a student requests that persons other than those directly involved be invited to attend.

(2) Proceedings before Dean of Students and college disciplinary committee. Brief adjudicative proceedings, as described in this chapter and in RCW 34.05.482 through 34.05.485, as now law or hereafter amended, may be heard by the Dean of Students and by the college disciplinary committee. The college disciplinary committee will hear, *de novo*, all disciplinary cases appealed after a decision by the Dean of Students.

(3) Continuances. In the case of proceedings conducted by the Dean of Students, the time of the hearing may be advanced by the Dean of Students and in his/her discretion, at the request of the student, or may be continued for good cause. In the case of review proceedings conducted by the college disciplinary committee, the time of the hearing may be advanced by the committee's presiding officer, in his/her discretion, at the request of the student, or may be continued for good cause.

(4) Legal representation of student. The student may be represented by counsel of choice at brief adjudicative proceedings. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as counsel, the student must tender four (4) working days' notice to the Dean of Students prior to the proceeding. The time period begins to run on the day following receipt of such notice by the Dean of Students.

(5) Legal representation of college. In all disciplinary proceedings, the college may be represented by a designee appointed by the Dean of Students, provided that in those cases in which the student chooses to be represented by a licensed attorney, the Dean of Students may elect to have the college represented by an assistant attorney general.

(6) Student's failure to cooperate with hearing procedures. An accused student has a right to fair and impartial proceedings when charged with violating the law, college policy, or rules and regulations concerning student conduct. The student's failure to cooperate with the hearing procedures, however, shall not preclude the Dean of Students, and shall not preclude the college disciplinary committee, from making findings of fact, conclusions and recommendations as provided in this chapter. Failure by the student to cooperate may be taken into consideration by the Dean of Students or by the college disciplinary committee.

(7) Disruption of proceeding. If at any time during the conduct of any disciplinary proceeding invited guests are disruptive, the Dean of Students or the presiding officer of the disciplinary committee may ask such persons to cease and desist. Any guest who continues to disrupt the proceedings, after a cease-and-desist request by the Dean of Students or by the presiding officer of the disciplinary committee, shall be subject to disciplinary action.

(8) Right of review. Following brief adjudicative proceedings conducted by the Dean of Students, students shall have the right to a review of such decision by the college disciplinary committee as provided in this chapter and as set forth in RCW 34.05.488 through 34.05.494. Further administrative review of the decision may be taken by the college President as provided in this chapter.

NEW SECTION

WAC 132K-16-340 BRIEF ADJUDICATIVE PROCEEDINGS—PRESENTATION OF EVIDENCE. (1) Rights of students. At brief adjudicative proceedings, the student shall be entitled to hear and examine the evidence against him/her; to be informed of the identity of the source of evidence against him/her; to present evidence in the student's own behalf; and to explain the student's view of the matter. Presentation of evidence at full adjudicative proceedings shall be governed by the requirements of RCW 34.05.413 through 34.05.476, and by the requirements of chapter 10-08 WAC.

(2) Sufficient cause for finding of guilt.

(a) Presence of accused student. When determining whether there is sufficient cause to believe that the accused student has violated the laws, policy, rules or regulations the student is charge with violating, and except in cases where the student fails to attend the proceeding after receiving proper notice, the Dean of Students or the college disciplinary committee may consider only those mattes presented at the proceeding in the presence of the accused student.

(b) Evidence on which reasonably prudent persons are accustomed to rely. In determining the existence of sufficient cause, the Dean of Students or the college disciplinary committee shall give probative effect to evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

(3) Rulings. The Dean of Students or the presiding officer of the college disciplinary committee, as the case may be, shall make rulings on all evidentiary and procedural matters heard in the course of brief adjudicative proceedings.

(4) Privilege. While presiding at brief adjudicative proceedings, the Dean of Students or the disciplinary committee's presiding officer shall give effect to the rules of privilege recognized by law.

(5) Mitigation. Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented.

(6) Exclusion of evidence. While presiding at brief adjudicative proceedings, the Dean of Students or the disciplinary committee's presiding officer shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

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

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

NEW SECTION

WAC 132K-16-350 RECORD OF PROCEEDINGS. (1) Record at proceedings heard by Dean of Students. At brief adjudicative proceedings conducted by the Dean of Students, the record shall consist of any documents regarding matters that were considered or prepared by the Dean of Students for the proceedings.

(2) Record at proceedings heard by college disciplinary committee.

(a) Notes of proceeding. At brief adjudicative proceedings conducted by the college disciplinary committee, the presiding officer shall designate a recorder to take notes during the proceedings and to prepare a written summary of all evidence, facts, and testimony presented to the committee during the proceeding. A copy of such summary shall be available at the Office of the Dean of Students.

(b) Tape-recording. Brief adjudicative proceedings before the college disciplinary committee shall also be tape-recorded.

(c) Documentary record. Any documents considered or prepared by the committee's presiding officer for the brief adjudicative proceeding shall be maintained as part of the official record of the proceeding.

(3) Documentary record not exclusive basis for action. Unless otherwise required by a provision of law, the documentary record in brief adjudicative proceedings need not constitute the exclusive basis for action of the Dean of Students or of the college disciplinary committee.

NEW SECTION

WAC 132K-16-360 REVIEW GENERALLY—TYPES OF APPEALS. Appeals contesting any disciplinary action may be taken in the following order:

(1) Appeals from summary actions by faculty. Summary disciplinary actions by faculty may be appealed to the Dean of Students who, at the request of the student(s), will hear the case informally and de nono, pursuant to WAC 132K-16-280. Depending upon the penalty involved, further review proceedings may be taken as provided in this chapter.

(2) Appeals from summary actions by Dean of Student. Summary disciplinary actions by the Dean of Students, pursuant to WAC 132K-16-280. Depending upon the penalty involved, further review proceedings may be taken as provided in this chapter.

(3) Appeals to college disciplinary committee. Disciplinary actions taken at a brief adjudicative proceeding by the Dean of Students may

be appealed to the college disciplinary committee which, at the request of the student, will hear the case de nono.

(4) Appeals to college President. Disciplinary actions taken at a brief adjudicative proceeding by the college disciplinary committee may be appealed to the President of the college. The President shall review the record of the proceedings which gave rise to the appeal, as well as the recommendations made by the Dean of Students and the college disciplinary committee. The President's decision shall be final.

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

NEW SECTION

WAC 132K-16-370 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—COMPOSITION OF COMMITTEE. (1) Membership—how selected. The college shall have a college disciplinary committee composed of six members plus the presiding officer who shall be chosen no later than October 15 of each academic year. Members of the college disciplinary committee shall be selected in the following manner:

(a) Two (2) student members and two (2) alternates, each of whom shall be a full-time student who is in good academic standing, appointed by the ASPC Student Senate to serve a one (1) academic year term.

(b) Two (2) faculty members and an alternate chosen by the Faculty Association to serve two (2) year, non-concurrent terms.

(c) One (1) staff member chosen by the classified staff executive committee to serve a two (2) year term.

(d) One (1) administrator appointed by the President to serve a one (1) year term.

(2) Presiding officer. The presiding officer of the college disciplinary committee shall be the Dean of Students or his/her designee.

(3) Vacancies. A vacancy in the college disciplinary committee membership shall be filled by the group affected by the vacancy.

(4) Voting. Each committee member, excluding the presiding officer, shall cast one vote. In case of a tie, the presiding officer shall cast the deciding vote.

(5) Abstaining. If any member of the college disciplinary committee is unable to consider the matters raised in a particular disciplinary proceeding for any reason (including but not limited to conflict of interest and matters of conscience or related reason), such member(s) shall abstain from participation. The members of the college disciplinary committee shall make temporary appointments where members abstain.

(6) Quorum. A quorum consisting of a majority shall be required for all proceedings. For purposes of establishing a quorum, the college disciplinary committee shall consist of the presiding officer, or his/her designee(s), and at least four (4) committee members.

NEW SECTION

WAC 132K-16-380 PROCEEDINGS BEFORE COLLEGE DISCIPLINARY COMMITTEE—GENERALLY. (1) Notice. Notice of proceedings to be held before the college disciplinary committee must be given to the parties in writing, pursuant to the requirements of WAC 10-08-040 and WAC 132K-16-320.

(2) Refund of fees. There shall be no refund of fees for the quarter in which disciplinary action is taken, but fees paid in advance for a subsequent quarter will be refunded.

(3) Brief adjudicative proceedings. Action taken by the Dean of Students may be reviewed by the college disciplinary committee in a brief adjudicative proceeding as provided in RCW 34.05.485 through 34.05.494 and this chapter.

(4) Full adjudicative proceedings—expulsion. Pursuant to the requirements of RCW 34.05.410 et seq. and chapter 10-08 WAC, a student may be expelled from the college only after the student has had the benefit of a full adjudicative proceeding.

(5) Transformation of proceeding. If the action is commenced a lesser disciplinary action in a brief adjudicative proceeding, the presiding officer shall transform the hearing into a full adjudicative proceeding when it becomes apparent that the recommended discipline will be expulsion from the college.

NEW SECTION

WAC 132K-16-390 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—GENERALLY. (1) Voluntary review. A decision of

the Dean of Students may be reviewed by the college disciplinary committee on the committee's own motion within twenty (20) days of the date of an initial order entered by the Dean of Students. However, the college disciplinary committee may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(2) Mandatory review.

(a) Review by college disciplinary committee. A decision by the Dean of Students must be reviewed by the college disciplinary committee upon the accused student's written request, where such request is received by the committee within twenty-one (21) days after service of the Dean of Students' initial order. The college disciplinary committee must conduct a brief adjudicative review proceeding and enter a written order on review within twenty (20) days after the request is submitted to the committee, subject to the notice requirements of chapter WAC 10-08-040 and WAC 132K-16-320.

(3) Conduct of review proceedings. Pursuant to the requirements of this chapter and RCW 34.05.491, the presiding officer of the college disciplinary committee shall give each party an opportunity to explain the party's view of the matter and shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing.

NEW SECTION

WAC 132K-16-400 REVIEW BY COLLEGE DISCIPLINARY COMMITTEE—DECISION. (1) Majority vote. Upon conclusion of a brief adjudicative proceeding, the college disciplinary committee shall consider all the evidence therein presented and decide by majority vote whether to:

- (a) terminate the proceedings, exonerating the student; or
- (b) dismiss the case after whatever counseling and advice the committee deems appropriate; or
- (c) impose any disciplinary measure a provided in this chapter.

(2) Written decision. The college disciplinary committee must enter a written order on review within twenty (20) days of the date of the request for review. The order shall also advise the parties of their right to present, within ten (10) calendar days, a written statement to the college President appealing the decision of the disciplinary committee.

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

NEW SECTION

WAC 132K-16-410 REVIEW BY COLLEGE PRESIDENT. (1) Timely written request. The college President must review a decision of the college disciplinary committee upon a party's written request, where such request is received by the President within ten (10) calendar days after service of the committee's written order on review.

(2) Discretion of President. The college President may, at his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary actions imposed.

(3) Review on the record. When considering an appeal, the college President shall base his/her findings and decision only upon the record which was developed in prior proceedings conducted by the Dean of Students and by the college disciplinary committee.

(4) Completion of review. The college President must complete his/her review within three (3) working days after the request for review is submitted.

NEW SECTION

WAC 132K-16-420 SUMMARY SUSPENSION—EMERGENCY ADJUDICATIVE PROCEEDINGS—WHEN APPROPRIATE. Ordinarily, disciplinary sanctions will be imposed only after the appropriate hearing has taken place and after the student has, if he/she chooses, exercised his/her right to appeal. However, the Dean of Students is authorized, in his/her discretion, to summarily suspend any student under the provisions of this chapter when the Dean of Students has probable cause to believe that immediate action is required because the student presents an immediate danger to the public health, safety or welfare, including danger to the student personally, to others on the college campus, or to the educational process. The college may take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety or welfare that justifies use of the emergency adjudication.

NEW SECTION

WAC 132K-16-430 SUMMARY SUSPENSION—EMERGENCY ADJUDICATIVE PROCEEDINGS—ORDER AND NOTICE TO STUDENTS. (1) Entry of order by Dean of Students. In situations where the Dean of Students has sufficient cause to believe that summary suspension is necessary to prevent or avoid immediate danger to the public health, safety or welfare as described in WAC 132K-16-420, the Dean of Students shall enter an order of summary suspension.

(2) Written order. The order must be in writing and may take the form of a letter. The order shall include the following:

- (a) a brief statement of charges against the student including reference to the law or a provision of this chapter;
- (b) a brief statement of findings of fact and conclusions of law;
- (c) a brief statement of policy reasons which justify the determination of an immediate danger;
- (d) a brief statement of the decision to take specific action; and
- (e) a brief statement of the duration of the suspension and conditions under which the suspension may be terminated.

(3) When effective. The order is effective when signed by the Dean of Students.

(4) Notice to students. Following summary suspension, the Dean of Students shall give the person(s) required to comply with the order such notice of the order as is practicable. Where possible, the Dean of Students shall provide such person(s) with a copy of the written order.

NEW SECTION

WAC 132K-16-440 BRIEF ADJUDICATIVE PROCEEDING FOLLOWING SUMMARY SUSPENSION. (1) When held. After entering an order of summary suspension, the Dean of Students must proceed as quickly as feasible to hold a brief adjudicative proceeding as described in this chapter.

(2) Record considered. The record to be considered at the brief adjudicative proceeding shall consist of any documents regarding the matter that were considered or prepared in connection with the order of summary suspension. These documents shall be maintained as part of an official record of the proceedings. However, such record need not constitute the exclusive basis for action in emergency adjudicative proceedings or for any review thereof.

(3) Decision to continue suspension or impose other penalty—right to administrative review. At the conclusion of the brief adjudicative proceeding held by the Dean of Students, the Dean of Students shall announce a decision as to whether continued suspension is necessary or whether some other disciplinary action is appropriate, including a brief statement of the reasons for the decision.

(4) Initial order. Pursuant to the requirements of WAC 132K-16-300, within ten (10) days of the decision taken at the brief adjudicative proceeding, the Dean of Students shall give the student a brief written statement of findings of fact, conclusions of law and recommendations regarding whether continued suspension is necessary or whether some other disciplinary action is appropriate. Such written decision shall constitute an initial order, which shall become a final order if no review is taken. The initial order shall also advise the student of his/her right to present, within twenty-one (21) calendar days, a written or oral request to the college disciplinary committee appealing the decision of the Dean of Students.

NEW SECTION

WAC 132K-16-450 APPEALS FROM SUMMARY SUSPENSION FOLLOWING BRIEF ADJUDICATIVE PROCEEDING. (1) Appeal to college disciplinary committee. Following an order of summary suspension and a subsequent decision taken by the Dean of Students at a brief adjudicative proceeding, any student aggrieved by such decision may appeal to the college disciplinary committee under the provisions of this chapter, provided the following conditions are met:

- (a) the student must first have appeared before the Dean of Students at the brief adjudicative proceedings; and
- (b) the student must have been officially notified of the outcome of the brief adjudicative proceeding; and

(3) the Dean of Students must have upheld the initial summary suspension or must have imposed some other disciplinary sanction.

(2) Priority appeal. Appeals from summary suspension actions take precedence over other matters before the college disciplinary committee.

(3) Appeal to college President. Pursuant to the provisions of WAC 132K-16-360 and 132K-16-410, decisions by the college disciplinary committee may be appealed to the President of the college. The President's decision shall be final.

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

NEW SECTION

WAC 132K-16-460 STUDENT GRIEVANCES—GENERAL-LY. (1) Statement of purpose. The purpose of this section is to protect each student's freedom of expression in the classroom; to protect each student against improper disclosure of the student's views, beliefs and political associations; to protect each student from improper, arbitrary or capricious academic evaluation as evidenced by the student's final course grade; and to afford each student reasonable protection against arbitrary or capricious actions taken outside the classroom by other members of the college community.

(2) Prohibition against discrimination. Pierce College is committed to protecting the rights and dignity of each individual in the campus community. Therefore the college will not tolerate discrimination of any kind, at any level.

(3) Prohibition against sexual harassment. It is the policy of Pierce College to provide an environment in which students can work and study free from sexual harassment or sexual intimidation. Sexual harassment occurs in a context of unequal power and is a form of sexual discrimination. As such, it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments. Sexual harassment of or by a student is defined as unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct when:

(a) submission to the conduct is either explicitly or implicitly a term or condition of an individual's academic standing; and/or

(c) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

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

NEW SECTION

WAC 132K-16-470 MATTERS NOT GRIEVABLE. (1) Outcome of summary or other disciplinary proceedings. The outcome of summary or other disciplinary proceedings described in earlier sections of this chapter shall not constitute the basis for filing a grievance as described in this chapter.

(2) Federal and state laws and college policies. In addition, the following matters shall not constitute the basis for filing a grievance as described in this chapter:

(a) federal and state laws, rules and regulations; and

(b) policies, regulations and procedures adopted by the State Board for Community College Education or the Board of Trustees of Community College District No. 11.

NEW SECTION

WAC 132K-16-480 ADMINISTRATIVE, FACULTY AND STAFF GRIEVANCES. Any administrator, faculty member or staff member who is the subject of a student's grievance and who is dissatisfied with the results of any level of a student grievance proceeding shall file a grievance under the appropriate grievance procedure established by Pierce College.

NEW SECTION

WAC 132K-16-490 STUDENT GRIEVANCE PROCEDURES—GENERALLY. (1) Types of procedures. If a student believes that he/she has been unfairly treated by an official of the college, the student may pursue the matter on two levels as follows:

(a) First, the student may follow an informal procedure.

(b) Second, if the informal procedure fails to satisfy the grievant, or if the student waives his/her right to have the matter resolved informally, he/she may file an official grievance and request a hearing before the grievance review committee.

(2) Time limit on initiation of proceedings. In either case, the student must initiate grievance proceedings within twenty (20) days of the

occurrence which gave rise to the grievance pertaining to grading issues or within one quarter of the occurrence on other student grievance matters.

(3) Closed session. All hearings growing out of a student-initiated grievance, including appeals to the office of the college President, shall remain closed unless all parties to the grievance agree to an open hearing.

(4) Withdrawal of grievance. At any time during the grievance procedure, the grievant may officially withdraw the grievance in writing. In addition, a failure by the grievant or appellant to appear for any scheduled hearing, without prior notification or evidence of extenuating circumstances, shall constitute withdrawal of the grievance or appeal.

NEW SECTION

WAC 132K-16-500 STUDENT GRIEVANCE PROCEDURES—INFORMAL—STEPS. A grievant wishing to pursue an informal resolution may take the following steps:

(1) First level—direct discussion. As a first step, the student may either:

(a) contact the office of Student Programs and Activities or the Ombudsman (the office of Student Programs and Activities shall serve as a source of information and direction for grievant and shall advise students as to the most effective means of resolving their grievance); or

(b) contact the faculty or staff member with whom the student has a grievance and attempt to resolve the matter through direct discussion.

(2) Second level—mediation by supervisor. If direct discussion does not resolve the grievance to the student's satisfaction, the student shall take the matter to the supervisor (director, department head or division chair), who shall serve as a mediator and shall attempt to resolve the matter promptly and fairly.

(3) Third level—decision by division chair or dean. If the efforts of the supervisor also fail to satisfy the grievant, the supervisor shall forward the complaint to the appropriate division chair or dean who shall, within three (3) working days, decide how best to resolve the grievance and shall issue a written opinion to all parties involved.

(4) Fourth level—appeal to grievance review committee. The informal grievance procedure shall be completed in fifteen (15) working days unless all parties agree to more time. The student shall be informed of his/her right to file a petition to have the grievance heard before the grievance review committee.

NEW SECTION

WAC 132K-16-510 STUDENT GRIEVANCE PROCEDURES—INFORMAL—SEXUAL OR RACIAL HARASSMENT, SEX DISCRIMINATION AND HANDICAPPED DISCRIMINATION. (1) First level—consultation with affirmative action officer. Any student alleging sexual harassment, sex discrimination or handicapped discrimination shall, as a first step in the informal grievance procedure, contact the affirmative action officer or his/her designee. If needed, the student may contact the office of Student Programs and Activities for the name and location of the Ombudsman. The affirmative action officer or his/her designee shall:

(a) provide information about informal and formal options within and outside the college; and/or

(b) intervene, if requested by either party, in order to resolve the problem to the satisfaction of all. Consultations with the affirmative action officer shall be strictly confidential until the affirmative action officer begins to act as mediator.

(2) Second level—hearing before grievance review committee. If the affirmative action officer is unable to resolve the grievance, the student may file an official grievance requesting a hearing before the grievance review committee, and is entitled to appeal the decision of that committee.

NEW SECTION

WAC 132K-16-520 STUDENT GRIEVANCE PROCEDURES—HEARING BEFORE GRIEVANCE REVIEW COMMITTEE. (1) Composition of committee. The Registrar shall chair the grievance review committee. Members of the committee shall be chosen as follows:

(a) two (2) faculty members appointed by the Executive Dean of Instruction;

(b) two (2) students appointed by the President of the Associated Students of Pierce College;

(c) one (1) classified staff member appointed by the Classified Staff Executive Committee; and

(d) one (1) administrative staff member.

(2) Petition to grievance review committee. Any grievance not resolved informally may be appealed to the grievance review committee for a hearing. the grievant shall petition the committee by submitting an official grievance form obtainable from the office of Student Programs and Activities. The Petition shall be made to the Dean of Students or to the Executive Dean of Instruction within five (5) working days of any appealable decision taken in informal proceedings. The Dean of Students or the Executive Dean of Instruction shall distribute a copy of the petition to all members of the grievance review committee.

(3) Procedure at hearing.

(a) Legal representation. When a petition is filed, the student shall:

(i) be assigned an advocate; or

(ii) waive his/her right to an advocate; or

(iii) notify the college of his/her retention of an attorney. Where the student is represented by an attorney, the college may be represented by an Assistant Attorney General.

(b) Witnesses. The grievance review committee may call any witnesses and hear any testimony needed to reach a prompt, fair resolution of the grievance. The grievance hearing before the committee shall not be considered a brief adjudicative proceeding. However, where requested by the student and approved by the college President, a brief adjudicative proceeding may be granted and conducted in accordance with the provisions of this chapter.

(4) Decision. Within three (3) working days of the conclusion of the hearing, the grievance review committee shall issue a written recommendation. All parties shall receive a copy of such recommendation.

NEW SECTION

WAC 132K-16-530 REVIEW OF COMMITTEE'S DECISION. (1) Review by dean. In the case of instructional grievances, the recommendations of the grievance review committee shall be sent to the Executive Dean of Instruction. In all other cases, the committee's recommendations shall be sent to the Dean of Students. The appropriate dean or his/her designee shall, within three (3) working days, accept, modify or reject the recommendations of the grievance review committee. All parties shall be notified of the dean's decision within five (5) working days.

(2) Review by college President.

(a) Appeal within five days. Where the student is not satisfied with the dean's decision, he/she may appeal that decision to the President of the college in writing, provided that such appeal is made within five (5) working days of the student's receipt of notice of the decision.

(b) President's decision within ten days. Within ten (10) working days after receiving the written request for appeal, the President shall review the record of the case prepared by the committee, together with any appeal statement, and shall deliver to both the dean and the student a written acceptance of the dean's decision or directions as to what other course of action shall be taken. The President's decision shall constitute final agency action by the college.

(3) Further review of sexual, racial or handicapped discrimination cases. For further review of sexual or handicapped discrimination cases, the grievant may send appeals or inquiries to:

(a) Regional Director
Office of Civil Rights, HEW
29011 3rd Avenue, M.S. 510
Seattle, Washington 98121

(b) The Equal Opportunity Commission
1321 2nd Avenue
Seattle, Washington 98101

(c) Human Rights Commission
402 Evergreen Plaza Building
7th and Capitol Way
Olympia, Washington 98504

NEW SECTION

WAC 132K-16-540 PRIOR RULES. The rules contained in this chapter supersede all former rules relating to student conduct and student grievances.

NEW SECTION

WAC 132K-16-550 SEVERABILITY. If any provision of this chapter is adjudged by a court of law to be unconstitutional, the remaining provisions shall continue in effect.

NEW SECTION

WAC 132K-16-560 EFFECTIVE DATE. The rules contained in this chapter shall become effective

**WSR 91-04-001
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed January 24, 1991, 1:26 p.m.]**

Date of Adoption: January 16, 1991.

Purpose: To adjust the interest rate and property tax component for assessment year 1991.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Pursuant to notice filed as WSR 90-24-086 on December 5, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 24, 1991

William N. Rice

Assistant Director

AMENDATORY SECTION (Amending WSR 90-24-087, filed 12/5/90, effective 1/5/91)

WAC 458-30-262 AGRICULTURAL LAND VALUATION-INTEREST RATE-PROPERTY TAX COMPONENT. For assessment year ((+990)) 1991, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

(1) The interest rate is ((+0.90)) 10.65 percent; and

(2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
((Adams	1.32	Lewis	1.25
Asotin	1.50	Lincoln	1.45
Benton	1.55	Mason	1.25
Chelan	1.26	Okanogan	1.38
Clallam	1.25	Pacific	1.44
Clark	1.35	Pend Oreille	1.24
Columbia	1.38	Pierce	1.59
Cowlitz	1.20	San Juan	0.95
Douglas	1.38	Skagit	1.27
Ferry	0.95	Skamania	0.96
Franklin	1.64	Snohomish	1.31
Garfield	1.82	Spokane	1.55
Grant	1.40	Stevens	1.10
Grays Harbor	1.43	Thurston	1.64
Island	0.98	Wahkiakum	1.21
Jefferson	1.10	Walla Walla	1.34
King	1.38	Whatcom	1.34
Kitsap	1.30	Whitman	1.61
Kittitas	1.15	Yakima	1.38
Klickitat	1.32))		
Adams	1.38	Lewis	1.27
Asotin	1.54	Lincoln	1.48
Benton	1.51	Mason	1.28

COUNTY	PERCENT	COUNTY	PERCENT
Chelan	1.38	Okanogan	1.43
Clallam	1.28	Pacific	1.46
Clark	1.39	Pend Oreille	1.18
Columbia	1.45	Pierce	1.59
Cowlitz	1.21	San Juan	0.96
Douglas	1.42	Skagit	1.29
Ferry	1.02	Skamania	0.95
Franklin	1.64	Snohomish	1.37
Garfield	1.57	Spokane	1.56
Grant	1.42	Stevens	1.12
Grays Harbor	1.45	Thurston	1.59
Island	1.06	Wahkiakum	1.16
Jefferson	1.15	Walla Walla	1.38
King	1.41	Whatcom	1.31
Kitsap	1.30	Whitman	1.56
Kittitas	1.17	Yakima	1.38
Klickitat	1.42		

WSR 91-04-002
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 24, 1991, 1:53 p.m.]

Original Notice.

Title of Rule: Chapter 388-14 WAC, Support enforcement.

Purpose: To clarify that residential parents, who are payees under superior court child support orders and are not receiving public assistance, may contest action OSE takes regarding the amount of the support debt OSE intends to collect for them and apply for an adjudicative proceeding as an independent party to have the matter resolved.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: WAC 388-14-385 requires the notice of conference board mailed to the payee to advise the payee of his/her right to request an adjudicative proceeding to contest the notice of support debt or an election of remedies will occur; WAC 388-14-415 allows the payee to request an adjudicative proceeding after OSE serves the payor with a notice of support owed if the payee wishes to contest the terms of that notice; WAC 388-14-435 allows the payee to request an adjudicative proceeding after OSE serves the payor with a notice of support debt if the payee wishes to contest the support debt stated in that notice; WAC 388-14-440 requires OSE to mail a notice to the payee when OSE serves the payor with a notice of support debt or a notice of support owed to advise the payee of the terms of either notice and allow the payee to request an adjudicative proceeding if the payee objects to the terms of either notice; WAC 388-14-445 requires OSE to mail the payee a notice of any proposed agreement OSE and the payor have reached and allow the payee to object to. The terms of the proposed agreement by requesting an adjudicative proceeding; and WAC 388-14-450 requires OSE to advise the payee of certain downward adjustments OSE makes to

the support debt owed to the payee and allows the payee to request an adjudicative proceeding to contest the adjustment.

Reasons Supporting Proposal: Implement a settlement between the Department of Social and Health Services and Evergreen Legal Services, the *ECOFF v. DSHS* lawsuit.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Cesar, Support Enforcement, 586-3515.

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

Rule is necessary because of state court decision, *ECOFF v. DSHS*.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 26, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 26, 1991.

Date of Intended Adoption: April 9, 1991.

January 24, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3005, filed 2/5/90, effective 3/1/90)

WAC 388-14-385 CONFERENCE BOARD. ~~((+))~~ A conference board ~~((is herewith established to))~~ may inquire into, determine facts, and attempt to resolve matters in which a responsible parent, ~~((custodial))~~ residential parent, payee under a court order, or other person feels aggrieved by an action~~((s))~~ taken by the office of support enforcement ~~((pursuant to))~~ under chapters 26.23, 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

~~((+))~~ The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances ~~((of responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding shall have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue))~~.

~~((+))~~ (1)(a) The director, revenue division, or director's designee may assemble a conference board on application of ~~((the))~~ an aggrieved person or on the director's own motion ~~((to investigate, find facts, and state or apply policy or law to the end of resolving grievances))~~. The conference board shall dissolve upon issuance of a decision on the matter for which it was appointed.

~~((+))~~ (b) An applicant for a conference board shall have made a reasonable attempt and have failed to resolve the grievance before a conference board may act to attempt to resolve the issue.

(2) The conference board's jurisdiction shall include, but shall not be limited to, the following areas:

(a) A complaint as to the conduct of individual staff members while acting within the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(b) Review of a denial of an application for or termination of non-assistance support enforcement services;

(c) Review of an allegation of error as to the distribution of support moneys;

(d) Review of a denial to collect support arrears in nonassistance cases under RCW 74.20.040;

(e) Resolution of the amount of arrears claimed due and rate of repayments;

(f) A request to release or refund money taken under RCW 74.20A.080 or 26.23.060 to provide for the reasonable necessities of a responsible parent and minor children in the responsible parent's home;

(g) A request for deferral of support enforcement action;

(h) A request for partial or total charge-off of support arrears under RCW 74.20A.220;

(i) A request to waive interest under RCW 74.20A.190;

(j) A request to waive or defer the nonassistance support enforcement fee under RCW 74.20.040;

(k) Review of a determination that a support obligation has been satisfied or is no longer legally enforceable;

(l) A specific request for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations; and

(m) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

~~((c))~~ (3) When a person requests a conference board, the director or the director's designee may take such action, as deemed appropriate, and may exercise any of the authority provided for in this regulation, ~~((ff))~~ when the:

~~((i))~~ ~~The~~ (a) Grievance ~~(or issue presented in an application for conference board)~~ does not involve a factual dispute~~(:);~~ or

~~((ii))~~ ~~The~~ (b) Disputed fact or facts even if resolved in favor of the ~~(applicant)~~ person would not provide a basis upon which relief could be granted to the ~~(applicant)~~ person by a conference board ~~(acting in accordance with the standards provided for in this section)~~.

~~((d))~~ ~~If an apparent~~ (4) When a person requests a conference board and the grievance involves an apparent factual dispute ~~(exists)~~:

~~((i))~~ (a) The director or director's designee shall assemble a conference board composed of the director or director's designee, who shall serve as chairman, and two staff members, if deemed necessary~~(:);~~

~~((ii))~~ (b) The chairman ~~(of the conference board)~~ shall mail a notice~~(:)~~ of conference board to the applicant and any other person or agency who is a party in interest to the proceeding~~(:);~~ The notice of conference board shall state that a conference board has been ~~(convened)~~ scheduled and inform the parties of the time and place of the conference board ~~((at least seven days prior to the date the conference board is scheduled:));~~

~~((c))~~ (c) Where the department is not providing public assistance to the payee under a court order, and the responsible parent timely requests a conference board to contest the debt stated in a notice of support debt, the conference board shall be scheduled for a date at least thirty days after the notice of conference board is issued, and the notice shall state that:

(i) The payee has twenty days from the date the notice of conference board was given to request that the grievance be addressed in an adjudicative proceeding under WAC 388-14-435;

(ii) If the payee does not timely request an adjudicative proceeding, the department will deem that the payee has elected to have the grievance heard in a conference board and the:

(A) Conference board decision will become the final agency position on the debt claimed under the notice of support debt; and

(B) A payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application; and

(iii) If the payee does not appear at either a conference board or an adjudicative proceeding, the resulting decision may be adverse to the payee's interest, including but not limited to, a reduction in the support debt stated in the notice of support debt.

(d) If the payee requests an adjudicative proceeding under WAC 388-14-435, OSE shall inform the:

(i) Responsible parent that the parent's request for conference board is declined, and the responsible parent must appear at the adjudicative proceeding requested by the payee to raise objections to the notice of support debt; and

(ii) Payee that the conference board previously scheduled has been declined due to the payee's application for an adjudicative proceeding.

(5) The chairman of the conference board is ~~(herewith)~~ authorized ~~(as a duly appointed officer empowered)~~ to issue ~~(subpoena of witnesses, books, records, etc., as provided for in)~~ subpoenas under RCW 74.04.290 and ~~(shall have power)~~ to ~~(subpoena witnesses,)~~ administer oaths, take testimony, and compel the production of such papers,

books, records, and documents deemed relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. The ~~(director)~~ chairman may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board ~~(as required)~~.

~~((f))~~ The conference board's jurisdiction shall include but shall not be limited to the following areas:

(i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(ii) Review of denial of application for or termination of nonassistance support enforcement services;

(iii) Review of allegations of error as to the distribution of support moneys;

(iv) Resolution of amounts of arrears claimed due and rate of repayments;

(v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;

(vi) Requests for deferral of support enforcement action;

(vii) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance cases;

(viii) Requests to waive interest pursuant to RCW 74.20A.190;

(ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;

(x) Review of determinations that a support obligation has been satisfied or is no longer legally enforceable;

(xi) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

(xii) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations:

(2) The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

~~(3))~~ (6)(a) The conference board chairman shall make a written decision stating the facts found, policies applied, and the board's decision.

(b) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department ~~(of social and health services)~~ rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins, and the exercise of reasonable administrative discretion. ~~((The decision shall be in writing and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.~~

(4) The office shall establish a file of pertinent documents for each case and distribute a copy of the decision, signed by the chairman, to:

(a) The applicant;

(b) Other parties in interest when requested;

(c) The appropriate office of support enforcement district field office for action consistent with the decision of the board; and

(d) The director.

~~(5))~~ (c) The board shall base a decision~~(s)~~ under RCW 74.20A.220 to grant partial or total charge-off of arrears owed to the department ~~(of social and health services)~~ under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) on the following considerations ~~(and shall state them in the written decision of the conference board fully justifying the action taken)~~:

~~((a))~~ (i) Error in law or bona fide legal defects that materially diminish chances of collection; or

~~((b))~~ (ii) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or

~~((c))~~ (iii) Costs of collection action in the future that are greater than the amount to be charged off; or

~~((4))~~ (iv) Settlement from lump-sum cash payment that is beneficial to the state considering future costs of collection and likelihood of collection.

~~((6))~~ (d) If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.

(e) The board shall distribute a copy of the decision to the applicant, other parties in interest when requested, the appropriate office of support enforcement field office for action consistent with the decision of the board, and the director.

(7) A conference board is not an adjudicative proceeding subject to review by the superior court and is not a substitute for any constitutionally or statutorily required hearing. Aggrieved parties may be represented before the board by a person of their choice ~~((represented before the board by a person of their choice))~~. The department shall not pay any costs incurred by the aggrieved person in connection with the conference board.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 3005, filed 2/5/90, effective 3/1/90)

WAC 388-14-415 NOTICE OF SUPPORT OWED. (1) ~~((The))~~ A notice of support owed issued~~(:)~~ under RCW 26.23.110~~(:)~~ shall state that:

(a) The office of support enforcement (OSE) is providing support enforcement services on behalf of the responsible parent's dependent children~~(:)~~;

(b) Twenty-one days after service of the notice on the responsible parent, ~~((the office with))~~ OSE may take action to collect the responsible parent's support obligation~~((The office shall take collection action))~~ without further notice ~~((if a support payment is more than fifteen days past due in an amount equal to the support payable for one month))~~ when the support obligation becomes due under the terms of the court order, unless the responsible parent or the payee under the order has filed a timely request to contest the notice as provided under this section. Collection action includes issuing orders to withhold and deliver and notices of payroll deduction, or taking other income withholding action~~(:)~~;

(c) After service of the notice~~(:)~~ the responsible parent must make all support payments through the Washington state support registry~~(:)~~;

(d) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and 74.20.101~~(:)~~;

(e) The current monthly amount for support including medical and day care costs, under a court or administrative order and an initial finding of the current support amount due if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(f) The amount of any support debt, including medical support and day care costs, owed by the responsible parent;

(g) The responsible parent has twenty days after service of the notice to contest the current support or support debt claimed by filing:

(i) A written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) An action in superior court.

(h)(i) The payee under the order has twenty days from the date notice was given to contest:

(A) The support debt or current support amount stated in the notice of support owed; or

(B) A proposed agreement between OSE and the responsible parent regarding the amount of the support debt or current support.

(ii) The payee may contest the support debt, current support, or proposed agreement by filing:

(A) A written application for an adjudicative proceeding under chapter 34.05 RCW; or

(B) A action in superior court.

(i) If either party files an application for an adjudicative proceeding both parties shall be notified and allowed to participate in the proceeding as independent parties.

(2) The notice of support owed shall be served on the responsible parent like a summons in a civil action~~(:)~~ or ~~((shall be mailed to his or her last known address))~~ by ~~((certified))~~ any form of mail~~(:)~~ requiring a return receipt ~~((requested))~~.

(3) ~~((The notice of support owed shall contain:~~

(a) The current monthly amount for support under a court or administrative order;

(b) An initial finding of the current support amount if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(c) The amount of any support debt, including medical support, owed by the responsible parent;

(d) A statement that the responsible parent has twenty days after service of the notice to contest:

(i) The initial finding for current support under subsection (3)(b) of this section; or

(ii) The support debt, and/or the current/future support obligation, if the support order contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the support debt or current support.

(c) A statement that the responsible parent may contest the notice by either:

(i) Filing a written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) Filing an action in superior court)) Following service upon the responsible parent, the office shall mail a copy of the notice of support owed to the payee under the order by regular mail at the payee's last known address. The office shall also mail a notice to the payee regarding the payee's rights to contest the notice of support owed as provided under WAC 388-14-440.

(4) ~~((The office))~~ OSE may make the initial finding based upon:

(a) The factors stated in the order; and

(b) ~~((The responsible parent's earnings, if known; or~~

(c) The responsible parent's ability to earn if the actual earnings are unknown; or

(d) The needs of the dependent child~~(ren)~~ if the responsible parent's earnings and ability to earn are unknown)) Any other information not contained in the order that is needed to determine the amount of the accrued debt or the current support obligation.

(5) ~~((If the responsible parent does not file an application for an adjudicative proceeding or start an action in superior court the office shall:~~

(a) Enter a default order stating the notice amounts if the notice contained an initial finding of the amount for current support;

(b) Mail a copy of the order to the last known address of the responsible parent. A copy of the order shall also be mailed to the person to whom support is payable under the support order;

(c) Collect the amounts stated in the notice without further notice.

~~((6))~~ If either the responsible parent or the payee under the order files an application for an adjudicative proceeding under this section, the department shall ~~((serve))~~ issue a notice of hearing ~~((on the responsible parent or the parent's representative. A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order))~~.

The notice shall direct ~~((the responsible parent))~~ both parties to appear and show why the current support amount and/or the support debt amount is ~~((wrong))~~ incorrect.

~~((7))~~ (6) If the responsible parent requests the hearing, the parent shall:

(a) List defenses to liability and/or state the reasons why support should not be set as stated in the notice of support owed in the request for a hearing; and

(b) Attach an office-approved financial affidavit;

~~((c))~~ File the application at the office of support enforcement by certified mail, return receipt requested, or like a summons in a civil action:

~~((8))~~ (7) A payee's application for an adjudicative proceeding is governed by WAC 388-14-440.

(8)(a) If any party appears for the adjudicative proceeding and elects to proceed, absent the granting of a continuance the presiding officer shall hear the matter and enter an initial decision and order based upon the evidence presented.

(b) If neither party appears or elects to proceed, the presiding officer shall enter a decision and order declaring the amounts stated in the notice of support owed subject to collection action.

~~(9) If ((the responsible)) either parent files ((an)) a timely application for an adjudicative proceeding ((within twenty days of service of the notice of support owed)), ((the office)) OSE shall stay collection action pending the final adjudicative order, except as provided in subsection ((9)) (10) of this section.~~

~~((9) The office) (10) OSE may take action to collect:~~

~~(a) ((Temporary support if the administrative law judge issues an order for temporary support;~~

~~(b)) Any part of the support debt that ((the responsible parent)) both parties fail((s)) to allege is ((not owed)) incorrect;~~

~~((c)) (b) A fixed or minimum dollar amount for current support stated in the court order; and~~

~~((d)) (c) Any part of a support debt that has been reduced to a sum certain judgment by a proper court or agency.~~

~~((10) The responsible parent shall prove defenses to the initial finding for current support and/or the amount of the support debt:))~~

~~(11) OSE shall collect the amounts stated in the notice without further notice to either party if neither the responsible parent nor the payee under the order:~~

~~(a) Files an application for an adjudicative proceeding under chapter 34.05 RCW; or~~

~~(b) Starts an action in superior court.~~

~~(12)(a) The following sections ((of chapter 388-11 WAC)) are incorporated by reference and made applicable to ((the hearing process)) a proceeding provided for in this section ((to the extent they are consistent and relevant)). WAC 388-11-011, 388-11-015, 388-11-055, 388-11-060, 388-11-065, ((388-11-070,)) 388-11-100, 388-11-115, ((388-11-120, 388-11-130,)) 388-11-135, ((388-11-140,)) 388-11-145, ((388-11-150, 388-11-155, 388-11-170,)) and ((388-11-190)) 388-11-180.~~

~~(b) Hearings held under this section shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), and chapters 388-08 and 388-14 WAC. If any provision in this chapter or in a rule incorporated by reference by ((11)(a)) (12)(a) of this section conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter or a rule incorporated by reference ((in (11)(a) of this section)) shall govern.~~

~~((12) The office of support enforcement and the responsible parent each have the right to request a yearly review of the support order:))~~

~~(13) After evidence has been presented at a hearing, the presiding officer shall within twenty days:~~

~~(a) Find the amount of current support payable under the order;~~

~~(b) Find the amount of the support debt, including medical support and day care costs, accrued prior to the date of service of the notice;~~

~~(c) Issue findings of fact, conclusions of law, and an initial decision and order.~~

~~(14) The responsible parent or payee shall prove defenses to the initial finding for current support and/or the amount of the support debt.~~

~~(15) The ((administrative law and review judge's authority)) presiding officer in the initial decision, and the secretary or designee in review of the proposed decision, shall be limited to:~~

~~(a) Interpretation of the court order for support only. The ((administrative law and review judges)) presiding officer shall have no authority to change or defer the support amount owed except to:~~

~~(i) Find the amount of monthly support as a fixed dollar amount; and~~

~~(ii) Find any arrears accrued prior to service of the notice of support owed.~~

~~(b) Correct the mathematical computation of the stated debt;~~

~~(c) Review and consider superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapter 26.21 or 26.20 RCW shall not be construed as modifications.~~

~~((14) If the debtor fails to appear at the hearing, the administrative law judge shall, after proof of proper service, enter a decision and order declaring the support debt subject to collection action:~~

~~((15)) (16) Adjudicative orders entered under this section shall inform the parties of the right to request a yearly review of the order.~~

~~(17) The presiding officer shall file the original initial decision and order with the secretary or the secretary's designee.~~

~~(18) The ((administrative law and review judges)) presiding officer shall mail copies of the decision((s)) and order((s)) to:~~

~~(a) The office of support enforcement;~~

~~(b) The last known address of the responsible parent by certified mail; and~~

~~(c) The last known address of the person to whom support is payable under the support order.~~

~~((16)) (19) Informal disposition of any hearing is favored where possible and not precluded by law. ((The Office)) OSE may dispose of cases by an agreed settlement or a consent order. The ((administrative law judge)) presiding officer shall approve any consent order unless:~~

~~(a) It is contrary to law; or~~

~~(b) The payee under the order filed a timely objection to the:~~

~~(i) Notice of support owed; or~~

~~(ii) Notice of proposed settlement.~~

~~((17)) (20) A support order issued under this section shall((: (a)) contain the notice and information listed in RCW ((26.23.050(4), and~~

~~(b) Be filed with the clerk of the court that has jurisdiction over the court order.~~

~~((18) The responsible parent may file an application for a proceeding under this section if the responsible parent claims credit for payments under WAC 388-14-210(4)) 26.23.050(5).~~

~~(21) The provisions of this section regarding the payee's right to an adjudicative proceeding shall not apply if the department is providing public assistance to the payee or the child for whom support is being sought.~~

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 388-14-435 NOTICE OF SUPPORT DEBT. (1) A notice of support debt issued under RCW 74.20A.040 shall state:

(a) The Office of Support Enforcement (OSE) is providing support enforcement services on behalf of the responsible parent's dependent children.

(b) The amount of any support debt, including medical support and day care costs, owed by the responsible parent.

(c) The current monthly amount for support under a court or administrative order.

(d) Twenty-one days after service of the notice of support debt OSE may take action to collect the responsible parent's support obligation without further notice, when the support obligation becomes due under the terms of the court order, unless the responsible parent or the payee under the order has filed a timely request to contest the notice of support debt as provided under this section. Collection action includes issuing orders to withhold and deliver, notices of payroll deduction, and/or taking other income withholding action.

(e) After service of the notice of support debt the responsible parent must make all support payments through the Washington state support registry.

(f) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and 74.20.101.

(g) The responsible parent has twenty days after service of the notice to contest the support debt amount by either:

(i) Making a written request for a conference board to be held under WAC 388-14-385; or

(ii) Filing an action in superior court.

(h) If the payee under the order objects to the support debt stated in the notice of support debt, or to a proposed settlement agreement between OSE and the responsible parent resulting in a reduction of the support debt, the payee may contest the action by:

(i) Filing a written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) Filing an action in superior court.

(i) Both parties shall be notified of any adjudicative proceeding requested by the payee and both parties shall be allowed to participate as independent parties.

(2) The department shall serve the notice of support debt on the responsible parent:

(a) Like a summons in a civil action; or

(b) By any form of mail requiring a return receipt.

(3) If the responsible parent does not request a conference board or start an action in superior court and the payee under the order does not file a timely application for an adjudicative proceeding or start an action in superior court, OSE shall collect the amounts stated in the notice of support debt without further notice to either party.

(4)(a) If the responsible parent requests a conference board the department shall issue a notice of conference board. The notice shall direct the responsible parent to appear and show why the support debt is incorrect. If the conference board request was timely, action to collect the support debt stated in the notice of support debt shall be stayed pending the outcome of the conference board.

(b) A copy of the notice of conference board shall be mailed to the payee under the court order informing the payee of the payee's right to participate in the conference board.

(i) The payee shall have twenty days from the date the notice of conference board is given to request that the issues be addressed in an adjudicative proceeding under subsection (1)(h) of this section.

(A) If the payee does not file an application for an adjudicative proceeding within twenty days, the payee will be deemed to have made an election of remedies; and

(I) The conference board decision shall become the final agency position; and

(II) The payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application.

(B) If the payee files an application for an adjudicative proceeding within twenty days action to collect the support debt stated in the notice of support debt shall be stayed pending the outcome of the adjudicative proceeding.

(ii) OSE shall notify the responsible parent of the payee's application for an adjudicative proceeding as required under subsection (1)(i) of this section.

(5)(a) In any adjudicative proceeding scheduled to contest a notice issued under this section, the following WAC provisions are incorporated by reference. WAC 388-11-011, 388-11-015, 388-11-055, 388-11-060, 388-11-065, 388-11-100, 388-11-115, 388-11-135, 388-11-145, 388-11-180, and chapter 388-08 WAC.

(b) If any provision in this rule or in a rule incorporated by reference in this section conflicts with, or is inconsistent with a provision in chapter 388-08 WAC, the provision in this section or a rule incorporated by reference in this section shall govern.

(6) After evidence has been presented at a hearing, the presiding officer shall, within twenty days:

(a) Find the amount of the support debt, including medical support and day care costs, accrued prior to the date of service of the notice;

(b) Correct the mathematical computation of the stated debt;

(c) Review and consider superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications; and

(d) Issue findings of fact, conclusions of law, and an initial decision and order.

(7)(a) If any party appears for the adjudicative proceeding, absent the granting of a continuance, the presiding officer shall hear the matter and enter an initial decision and order based upon the evidence presented.

(b) If neither party appears or elects to proceed the presiding officer shall enter a decision and order declaring the amounts stated in the Notice of Support Debt subject to collection.

(8) Informal disposition of any hearing is favored where possible and not precluded by law. OSE may dispose of cases by an agreed settlement, or consent order. The presiding officer shall approve any consent order unless:

(a) It is contrary to law; or

(b) The payee under the order files a timely objection to the:

(i) Notice of support debt; or

(ii) Notice of proposed settlement.

(9) A support order issued under this section shall contain the notice and information listed in RCW 26.23.050(5).

(10) OSE is not required to serve a notice of support debt on the responsible parent prior to collection action if the order contains the requirements under RCW 74.20A.040(5).

(11) The provisions of this section regarding the payee's right to an adjudicative proceeding under chapter 34.05 RCW shall not apply if the department is providing public assistance to the payee or the child for whom support is being enforced.

NEW SECTION

WAC 388-14-440 NOTICE TO PAYEE. (1) The office of support enforcement (OSE) shall mail a notice to the payee under a court order for child support by first class mail to the payee's last known address when the department serves a:

(a) Notice of support debt on the responsible parent under RCW 74.20A.040; or

(b) Notice of support owed on the responsible parent under RCW 26.23.110.

(2) The notice to the payee shall state:

(a) OSE has served a notice of support debt or notice of support owed on the responsible parent;

(b) The amount of support OSE calculated is due at the time the notice is issued and the time period during which the support debt accrued; and

(c) In cases where the department is not providing public assistance to the payee or the child for whom support is being enforced, the notice to the payee shall also state:

(i) The payee under the court order has the right to contest the claimed support debt and/or current support by filing a written application for an adjudicative proceeding under chapter 34.05 RCW within twenty days of the date the notice to the payee was given;

(ii) The payee under the court order may upon request review the information used to calculate the support debt and/or current support claimed in the notice of support debt or the notice of support owed;

(iii) The responsible parent has the right to attend and participate as an independent party in any adjudicative proceeding requested by the payee;

(iv) If the responsible parent files a timely request for a conference board to contest a notice of support debt, the payee will be required to elect between resolving the amount of the debt in the conference board or in an adjudicative proceeding; and

(v) If the payee does not appear for either a conference board or an adjudicative proceeding, the resulting decision may be adverse to the payee's interest, including but not limited to a reduction:

(A) In the amount of the support debt below the amount stated in a notice of support debt; or

(B) Of the support debt and/or the current support below the amount stated in the notice of support owed.

(3) If the payee under the court order does not timely file an application for an adjudicative proceeding, OSE shall collect the amounts stated in the notice of support debt or notice of support owed without further notice to either party unless the responsible parent timely:

(a) Requests a conference board to contest the notice of support debt; or

(b) Files an application for an adjudicative proceeding to contest the notice of support owed.

NEW SECTION

WAC 388-14-445 NOTICE OF PROPOSED SETTLEMENT.

(1) Agreed settlements and consent orders entered between the department and the responsible parent to adjust amounts claimed under a notice of support debt or a notice of support owed shall not be final unless:

(a) Approved by the payee under the order; or

(b) The payee is given notice of and does not make a timely written objection to the proposed settlement.

(2) Agreed settlements and consent orders shall contain a statement informing the responsible parent of the conditional nature of the agreement.

(3) When the department and the responsible parent sign an agreed settlement or consent order under this section, the department shall mail a copy of the proposed agreement to the payee and inform the payee of the payee's right to object to the proposed agreement. The department shall inform the payee that:

(a) The payee may object to the agreement by filing a written application for an adjudicative proceeding under chapter 34.05 RCW with the department within twenty days of the date notice of the proposed agreement was given; and

(b) If the payee does not timely file an application for an adjudicative proceeding, the proposed agreement will become effective and shall not be subject to further administrative appeal and if the responsible parent has previously filed a timely request for a conference board or an adjudicative proceeding, the:

(i) Proposed agreement will become final; and

(ii) Scheduled hearing or conference board will be dismissed.

(c) The payee may, at any time, approve a proposed settlement by written notice to the department.

(4) The department or the office of administrative hearings shall give notice to the responsible parent of any adjudicative proceeding requested by the payee to contest a proposed agreement. The responsible

parent shall be allowed to appear and participate as an independent party in the proceeding.

(5) The provisions of this section shall not apply if the department is providing public assistance to the children for whom the department enforces support.

NEW SECTION

WAC 388-14-450 DEBT ADJUSTMENT NOTICE. (1) The office of support enforcement (OSE) shall mail a debt adjustment notice to a payee under a court order within thirty days of the date OSE reduces the amount of the court-ordered support debt the department intends to collect if that reduction was due to:

- (a) A mathematical error in the debt calculation;
- (b) A clerical error in the stated debt;
- (c) Proof the support obligation should have been suspended for all or part of the time period involved in the calculation; or
- (d) Proof the responsible parent made payments that had not previously been credited against the support debt.

(2) The debt adjustment notice shall state:

- (a) The amount of the reduction;
- (b) The reason OSE reduced the support debt, as provided under subsection (1) of this section;

(c) The payee has the right to contest the proposed adjustment by filing a written application for an adjudicative proceeding under chapter 34.05 RCW within twenty days of the date notice to the payee was given;

(d) The name of the responsible parent and a statement that the parent may attend and participate as an independent party in an adjudicative proceeding requested by the payee; and

(e) OSE will continue to provide support enforcement services whether or not the payee objects to the notice.

(3)(a) The payee has the right to contest a reduction under subsection (1) of this section by filing a request for an adjudicative proceeding within twenty days of the date the notice to the payee was given.

(b) If the application for an adjudicative proceeding is untimely filed but is filed within one year of the date notice was given, the payee shall be entitled to an adjudicative proceeding without showing good cause for the untimely request.

(c) If the application for an adjudicative proceeding is filed beyond one year from the date notice was given, the payee must show good cause for the delay in filing the request in order to receive an adjudicative proceeding to contest the reduction.

(4) The provisions of this section shall not apply if the department is providing public assistance to the payee or the child for whom the department enforces support.

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Implement a settlement between the Department of Health Services and Evergreen Legal Services, the *ECOFF v. DSHS* lawsuit.

Effective Date of Rule: January 25, 1991, 12:01 a.m.

January 24, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3005, filed 2/5/90, effective 3/1/90)

WAC 388-14-385 CONFERENCE BOARD. ~~((+))~~ A conference board ~~((is herewith established to))~~ may inquire into, determine facts, and attempt to resolve matters in which a responsible parent, ((custodial)) residential parent, payee under a court order, or other person feels aggrieved by an action((s)) taken by the office of support enforcement ((pursuant to)) under chapters 26.23, 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

~~((a))~~ The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances ((of responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding shall have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue)).

~~((b))~~ (1)(a) The director, revenue division, or director's designee may assemble a conference board on application of ((the)) an aggrieved person or on the director's own motion ((to investigate, find facts, and state or apply policy or law to the end of resolving grievances)). The conference board shall dissolve upon issuance of a decision on the matter for which it was appointed.

(b) An applicant for a conference board shall have made a reasonable attempt and have failed to resolve the grievance before a conference board may act to attempt to resolve the issue.

(2) The conference board's jurisdiction shall include, but shall not be limited to, the following areas:

(a) A complaint as to the conduct of individual staff members while acting within the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(b) Review of a denial of an application for or termination of nonassistance support enforcement services;

(c) Review of an allegation of error as to the distribution of support moneys;

(d) Review of a denial to collect support arrears in nonassistance cases under RCW 74.20.040;

(e) Resolution of the amount of arrears claimed due and rate of repayments;

(f) A request to release or refund money taken under RCW 74.20A.080 or 26.23.060 to provide for the reasonable necessities of a responsible parent and minor children in the responsible parent's home;

WSR 91-04-003

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3131—Filed January 24, 1991, 1:55 p.m., effective January 25, 1991, 12:01 a.m.]

Date of Adoption: January 24, 1991.

Purpose: To clarify that residential parents, who are payees under superior court child support orders and are not receiving public assistance, may contest action OSE takes regarding the amount of the support debt OSE intends to collect for them and apply for an adjudicative proceeding as an independent party to have the matter resolved.

Citation of Existing Rules Affected by this Order: Amending chapter 388-14 WAC.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

(g) A request for deferral of support enforcement action;

(h) A request for partial or total charge-off of support arrearages under RCW 74.20A.220;

(i) A request to waive interest under RCW 74.20A.190;

(j) A request to waive or defer the nonassistance support enforcement fee under RCW 74.20.040;

(k) Review of a determination that a support obligation has been satisfied or is no longer legally enforceable;

(l) A specific request for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations; and

(m) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

~~((c))~~ (3) When a person requests a conference board, the director or the director's designee may take such action, as deemed appropriate, and may exercise any of the authority provided for in this regulation, when the:

~~((i) The)~~ (a) Grievance (or issue presented in an application for conference board) does not involve a factual dispute(;) or

~~((ii) The)~~ (b) Disputed fact or facts even if resolved in favor of the (applicant) person would not provide a basis upon which relief could be granted to the (applicant) person by a conference board (acting in accordance with the standards provided for in this section).

~~((d) If an apparent)~~ (4) When a person requests a conference board and the grievance involves an apparent factual dispute (exists):

~~((i))~~ (a) The director or director's designee shall assemble a conference board composed of the director or director's designee, who shall serve as chairman, and two staff members, if deemed necessary(;) or

~~((ii))~~ (b) The chairman (of the conference board) shall mail a notice(;) of conference board to the applicant and any other person or agency who is a party in interest to the proceeding(;). The notice of conference board shall state that a conference board has been (convened) scheduled and inform the parties of the time and place of the conference board ((at least seven days prior to the date the conference board is scheduled:));

~~((c))~~ (c) Where the department is not providing public assistance to the payee under a court order, and the responsible parent timely requests a conference board to contest the debt stated in a notice of support debt, the conference board shall be scheduled for a date at least thirty days after the notice of conference board is issued, and the notice shall state that:

(i) The payee has twenty days from the date the notice of conference board was given to request that the grievance be addressed in an adjudicative proceeding under WAC 388-14-435;

(ii) If the payee does not timely request an adjudicative proceeding, the department will deem that the payee has elected to have the grievance heard in a conference board and the:

(A) Conference board decision will become the final agency position on the debt claimed under the notice of support debt; and

(B) A payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application; and

(iii) If the payee does not appear at either a conference board or an adjudicative proceeding, the resulting decision may be adverse to the payee's interest, including but not limited to, a reduction in the support debt stated in the notice of support debt.

(d) If the payee requests an adjudicative proceeding under WAC 388-14-435, OSE shall inform the:

(i) Responsible parent that the parent's request for conference board is declined, and the responsible parent must appear at the adjudicative proceeding requested by the payee to raise objections to the notice of support debt; and

(ii) Payee that the conference board previously scheduled has been declined due to the payee's application for an adjudicative proceeding.

(5) The chairman of the conference board is (herewith) authorized ((as a duly appointed officer empowered) to issue ((subpoena of witnesses, books, records, etc., as provided for in)) subpoenas under RCW 74.04-.290 and ((shall have power)) to ((subpoena witnesses,)) administer oaths, take testimony, and compel the production of such papers, books, records, and documents deemed relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. The ((director) chairman may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board ((as required)).

~~((f) The conference board's jurisdiction shall include but shall not be limited to the following areas:~~

~~(i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;~~

~~(ii) Review of denial of application for or termination of nonassistance support enforcement services;~~

~~(iii) Review of allegations of error as to the distribution of support moneys;~~

~~(iv) Resolution of amounts of arrearages claimed due and rate of repayments;~~

~~(v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;~~

~~(vi) Requests for deferral of support enforcement action;~~

~~(vii) Requests for partial or total charge-off of support arrearages pursuant to RCW 74.20A.220 or declination to collect support arrearages pursuant to RCW 74.20-.040 on nonassistance cases;~~

~~(viii) Requests to waive interest pursuant to RCW 74.20A.190;~~

~~(ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;~~

~~(x) Review of determinations that a support obligation has been satisfied or is no longer legally enforceable;~~

~~(xi) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.~~

~~(xii) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.~~

~~(2) The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.~~

~~(3)) (6)(a) The conference board chairman shall make a written decision stating the facts found, policies applied, and the board's decision.~~

~~(b) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department ((of social and health services)) rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins, and the exercise of reasonable administrative discretion. ((The decision shall be in writing and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.~~

~~(4) The office shall establish a file of pertinent documents for each case and distribute a copy of the decision, signed by the chairman, to:~~

~~(a) The applicant;~~

~~(b) Other parties in interest when requested;~~

~~(c) The appropriate office of support enforcement district field office for action consistent with the decision of the board; and~~

~~(d) The director.~~

~~(5)) (c) The board shall base a decision(s) under RCW 74.20A.220 to grant partial or total charge-off of arrears owed to the department ((of social and health services)) under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) on the following considerations ((and shall state them in the written decision of the conference board fully justifying the action taken)):~~

~~((a)) (i) Error in law or bona fide legal defects that materially diminish chances of collection; or~~

~~((b)) (ii) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or~~

~~((c)) (iii) Costs of collection action in the future that are greater than the amount to be charged off; or~~

~~((d)) (iv) Settlement from lump-sum cash payment that is beneficial to the state considering future costs of collection and likelihood of collection.~~

~~((6)) (d) If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.~~

~~(e) The board shall distribute a copy of the decision to the applicant, other parties in interest when requested, the appropriate office of support enforcement field office for action consistent with the decision of the board, and the director.~~

~~(7) A conference board is not an adjudicative proceeding subject to review by the superior court and is not a substitute for any constitutionally or statutorily required hearing. Aggrieved parties may be represented before the board by a person of their choice ((represented before the board by a person of their choice)). The department shall not pay any costs incurred by the aggrieved person in connection with the conference board.~~

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 3005, filed 2/5/90, effective 3/1/90)

WAC 388-14-415 NOTICE OF SUPPORT OWED. (1) ~~((The))~~ A notice of support owed issued~~((;))~~ under RCW 26.23.110~~((;))~~ shall state that:

(a) The office of support enforcement (OSE) is providing support enforcement services on behalf of the responsible parent's dependent children~~((;))~~;

(b) Twenty-one days after service of the notice on the responsible parent, ~~((the office will))~~ OSE may take action to collect the responsible parent's support obligation~~((The office shall take collection action))~~ without further notice ~~((if a support payment is more than fifteen days past due in an amount equal to the support payable for one month))~~ when the support obligation becomes due under the terms of the court order, unless the responsible parent or the payee under the order has filed a timely request to contest the notice as provided under this section. Collection action includes issuing orders to withhold and deliver and notices of payroll deduction, or taking other income withholding action~~((;))~~;

(c) After service of the notice~~((;))~~ the responsible parent must make all support payments through the Washington state support registry~~((;))~~;

(d) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and 74.20.101~~((;))~~;

(e) The current monthly amount for support including medical and day care costs, under a court or administrative order and an initial finding of the current support amount due if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(f) The amount of any support debt, including medical support and day care costs, owed by the responsible parent;

(g) The responsible parent has twenty days after service of the notice to contest the current support or support debt claimed by filing:

(i) A written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) An action in superior court.

(h)(i) The payee under the order has twenty days from the date notice was given to contest:

(A) The support debt or current support amount stated in the notice of support owed; or

(B) A proposed agreement between OSE and the responsible parent regarding the amount of the support debt or current support.

(ii) The payee may contest the support debt, current support, or proposed agreement by filing:

(A) A written application for an adjudicative proceeding under chapter 34.05 RCW; or

(B) An action in superior court.

(i) If either party files an application for an adjudicative proceeding both parties shall be notified and allowed to participate in the proceeding as independent parties.

(2) The notice of support owed shall be served on the responsible parent like a summons in a civil action(;) or ((shall be mailed to his or her last known address)) by ((certified)) any form of mail(;) requiring a return receipt ((requested)).

(3) ((The notice of support owed shall contain:

(a) The current monthly amount for support under a court or administrative order;

(b) An initial finding of the current support amount if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(c) The amount of any support debt, including medical support, owed by the responsible parent;

(d) A statement that the responsible parent has twenty days after service of the notice to contest:

(i) The initial finding for current support under subsection (3)(b) of this section; or

(ii) The support debt, and/or the current/future support obligation, if the support order contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the support debt or current support.

(e) A statement that the responsible parent may contest the notice by either:

(i) Filing a written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) Filing an action in superior court)) Following service upon the responsible parent, the office shall mail a copy of the notice of support owed to the payee under the order by regular mail at the payee's last known address. The office shall also mail a notice to the payee regarding the payee's rights to contest the notice of support owed as provided under WAC 388-14-440.

(4) ((The office)) OSE may make the initial finding based upon:

(a) The factors stated in the order; and

(b) ((The responsible parent's earnings, if known; or

(c) The responsible parent's ability to earn if the actual earnings are unknown; or

(d) The needs of the dependent child(ren) if the responsible parent's earnings and ability to earn are unknown)) Any other information not contained in the order that is needed to determine the amount of the accrued debt or the current support obligation.

(5) ((If the responsible parent does not file an application for an adjudicative proceeding or start an action in superior court the office shall:

(a) Enter a default order stating the notice amounts if the notice contained an initial finding of the amount for current support;

(b) Mail a copy of the order to the last known address of the responsible parent. A copy of the order shall also be mailed to the person to whom support is payable under the support order;

(c) Collect the amounts stated in the notice without further notice.

(6)) If either the responsible parent or the payee under the order files an application for an adjudicative proceeding under this section, the department shall ((serve)) issue a notice of hearing ((on the responsible parent or the parent's representative. A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order)).

The notice shall direct ((the responsible parent)) both parties to appear and show why the current support amount and/or the support debt amount is ((wrong)) incorrect.

((7)) (6) If the responsible parent requests the hearing, the parent shall:

(a) List defenses to liability and/or state the reasons why support should not be set as stated in the notice of support owed in the request for a hearing; and

(b) Attach an office-approved financial affidavit;

((c) File the application at the office of support enforcement by certified mail, return receipt requested, or like a summons in a civil action.

((8)) (7) A payee's application for an adjudicative proceeding is governed by WAC 388-14-440.

(8)(a) If any party appears for the adjudicative proceeding and elects to proceed, absent the granting of a continuance the presiding officer shall hear the matter and enter an initial decision and order based upon the evidence presented.

(b) If neither party appears or elects to proceed, the presiding officer shall enter a decision and order declaring the amounts stated in the notice of support owed subject to collection action.

(9) If ((the responsible)) either parent files ((an)) a timely application for an adjudicative proceeding ((within twenty days of service of the notice of support owed)), ((the office)) OSE shall stay collection action pending the final adjudicative order, except as provided in subsection ((9)) (10) of this section.

((9) The office)) (10) OSE may take action to collect:

(a) ((Temporary support if the administrative law judge issues an order for temporary support;

(b)) Any part of the support debt that ((the responsible parent)) both parties fail((s)) to allege is ((not owed)) incorrect;

~~((c))~~ (b) A fixed or minimum dollar amount for current support stated in the court order; and

~~((d))~~ (c) Any part of a support debt that has been reduced to a sum certain judgment by a proper court or agency.

~~((10) The responsible parent shall prove defenses to the initial finding for current support and/or the amount of the support debt.)~~

(11) OSE shall collect the amounts stated in the notice without further notice to either party if neither the responsible parent nor the payee under the order:

(a) Files an application for an adjudicative proceeding under chapter 34.05 RCW; or

(b) Starts an action in superior court.

(12)(a) The following sections ((of chapter 388-11 WAC)) are incorporated by reference and made applicable to ((the hearing process)) a proceeding provided for in this section ((to the extent they are consistent and relevant)). WAC 388-11-011, 388-11-015, 388-11-055, 388-11-060, 388-11-065, ((388-11-070,)) 388-11-100, 388-11-115, ((388-11-120, 388-11-130,)) 388-11-135, ((388-11-140,)) 388-11-145, ((388-11-150, 388-11-155, 388-11-170,)) and ((388-11-190)) 388-11-180.

(b) Hearings held under this section shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), and chapters 388-08 and 388-14 WAC. If any provision in this chapter or in a rule incorporated by reference by ((11)(a)) (12)(a) of this section conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter or a rule incorporated by reference ((in 11(a) of this section)) shall govern.

~~((12) The office of support enforcement and the responsible parent each have the right to request a yearly review of the support order.)~~

(13) After evidence has been presented at a hearing, the presiding officer shall within twenty days:

(a) Find the amount of current support payable under the order;

(b) Find the amount of the support debt, including medical support and day care costs, accrued prior to the date of service of the notice;

(c) Issue findings of fact, conclusions of law, and an initial decision and order.

(14) The responsible parent or payee shall prove defenses to the initial finding for current support and/or the amount of the support debt.

(15) The ((administrative law and review judge's authority)) presiding officer in the initial decision, and the secretary or designee in review of the proposed decision, shall be limited to:

(a) Interpretation of the court order for support only. The ((administrative law and review judges)) presiding officer shall have no authority to change or defer the support amount owed except to:

(i) Find the amount of monthly support as a fixed dollar amount; and

(ii) Find any arrears accrued prior to service of the notice of support owed.

(b) Correct the mathematical computation of the stated debt;

(c) Review and consider superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapter 26.21 or 26.20 RCW shall not be construed as modifications.

~~((14) If the debtor fails to appear at the hearing, the administrative law judge shall, after proof of proper service, enter a decision and order declaring the support debt subject to collection action.~~

~~((15))~~ (16) Adjudicative orders entered under this section shall inform the parties of the right to request a yearly review of the order.

(17) The presiding officer shall file the original initial decision and order with the secretary or the secretary's designee.

(18) The ((administrative law and review judges)) presiding officer shall mail copies of the decision((s)) and order((s)) to:

(a) The office of support enforcement;

(b) The last known address of the responsible parent by certified mail; and

(c) The last known address of the person to whom support is payable under the support order.

~~((16))~~ (19) Informal disposition of any hearing is favored where possible and not precluded by law. ((The Office)) OSE may dispose of cases by an agreed settlement or a consent order. The ((administrative law judge)) presiding officer shall approve any consent order unless:

(a) It is contrary to law; or

(b) The payee under the order filed a timely objection to the:

(i) Notice of support owed; or

(ii) Notice of proposed settlement.

~~((17))~~ (20) A support order issued under this section shall((:

~~(a))~~ contain the notice and information listed in RCW ((26.23.050(4), and

~~(b) Be filed with the clerk of the court that has jurisdiction over the court order.~~

~~(18) The responsible parent may file an application for a proceeding under this section if the responsible parent claims credit for payments under WAC 388-14-210(4)) 26.23.050(5).~~

(21) The provisions of this section regarding the payee's right to an adjudicative proceeding shall not apply if the department is providing public assistance to the payee or the child for whom support is being sought.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 388-14-435 NOTICE OF SUPPORT DEBT. (1) A notice of support debt issued under RCW 74.20A.040 shall state:

(a) The Office of Support Enforcement (OSE) is providing support enforcement services on behalf of the responsible parent's dependent children.

(b) The amount of any support debt, including medical support and day care costs, owed by the responsible parent.

(c) The current monthly amount for support under a court or administrative order.

(d) Twenty-one days after service of the notice of support debt OSE may take action to collect the responsible parent's support obligation without further notice, when the support obligation becomes due under the terms of the court order, unless the responsible parent or the payee under the order has filed a timely request to contest the notice of support debt as provided under this section. Collection action includes issuing orders to withhold and deliver, notices of payroll deduction, and/or taking other income withholding action.

(e) After service of the notice of support debt the responsible parent must make all support payments through the Washington state support registry.

(f) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW .26.23.050(7) and 74.20.101.

(g) The responsible parent has twenty days after service of the notice to contest the support debt amount by either:

(i) Making a written request for a conference board to be held under WAC 388-14-385; or

(ii) Filing an action in superior court.

(h) If the payee under the order objects to the support debt stated in the notice of support debt, or to a proposed settlement agreement between OSE and the responsible parent resulting in a reduction of the support debt, the payee may contest the action by:

(i) Filing a written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) Filing an action in superior court.

(i) Both parties shall be notified of any adjudicative proceeding requested by the payee and both parties shall be allowed to participate as independent parties.

(2) The department shall serve the notice of support debt on the responsible parent:

(a) Like a summons in a civil action; or

(b) By any form of mail requiring a return receipt.

(3) If the responsible parent does not request a conference board or start an action in superior court and the payee under the order does not file a timely application for an adjudicative proceeding or start an action in superior court, OSE shall collect the amounts stated in the notice of support debt without further notice to either party.

(4)(a) If the responsible parent requests a conference board the department shall issue a notice of conference board. The notice shall direct the responsible parent to appear and show why the support debt is incorrect. If the conference board request was timely, action to collect the support debt stated in the notice of support debt shall be stayed pending the outcome of the conference board.

(b) A copy of the notice of conference board shall be mailed to the payee under the court order informing the payee of the payee's right to participate in the conference board.

(i) The payee shall have twenty days from the date the notice of conference board is given to request that the issues be addressed in an adjudicative proceeding under subsection (1)(h) of this section.

(A) If the payee does not file an application for an adjudicative proceeding within twenty days, the payee will be deemed to have made an election of remedies, and

(I) The conference board decision shall become the final agency position; and

(II) The payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application.

(B) If the payee files an application for an adjudicative proceeding within twenty days action to collect the support debt stated in the notice of support debt shall be stayed pending the outcome of the adjudicative proceeding.

(ii) OSE shall notify the responsible parent of the payee's application for an adjudicative proceeding as required under subsection (1)(i) of this section.

(5)(a) In any adjudicative proceeding scheduled to contest a notice issued under this section, the following WAC provisions are incorporated by reference. WAC 388-11-011, 388-11-015, 388-11-055, 388-11-060, 388-11-065, 388-11-100, 388-11-115, 388-11-135, 388-11-145, 388-11-180, and chapter 388-08 WAC.

(b) If any provision in this rule or in a rule incorporated by reference in this section conflicts with, or is inconsistent with a provision in chapter 388-08 WAC, the provision in this section or a rule incorporated by reference in this section shall govern.

(6) After evidence has been presented at a hearing, the presiding officer shall, within twenty days:

(a) Find the amount of the support debt, including medical support and day care costs, accrued prior to the date of service of the notice;

(b) Correct the mathematical computation of the stated debt;

(c) Review and consider superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications; and

(d) Issue findings of fact, conclusions of law, and an initial decision and order.

(7)(a) If any party appears for the adjudicative proceeding, absent the granting of a continuance, the presiding officer shall hear the matter and enter an initial decision and order based upon the evidence presented.

(b) If neither party appears or elects to proceed the presiding officer shall enter a decision and order declaring the amounts stated in the Notice of Support Debt subject to collection.

(8) Informal disposition of any hearing is favored where possible and not precluded by law. OSE may dispose of cases by an agreed settlement, or consent order. The presiding officer shall approve any consent order unless:

(a) It is contrary to law; or

(b) The payee under the order files a timely objection to the:

(i) Notice of support debt; or

(ii) Notice of proposed settlement.

(9) A support order issued under this section shall contain the notice and information listed in RCW 26.23.050(5).

(10) OSE is not required to serve a notice of support debt on the responsible parent prior to collection action if the order contains the requirements under RCW 74.20A.040(5).

(11) The provisions of this section regarding the payee's right to an adjudicative proceeding under chapter 34.05 RCW shall not apply if the department is providing public assistance to the payee or the child for whom support is being enforced.

NEW SECTION

WAC 388-14-440 NOTICE TO PAYEE. (1) The office of support enforcement (OSE) shall mail a notice to the payee under a court order for child support by first class mail to the payee's last known address when the department serves a:

(a) Notice of support debt on the responsible parent under RCW 74.20A.040; or

(b) Notice of support owed on the responsible parent under RCW 26.23.110.

(2) The notice to the payee shall state:

(a) OSE has served a notice of support debt or notice of support owed on the responsible parent;

(b) The amount of support OSE calculated is due at the time the notice is issued and the time period during which the support debt accrued; and

(c) In cases where the department is not providing public assistance to the payee or the child for whom support is being enforced, the notice to the payee shall also state:

(i) The payee under the court order has the right to contest the claimed support debt and/or current support by filing a written application for an adjudicative proceeding under chapter 34.05 RCW within twenty days of the date the notice to the payee was given;

(ii) The payee under the court order may upon request review the information used to calculate the support debt and/or current support claimed in the notice of support debt or the notice of support owed;

(iii) The responsible parent has the right to attend and participate as an independent party in any adjudicative proceeding requested by the payee;

(iv) If the responsible parent files a timely request for a conference board to contest a notice of support debt, the payee will be required to elect between resolving the amount of the debt in the conference board or in an adjudicative proceeding; and

(v) If the payee does not appear for either a conference board or an adjudicative proceeding, the resulting decision may be adverse to the payee's interest, including but not limited to a reduction:

(A) In the amount of the support debt below the amount stated in a notice of support debt; or

(B) Of the support debt and/or the current support below the amount stated in the notice of support owed.

(3) If the payee under the court order does not timely file an application for an adjudicative proceeding, OSE shall collect the amounts stated in the notice of support

debt or notice of support owed without further notice to either party unless the responsible parent timely:

(a) Requests a conference board to contest the notice of support debt; or

(b) Files an application for an adjudicative proceeding to contest the notice of support owed.

NEW SECTION

WAC 388-14-445 NOTICE OF PROPOSED SETTLEMENT. (1) Agreed settlements and consent orders entered between the department and the responsible parent to adjust amounts claimed under a notice of support debt or a notice of support owed shall not be final unless:

(a) Approved by the payee under the order; or

(b) The payee is given notice of and does not make a timely written objection to the proposed settlement.

(2) Agreed settlements and consent orders shall contain a statement informing the responsible parent of the conditional nature of the agreement.

(3) When the department and the responsible parent sign an agreed settlement or consent order under this section, the department shall mail a copy of the proposed agreement to the payee and inform the payee of the payee's right to object to the proposed agreement. The department shall inform the payee that:

(a) The payee may object to the agreement by filing a written application for an adjudicative proceeding under chapter 34.05 RCW with the department within twenty days of the date notice of the proposed agreement was given; and

(b) If the payee does not timely file an application for an adjudicative proceeding, the proposed agreement will become effective and shall not be subject to further administrative appeal and if the responsible parent has previously filed a timely request for a conference board or an adjudicative proceeding, the:

(i) Proposed agreement will become final; and

(ii) Scheduled hearing or conference board will be dismissed.

(c) The payee may, at any time, approve a proposed settlement by written notice to the department.

(4) The department or the office of administrative hearings shall give notice to the responsible parent of any adjudicative proceeding requested by the payee to contest a proposed agreement. The responsible parent shall be allowed to appear and participate as an independent party in the proceeding.

(5) The provisions of this section shall not apply if the department is providing public assistance to the children for whom the department enforces support.

NEW SECTION

WAC 388-14-450 DEBT ADJUSTMENT NOTICE. (1) The office of support enforcement (OSE) shall mail a debt adjustment notice to a payee under a court order within thirty days of the date OSE reduces the amount of the court-ordered support debt the department intends to collect if that reduction was due to:

(a) A mathematical error in the debt calculation;

(b) A clerical error in the stated debt;

(c) Proof the support obligation should have been suspended for all or part of the time period involved in the calculation; or

(d) Proof the responsible parent made payments that had not previously been credited against the support debt.

(2) The debt adjustment notice shall state:

(a) The amount of the reduction;

(b) The reason OSE reduced the support debt, as provided under subsection (1) of this section;

(c) The payee has the right to contest the proposed adjustment by filing a written application for an adjudicative proceeding under chapter 34.05 RCW within twenty days of the date notice to the payee was given;

(d) The name of the responsible parent and a statement that the parent may attend and participate as an independent party in an adjudicative proceeding requested by the payee; and

(e) OSE will continue to provide support enforcement services whether or not the payee objects to the notice.

(3)(a) The payee has the right to contest a reduction under subsection (1) of this section by filing a request for an adjudicative proceeding within twenty days of the date the notice to the payee was given.

(b) If the application for an adjudicative proceeding is untimely filed but is filed within one year of the date notice was given, the payee shall be entitled to an adjudicative proceeding without showing good cause for the untimely request.

(c) If the application for an adjudicative proceeding is filed beyond one year from the date notice was given, the payee must show good cause for the delay in filing the request in order to receive an adjudicative proceeding to contest the reduction.

(4) The provisions of this section shall not apply if the department is providing public assistance to the payee or the child for whom the department enforces support.

WSR 91-04-004
NOTICE OF PUBLIC MEETINGS
COUNCIL ON
VOCATIONAL EDUCATION
 [Memorandum—January 24, 1991]

February 22, 1991
 Room B-11
 New Market Vocational Skills Center
 7299 New Market Street
 Tumwater, WA
 8:30 a.m.

The council will discuss development of the state plan; prepare recommendations for their biennial report of vocational education/JTPA adequacy, effectiveness; and coordination; and act upon committee recommendations.

WSR 91-04-005
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 17, 1991]

Following are the meeting schedules for regular meetings to be held by the University of Washington's School of Social Work and the Department of Landscape Architecture.

SCHOOL OF SOCIAL WORK

Meeting Dates	FACULTY MEETING	
	Location	Time
January 22, 1991	Parrington Hall Forum	1:30
February 19, 1991	Parrington Hall Forum	to
March 12, 1991	Parrington Hall Forum	4 p.m.
April 23, 1991	Parrington Hall Forum	
May 21, 1991	Parrington Hall Forum	
June 4, 1991	Parrington Hall Forum	

EXECUTIVE COMMITTEE

Meeting Dates	Location	Time
January 15, 1991	Room 210-F, Social Work	1:30
January 29, 1991	Room 210-F, Social Work	to
February 12, 1991	Room 210-F, Social Work	3 p.m.
February 26, 1991	Room 210-F, Social Work	
March 19, 1991	Room 210-F, Social Work	
April 2, 1991	Room 210-F, Social Work	
April 16, 1991	Room 210-F, Social Work	
April 30, 1991	Room 210-F, Social Work	
May 14, 1991	Room 210-F, Social Work	
May 28, 1991	Room 210-F, Social Work	
June 11, 1991	Room 210-F, Social Work	

CURRICULUM COMMITTEE

Meeting Dates	Location	Time
January 10, 1991	Room 210-F, Social Work	3:30
January 24, 1991	Room 210-F, Social Work	to
February 7, 1991	Room 210-F, Social Work	5 p.m.
February 21, 1991	Room 210-F, Social Work	
March 7, 1991	Room 210-F, Social Work	
March 21, 1991	Room 210-F, Social Work	
April 4, 1991	Room 210-F, Social Work	
April 18, 1991	Room 210-F, Social Work	
May 2, 1991	Room 210-F, Social Work	
May 16, 1991	Room 210-F, Social Work	
May 30, 1991	Room 210-F, Social Work	
June 13, 1991	Room 210-F, Social Work	

LANDSCAPE ARCHITECTURE

FACULTY MEETINGS

Meeting Dates	Location	Time
every other	Gould 142	9-10:30
Monday beginning		
January 14, 1991		

WSR 91-04-006
RULES COORDINATOR
DEPARTMENT OF
COMMUNITY DEVELOPMENT
(Building Code Council)
(Public Works Board)

[Filed January 24, 1991, 2:34 p.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Department of Community Development is Cathie Halpin, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-1310 or 321-1310 scan.

The rules coordinator for the State Building Code Council is Linda Ramsey, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-3423 or 321-3423 scan.

The rules coordinator for the Public Works Board is Pete Butkus, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 493-2888 or 585-2888 scan.

Chuck Clarke
 Director

WSR 91-04-007
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Health)

[Order 125SB—Filed January 24, 1991, 2:55 p.m., effective April 1, 1991]

Date of Adoption: January 9, 1991.

Purpose: This chapter will establish department standards and procedures for the certification of contractors and their employees authorized to perform decontamination of illegal drug manufacturing or storage sites.

Statutory Authority for Adoption: RCW 64.44.060 and chapter 64.44 RCW.

Pursuant to notice filed as WSR 90-24-070 on December 5, 1990.

Changes Other than Editing from Proposed to Adopted Version: Based on comments from the briefing of the State Board of Health on December 12, 1990, and the public, a set of supplemental amendments were recommended to further improve the clarity and consistency of the rules. WAC 246-205-010, several definitions were eliminated because they were not applicable to this chapter. Definition for "Initial Site Assessment" was added for clarity. Several definitions were changed to correspond to chapter 64.44 RCW and several for clarity; WAC 246-205-040 (3)(k)(viii), information on liability shall be provided in approved training courses. This was added because of contractors' concerns about liability; WAC 246-205-050 (2)(b), changed so that on-site experience in hazardous materials can be used to satisfy the experience requirement for certification. This was done as a result of public input. Since this is a relatively new field, few have had illegal drug manufacturing or storage site decontamination experience; WAC 246-205-060, both the requirement that a refresher training

course must be taken prior to expiration of a current certificate, and the time limit for submitting a renewal application were removed. The entire basic training course must be repeated when a worker's or supervisor's certificate has been expired for more than two years (rather than six months). These changes were made after considering public input. Procedures are not expected to change so much in six months that they cannot be covered in a refresher course; WAC 246-205-070, a certification will not be required for companies or persons providing only initial site assessment. This was recommended by contractors. Sample collection is usually a part of the initial site assessment, and certification is not required for sample collection; and WAC 246-205-090, changed so that certified supervisors are not required to be on site and responsible for site assessment and testing, but are required for demolition and disposal of contaminated property. Recommended by contractors. Since certification is not required for site assessment and testing, these functions can be done by a subcontractor. It is necessary, however, for a certified supervisor to be present during decontamination, demolition or disposal.

Effective Date of Rule: April 1, 1991.

January 9, 1991
 Sylvia Beck
 Executive Director
 Board of Health
 Kristine Gebbie
 Secretary
 Department of Health

Chapter 246-205 WAC
CONTRACTOR CERTIFICATION FOR DECONTAMINATION OF ILLEGAL DRUG MANUFACTURING OR STORAGE SITES.

NEW SECTION

WAC 246-205-001 PURPOSE. (1) The purpose of this chapter is to establish department standards and procedures for the certification of contractors and their employees authorized to perform decontamination of illegal drug manufacturing or storage sites. This chapter is adopted jointly by the state board of health and the department of health to implement RCW 64.44.060.

(2) Chapter 246-205 WAC applies:

- (a) When an illegal drug manufacturing or storage site is identified; and
- (b) To persons involved with the decontamination of illegal drug manufacturing or storage sites including, but not limited to:
 - (i) The department;
 - (ii) Local health officers;
 - (iii) Authorized contractors and their employees;
 - (iv) Property owners;
 - (v) Law enforcement agencies.

NEW SECTION

WAC 246-205-010 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the following meanings unless the content clearly indicates otherwise.

(1) "Authorized contractor" means any person or persons:

(a) Registered under chapter 18.27 RCW; and
 (b) Certified by the department to decontaminate, demolish, or dispose of contaminated property as required by chapter 64.44 RCW and this chapter.

(2) "Basic course" means a training course which has been sponsored or approved by the department for workers and supervisors who perform or supervise decontamination on illegal drug manufacturing or storage sites.

(3) "Certificate" means a department issued written approval under this chapter.

(4) "Certified" means a person who has department issued written approval under this chapter.

(5) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

(6) "Decontamination" means the process of reducing levels of known contaminants to the lowest practical level using currently available methods and processes.

(7) "Department" means the Washington state department of health.

(8) "Disposal of contaminated property" means the disposition of contaminated property under the provisions of chapter 70.105 RCW.

(9) "Hazardous chemicals" means the following substances used in the manufacture of illegal drugs:

(a) Hazardous substances as defined in RCW 70.105D.020; and

(b) Precursor substances as defined in RCW 69.43-.010 which the state board of health, in consultation with the state board of pharmacy, has determined present an immediate or long-term health hazard to humans.

(10) "Illegal drug manufacturing or storage site" means any property where the manufacture or storage of controlled substances occurred or there are reasonable grounds to believe it occurred in violation of chapter 69.41 or 69.52 RCW.

(11) "Initial site assessment" means the first evaluation of a property to determine the nature and extent of observable damage and contamination.

(12) "List of contaminated properties" means a list of properties contaminated by illegal drug manufacturing or the storage of hazardous chemicals.

(13) "Local department" means the jurisdictional local health department or district.

(14) "Local health officer" means a health officer or authorized representative as defined under chapters 70.05, 70.08, and 70.46 RCW.

(15) "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or other entity.

(16) "Property" means any site, structure, or part of a structure involved in the illegal manufacture of drugs or

storage of hazardous chemicals including but not limited to:

(a) Single-family residences;

(b) Units or multiplexes;

(c) Condominiums;

(d) Apartment buildings;

(e) Motels and hotels;

(f) Boats;

(g) Motor vehicles;

(h) Trailers;

(i) Manufactured housing;

(j) Any ship, booth, or garden; or

(k) Any site, structure, or part of a structure that may have been contaminated by previous use.

(17) "Refresher course" means a department sponsored or approved biennial training course for decontamination workers and supervisors. An approved refresher course:

(a) Reviews the subjects taught in the initial training course; and

(b) Includes updated information on emerging decontamination technology.

(18) "Storage site" means any property that has been used for the storage of hazardous chemicals.

(19) "Subcontractor" means a person hired by an authorized contractor for the purpose of providing on-site services.

(20) "Supervisor" means a person employed by an authorized contractor who is on site during the decontamination of an illegal drug manufacturing or storage site and who is responsible for the activities performed.

(21) "Worker" means a person employed by an authorized contractor who performs decontamination of an illegal drug manufacturing or storage site.

NEW SECTION

WAC 246-205-020 AUTHORIZED CONTRACTOR SERVICES. (1) Persons performing or causing to be performed any decontamination, demolition, or disposal of contaminated property shall use the services of an authorized contractor.

(2) Persons advertising or offering to undertake or perform any work necessary to decontaminate properties shall first comply with these rules and secure a certificate from the department under RCW 64.44.060 and this chapter.

NEW SECTION

WAC 246-205-030 COURSES FOR TRAINING WORKERS AND SUPERVISORS. The department shall:

(1) Train, test, or approve courses to train and test the authorized contractor's workers and supervisors on the essential elements in assessing and decontaminating property used as an illegal drug manufacturing or storage site;

(2) Require a biennial refresher course.

NEW SECTION

WAC 246-205-040 TRAINING COURSE APPROVAL. (1) Persons having department approval may

sponsor basic and refresher worker and supervisor training courses.

(2) Training course approval shall be contingent on department evaluation of:

(a) The breadth of knowledge and experience required to properly train workers or supervisors;

(b) Adequacy and accuracy of content; and

(c) Training techniques.

(3) Department approved training courses shall provide at a minimum, information on:

(a) Rules and regulations:

(i) RCW 69.50.505 and 69.50.511;

(ii) Federal Occupational Health and Safety Act and Washington Industrial Safety and Health Act requirements.

(b) Chemical terminology and classifications:

(i) Definitions, physical and chemical properties, class characteristics and hazards, special cases;

(ii) Equipment such as heating mantle, condenser, glassware;

(iii) Concepts such as acid, base, and pH;

(iv) Solvents;

(v) Metals and salts;

(vi) Corrosives;

(vii) Precursor substances;

(viii) By-products and contaminants;

(ix) Poisons such as cyanide and phosphine.

(c) Surface properties of chemicals:

(i) Absorption;

(ii) Adsorption;

(iii) Chemical bonding;

(iv) Specific chemicals such as 1-phenyl-2-propanone and phenylacetic acid.

(d) Illegal drug laboratories:

(i) Laboratory types including:

(A) Methamphetamine/Amphetamine;

(B) Hallucinogens;

(C) Others such as cocaine and opiates.

(ii) Chemicals;

(iii) Equipment;

(iv) An overview of synthetic processes used; and

(v) Booby traps.

(e) Health effects:

(i) General:

(A) Effects of exposure to classes of chemicals;

(B) Use of literature such as Material Safety Data Sheet and Chemical Hazards Handbook.

(ii) Toxicology:

(A) Routes of exposure; and

(B) Exposure limits such as time weighted averages and threshold limit value.

(iii) Symptomatology; and

(iv) First aid.

(f) Incompatibility of chemicals related to clean-up:

(i) General concepts such as heat generation and poisonous gas formation; and

(ii) Specific hazards such as lithium, aluminum hydride and water, phosphorous and air.

(g) Decontamination:

(i) Structures and vehicles including cars and boats, covering:

(A) Different techniques and required equipment;

(B) Applications of specific clean-up techniques using hypothetical case examples and correlating site status with appropriate techniques; and

(C) Decision making about and prioritization of techniques based upon case-specific information.

(ii) Contents, specifically removal vs. cleaning; and

(iii) Personal decontamination of crew members prior to leaving a decontamination site.

(h) Handling of contaminated materials:

State/federal requirements for dealing with hazardous chemicals specific to:

(i) Disposal;

(ii) Transportation; and

(iii) Storage.

(i) Reporting requirements.

(j) Site characterization which shall be required for supervisors only:

How to acquire and review existing site specific information including:

(i) Source of data from health department, property owner, law enforcement, or ecology department;

(ii) Site walk-through and assessment;

(iii) Sampling before and after cleanup including:

(A) Who;

(B) When;

(C) What;

(D) How; and

(E) Where.

(k) Recordkeeping and reporting which shall be required for supervisors only:

(i) Initial site assessment;

(ii) Obtaining necessary information;

(iii) Initial site testing;

(iv) Workplan including:

(A) Scope;

(B) Content; and

(C) Format.

(v) Final site testing;

(vi) Report completion;

(vii) Other responsibilities of authorized contractors;

(viii) Penalties and liability.

(4) Sponsors of basic and refresher training courses proposed for department approval shall submit:

(a) Course location and fees;

(b) Copies of course handouts;

(c) A detailed description of course content and the amount of time allotted to each major topic;

(d) A description of teaching methods to be utilized and a list of all audio-visual materials;

(e) A list of all personnel involved in course preparation and presentation and a description of their qualifications;

(f) When specifically requested by the department, copies of all audio-visual materials proposed for utilization; and

(g) A list of two hundred questions for development of an examination.

(5) Sponsors seeking initial and renewal department approval of training courses shall:

(a) Apply on forms provided by the department;

(b) Submit to the department completed application with the required fee as specified under WAC 246-205-990;

(c) Ensure initial course approval applications are received by the department sixty or more days before the requested approval date; and

(d) Ensure training course renewal applications are received by the department thirty or more days before expiration of the current approval.

(6) The department shall:

(a) Approve basic and refresher training courses;

(b) Issue the course sponsor an approval valid for two years from the date of issuance;

(c) Require additional subjects to be taught to update information on new technology and determine the amount of time to be allotted to adequately cover these subjects;

(d) Provide a detailed outline of subject matter developed by the department to the sponsor for required incorporation into the training course.

(7) The course sponsor shall provide the department with a list of the names, addresses, and Social Security numbers of all persons completing a basic or refresher training course ten days or less after a course is completed.

(8) The course sponsor shall:

(a) Notify the department in writing thirty or more days before a training course is scheduled to begin; and

(b) Include the date, time, and address of the locations where training will be conducted; and

(c) Obtain department approval in advance for any changes to a training course.

(9) A department representative may, at the department's discretion, attend a training course as an observer to verify the course sponsor conducts the training course in accordance with the program approved by the department.

(10) Course sponsors conducting training outside the state of Washington shall:

(a) Reimburse the department at current state of Washington per diem and travel allowance rates for travel expenses associated with department observance of the training courses; and

(b) Submit reimbursement to the department within thirty days of receipt of the billing notice.

(11) The training course sponsor shall limit each class to a maximum of thirty participants.

(12) The department may terminate the training course approval if in the department's judgment the sponsor fails to:

(a) Maintain the course content and quality as initially approved;

(b) Make changes to a course as required by the department.

NEW SECTION

WAC 246-205-050 WORKER AND SUPERVISOR CERTIFICATION. (1) Applicants seeking an initial certificate as a decontamination worker shall submit to the department:

(a) A completed application on a form provided by the department;

(b) A fee as prescribed in WAC 246-205-990; and

(c) Evidence of successful completion of:

(i) Eighty or more hours of hazardous material training satisfying the requirements of WAC 296-62-3040; and

(ii) A department sponsored or approved decontamination worker training course.

(2) Applicants seeking an initial certificate as a decontamination supervisor shall submit to the department:

(a) Evidence of a valid and current Washington state decontamination worker certificate;

(b) Evidence of forty or more hours of on-site experience in hazardous material or illegal drug manufacturing or storage site decontamination projects;

(c) A completed application on a form provided by the department;

(d) A fee as prescribed in WAC 246-205-990; and

(e) Evidence of successful completion of a department sponsored or approved decontamination supervisor training course.

(3) Applicants for department certification shall:

(a) Ensure the completed application is received by the department sixty or less days after the completion of the course; or

(b) Pass an examination administered by the department with a score of seventy percent or more.

(4) Persons shall supervise and perform decontamination work only following issuance of the certificate, valid for two years from the date of issuance.

(5) Persons shall make certificates available for inspection at all times during an illegal drug manufacturing or storage site decontamination project.

(6) The department may deny, suspend, or revoke a person's certificate as described under WAC 246-205-110.

NEW SECTION

WAC 246-205-060 WORKER AND SUPERVISOR CERTIFICATE RENEWAL. (1) Certified workers and supervisors seeking a renewal certificate shall submit to the department:

(a) A completed application for certificate renewal on a form provided by the department;

(b) A fee as prescribed in WAC 246-205-990;

(c) Evidence of successful completion of a department sponsored or approved refresher training course. Refresher training shall include:

(i) A thorough review of the subjects required under WAC 246-205-030;

(ii) Update of information on state-of-the-art procedures and equipment;

(iii) Review of regulatory changes and interpretation; and

(iv) Other subjects if required by the department to update information on new technology and procedures.

(2) Workers whose certificates have been expired for more than two years shall retake the entire basic course. Supervisors whose certificates have been expired for more than two years shall retake the entire basic supervisor's course.

NEW SECTION

WAC 246-205-070 AUTHORIZED CONTRACTOR CERTIFICATION. (1) A contractor may perform decontamination, demolition, or disposal work at an illegal drug manufacturing or storage site only after the department issues the contractor a certificate.

(2) The department shall not require companies and persons providing only initial site assessment, sample collection, transportation, and testing services for drug laboratory decontamination contractors to be certified or trained under this chapter.

(3) Applicants for department certification as an authorized contractor, shall submit to the department:

(a) Evidence of being licensed, bonded, and insured as a general contractor under the provisions of chapter 18-27 RCW.

(b) Evidence of successful completion of specialized training for each employee who will do work on an illegal drug manufacturing or storage site;

(c) Documentation that the contractor has at least one department certified supervisor;

(d) A completed application on a form provided by the department; and

(e) A fee as prescribed in WAC 246-205-990.

NEW SECTION

WAC 246-205-080 RECIPROCITY. (1) The department may provide reciprocal certification for contractors, supervisors, and workers trained and certified in another state if standards and training are substantially equivalent to those of this chapter.

(2) Applicants for reciprocity shall submit to the department:

(a) A completed application on a form provided by the department;

(b) Documentation of specialized training for illegal drug manufacturing or storage site decontamination;

(c) Evidence of successful completion of training required by Federal Occupational Safety and Health Act, and Washington Industrial Safety and Health Act regulations, WAC 296-62-3040 and 29 Code of Federal Regulations 1910.120; and

(d) A fee as prescribed in WAC 246-205-990.

(3) After reviewing the application, the department may issue the applicant a certificate or require:

(a) Additional information;

(b) A refresher course; or

(c) A department-administered examination.

NEW SECTION

WAC 246-205-090 ON-SITE SUPERVISION.

(1) During decontamination, demolition, or disposal of contaminated property at illegal drug manufacturing or storage sites, a contractor employed supervisor meeting the qualifications required in this chapter shall be on site and responsible for the activities performed.

(2) The contractor employed supervisor shall, while on site, make available for inspection, department provided certification attesting to the supervisor's training and credentials.

NEW SECTION

WAC 246-205-100 PERFORMANCE STANDARDS. Authorized contractors and their employees working at a decontamination site shall, at a minimum, meet the following performance standards:

(1) File a workplan with and obtain approval of the local health department;

(2) Perform work in accordance with the approved workplan;

(3) Perform work meeting the requirements of state and local building codes;

(4) Comply with applicable Federal Occupational Safety and Health Act and Washington Industrial Safety and Health Act regulations and requirements;

(5) Comply with the requirements of chapter 70.105 RCW and chapter 173-303 WAC;

(6) Comply with the requirements of applicable department of ecology and Environmental Protection Agency regulations;

(7) Comply with applicable contractor regulations;

(8) Notify the state and local jurisdictional health department of all work performed within ten days after completion of the project;

(9) Perform all decontamination work only with department certified workers and supervisors; and

(10) Comply with all other applicable laws and regulations.

NEW SECTION

WAC 246-205-110 DENIAL, SUSPENSION, REVOCATION OF CERTIFICATION, AND CIVIL PENALTIES. (1) The department shall deny an initial, renewal, or reciprocal illegal drug manufacturing or storage site decontamination worker, supervisor, or contractor certificate if the applicant fails to meet the requirements of this chapter.

(2) The department may take disciplinary action against a worker, supervisor, or contractor if the following occurs:

(a) Failure to comply with the requirements of chapter 64.44 RCW to include the performance standards or any rule adopted under chapter 64.44 RCW and this chapter;

(b) Failure of a worker or supervisor to make certificates available for inspection on site; or

(c) Committing fraud or misrepresentation in:

(i) Applying for certification;

(ii) Seeking approval of a workplan; or

(iii) Documenting completion of the work to the local health department.

(3) The department may take disciplinary action against a decontamination worker, supervisor, or contractor including, but not limited to, denial, suspension, or revocation of certification.

(4) The department may impose against a contractor a civil penalty not to exceed five hundred dollars, for each violation in addition to or in lieu of certification denial, suspension, or revocation pursuant to this rule. Each day the violation continues shall be considered a separate violation.

(5) Adjudicative proceedings are governed by chapter 34.05 RCW, the Administrative Procedure Act, chapter 246-08 WAC, and this chapter.

NEW SECTION

WAC 246-205-120 AUTHORIZED CONTRACTOR CERTIFICATION LIST. The department shall maintain a list of authorized illegal drug manufacturing or storage site decontamination contractors. The department's authorized contractor list shall be made available to local health officials and other appropriate agencies semi-annually, and to the public upon request.

NEW SECTION

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

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

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

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

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

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

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

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

Effective Date of Rule: Thirty-one days after filing.

January 25, 1991

Mary Faulk
Director

AMENDATORY SECTION (Amending Order SDO-164A-87, filed 1/11/88)

WAC 460-16A-102 DEFINITIONS APPLICABLE TO PROMOTIONAL SHARES. As used in WAC 460-16A-101 through 460-16A-106, the terms listed below shall have the following meanings:

(1) An "affiliate" means a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified herein.

(2) The term "control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(3) The term "earnings per share" means after-tax earnings per share as computed according to generally accepted accounting principles before extraordinary items.

(4) "Equity security" means any common stock, preferred stock, or similar security; or any instrument convertible, with or without consideration, into such a security, or carrying a warrant, option or right to subscribe to or purchase such a security; or any such warrant, option or right.

(5) "Person" means any individual, corporation, partnership, trust or other legal entity, or any unincorporated association or organization and includes the following: (a) Any relative, spouse, or relative of the spouse of the specified person; (b) any trust or estate in which the specified person or any of the persons specified in (a) of this subsection collectively own five percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor, or in any similar capacity; and (c) any corporation or other organization (other than the issuer corporation) in which the specified person or any of the persons specified in (a) of this subsection are the beneficial owners collectively of five percent or more of any class of equity securities or five percent or more of the equity interest.

(6) The term "promoter" means: (a) Any person who, acting alone or in conjunction with one or more persons, directly or indirectly, takes the initiative in founding and organizing the business or enterprise of a corporation; (b) any person who, in connection with the founding or organizing of the business or enterprise of a corporation, directly or indirectly, receives in consideration of services or property or both services and property, five percent or more of any class of equity security of the corporation or five percent or more of the proceeds from the sale of any class of equity security of the corporation: PROVIDED, HOWEVER, That a person who receives such securities or proceeds solely as underwriting commissions shall not be deemed a promoter within the meaning of this clause if such person does not otherwise take part in founding and organizing the enterprise; (c) any person who is an

WSR 91-04-008

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 25, 1991, 8:03 a.m.]

Date of Adoption: January 25, 1991.

Purpose: WAC 460-16A-102, include preferred stock in definition of "equity securities" for promotional shares calculation; WAC 460-16A-200, establish debt offering standards for registered offerings; and WAC 460-16A-205, adopt NASAA statements of policy, re: cattle feeding programs, commodity pools, equipment programs, oil and gas programs, real estate investment trusts and real estate programs.

Citation of Existing Rules Affected by this Order: Amending WAC 460-16A-102.

Statutory Authority for Adoption: RCW 21.20.450.

Pursuant to notice filed as WSR 90-23-033 on November 15, 1990.

officer, director, or who beneficially owns, directly or indirectly, more than five percent of any class of equity security of corporation, excluding any unaffiliated institutional investor that purchased its shares more than one year prior to the filing date of the proposed offering; (d) any person who is an affiliate of a person specified under (a), (b), or (c) of this subsection.

(7) The term "promotional or development stage corporation" means a corporation which has no public market for its shares and has no significant earnings.

(8) "Promotional shares" are equity securities which were issued within the last three years, or are to be issued, to promoters for a consideration of less than eighty-five percent of the proposed public offering price. Such securities which were, or are to be, issued for services rendered, patents, copyrights or other intangibles are presumed to be promotional shares unless the value of such intangibles has been established to the satisfaction of the administrator. (See Note #1)

Example: Calculation of number of promotional shares

	Shares	Total Price per Share
Shares held by promoters	100	\$ 1.00
Public offering price per share		10.00
<u>Total paid by promoter</u>		<u>\$100</u>
Public offering price per share x .85 =	$\$10 \times .85 =$	11.77
		Fully Paid Shares
Shares held by promoters	100	
Fully paid shares		- 12*
Number of promotional shares (Subject to escrow)		88

*Rounded

Note #1. In determining the consideration paid or the value of property under subsection (8) of this section, the administrator may disallow as consideration any property, including patents, copyrights, or goodwill, unless and to the extent that the value is established to the administrator's satisfaction. Consideration for shares of stock may include the market value of such assets if the market value can be determined by recognized standards of valuation acceptable to the administrator, and may also include out-of-pocket development or marketing expenses (excluding promoters' salaries) paid by promoters to the extent such expenses are not reimbursed by the corporation.

(9) "Public market" is meant to exclude thin markets which do not result in reliable prices. If doubt is raised as to the reliability of the market for an applicant's shares, the administrator may consider the market history, the public trading volume, the spread between the bid and asked prices, the number of market makers, public float, the pricing formula, and other relevant factors.

(10) "Significant earnings" shall be deemed to exist if the corporation's earnings record over the last five years (or the shorter period of its existence) demonstrates that it would have met either of the earnings tests set forth in WAC 460-16A-105(1) based upon its shares outstanding immediately before the proposed public offering capitalized at the proposed public offering price. However, such earnings tests shall not be deemed exclusive for the determination of significant earnings.

(11) An "unaffiliated institutional investor" means any unaffiliated bank; investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2 (a)(48) of the Investment Company Act of 1940; small business investment company licensed by the United States Small Business Administration under section 301 of the Small Business Investment Act of 1958; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974; insurance company; private business development company as defined in section 202 (a)(22) of the Investment Advisors Act of 1940 or comparable business entity engaged as a substantial part of its business in the purchase and sale of securities and which owns less than twenty percent of the securities to be outstanding at the completion of the proposed public offering.

NEW SECTION

WAC 460-16A-200 DEBT OFFERING STANDARDS. (1) Debt securities may be offered and sold only if the issuer shows a reasonable ability to service the debt.

(2) For purposes of this section, unless otherwise allowed by the administrator, "reasonable ability to service the debt" means:

(a) The issuer must have a positive net worth and not be in the development stage; and

(b) The issuer must demonstrate, based upon the results of its operations for its most recently ended fiscal year and for its latest interim period as reflected in its financial statements, a pro forma earnings to fixed-charges ratio of 1 to 1 or greater.

(3) For purposes of this section:

(a) "Earnings" shall mean pretax income from continuing operations plus fixed charges as defined in (b) of this subsection, adjusted to exclude any interest capitalized during the period.

(b) "Fixed charges" shall mean the total of (i) interest, whether expensed or capitalized, (ii) amortization of debt expense and discount or premium relating to indebtedness, whether expensed or capitalized, and (iii) such portion of rental expense as can be demonstrated to be representative of the interest factor in the particular case.

(c) The pro forma earnings to fixed charges ratio shall be calculated by adjusting the corresponding historical ratio to give effect to the net increase or decrease in interest expense resulting from (i) the proposed issuance of new debt, and (ii) the corresponding retirements of any debt presently outstanding (but only for the period of time outstanding) which will be retired with the proceeds of the proposed offering. If only a portion of the proceeds will be used to retire presently outstanding debt, then only a related portion of interest should be used in the pro forma adjustment.

(d) An issuer may elect to use the definitions of "earnings," "fixed charges," and the method for determining the ratio of earnings to fixed charges set forth in Item 503 of Securities and Exchange Commission Regulation S-K to determine whether that issuer meets the requirement of subsection (2)(b) of this section.

NEW SECTION

WAC 460-16A-205 ADOPTION OF NASAA STATEMENTS OF POLICY. (1) The administrator adopts the following NASAA Statements of Policy:

- (a) Registration of Publicly Offered Cattle Feeding Programs, as adopted September 17, 1980;
- (b) Registration of Commodity Pool Programs, as adopted September 21, 1983;
- (c) Equipment Programs, as amended April 22, 1988;
- (d) Registration of Oil and Gas Programs, as amended September 14, 1989;
- (e) Real Estate Investment Trusts, as adopted October 2, 1985; and
- (f) Real Estate Programs, as amended September 14, 1989.

(2) A program falling within one of the Statements of Policy listed in subsection (1) of this section must conform its offering of securities to the requirements of said Statement of Policy except that real estate programs not exceeding five million dollars may elect to comply with chapter 460-32A WAC.

(3) The Statements of Policy referred to in subsection (1) of this section are found in CCH NASAA Reports published by Commerce Clearing House. Copies are also available at the office of the securities administrator.

WSR 91-04-009
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 25, 1991, 8:07 a.m.]

Date of Adoption: January 25, 1991.

Purpose: WAC 460-17A-030, clarify availability of ULOR-C. Apply debt offering standards of WAC 460-16A-200 to ULOR-C offerings.

Citation of Existing Rules Affected by this Order: Amending WAC 460-17A-030 and 460-17A-070.

Statutory Authority for Adoption: RCW 21.20.450.

Pursuant to notice filed as WSR 90-23-034 on November 15, 1990.

Effective Date of Rule: Thirty-one days after filing.
 January 25, 1991
 Mary Faulk
 Director

AMENDATORY SECTION (Amending Order SD0-048-88, filed 8/8/88)

WAC 460-17A-030 AVAILABILITY. (1) ULOR-C is intended to allow small corporations to conduct limited offerings of securities. ULOR-C uses a simplified offering format designed to provide adequate disclosure to investors concerning the issuer, the securities offered, and the offering itself. Certain issuers may not be able to make adequate disclosure using the ULOR-C format and will, therefore, be unable to utilize ULOR-C. The administrator finds that ULOR-C is generally unsuitable for the following issuers and programs and that, therefore, they will not be allowed to utilize ULOR-C unless written permission is obtained

from the administrator based upon a showing that adequate disclosure can be made to investors using the ULOR-C format:

- (a) Holding companies, companies whose principal purpose is owning stock in, or supervising the management of, other companies;
- (b) Portfolio companies, such as a real estate investment trusts as defined in Section (1)(q) of the North American Securities Administrators Association's Statement of Policy regarding real estate investment trusts as adopted by the administrator in WAC 460-16A-205
- (1)(e);
- (c) Issuers with complex capital structures;
- (d) Commodity pools;
- (e) Equipment leasing programs; and
- (f) Real estate programs.

(2) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. In addition, each of the following requirements must be met:

(a) The issuer must be a corporation organized under the laws of one of the states or possessions of the United States.

(b) The issuer must engage in a business other than petroleum exploration or production or mining or other extractive industries.

(c) The offering is not a "blind pool" or other offering for which the specific business to be engaged in or property to be acquired by the issuer cannot be specified.

(d) The offering price for common stock (and the exercise price, if the securities offered are options, warrants or rights for common stock, and the conversion price if the securities are convertible into common stock) must be equal to or greater than \$5.00 per share.

(e) The aggregate offering price of the securities offered (within or outside this state) shall not exceed \$1,000,000 less the aggregate offering price of all securities sold within the twelve months before the start of and during the offering of the securities under Securities and Exchange Commission Rule 504 in reliance on any exemption under section 3(b) of the Securities Act of 1933, in reliance on the exemption under section 3(a)(11) of that act, or in violation of section 5(a) of that act.

~~((2))~~ (3) ULOR-C registration is not available to investment companies subject to the Investment Company Act of 1940, nor is it available to issuers subject to the reporting requirements of section 13 or section 15(d) of the Securities Exchange Act of 1934.

~~((3)) ULOR-C is available for registration of debt offerings only if the issuer can demonstrate reasonable ability to service its debt.~~)

AMENDATORY SECTION (Amending Order SD0-048-88, filed 8/8/88)

WAC 460-17A-070 APPLICATION OF CHAPTER 460-16A WAC TO REGISTRATIONS UNDER THIS CHAPTER. The provisions of chapter 460-16A WAC shall not apply to registrations under this chapter except:

(1) The promotional shares rules contained in WAC 460-16A-101 through 460-16A-109 shall apply except that:

(a) Promotional shares need be escrowed pursuant to WAC 460-16A-104 only to the extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering; and

(b) WAC 460-16A-103 shall not apply;

(2) The impound provisions of WAC 460-16A-150 through 460-16A-175 shall apply;

(3) WAC 460-16A-035 shall apply;

(4) WAC 460-16A-075 shall apply except that for offerings with an aggregate offering price of under \$500,000 selling expenses which do not exceed twenty percent of the offering price will be considered reasonable so long as total compensation paid to any underwriter does not exceed fifteen percent;

(5) WAC 460-16A-200 shall apply;

(6) The administrator reserves the right to apply chapter 460-16A WAC (or any provision therein) to offerings under this chapter if the administrator determines that such application, even in the small business offering context, is necessary for the protection of investors.

or right to purchase or subscribe to any of the foregoing is exempt under RCW 21.20.310(8) (~~provided that the issuer must meet the minimum published criteria for listing or designation as adopted by the exchange or interdealer quotation system~~). The administrator may by order withdraw this exemption as to an exchange or interdealer quotation system or a particular security when necessary in the public interest for the protection of investors.

(2) For the purposes of nonissuer transactions only, any security listed or approved for listing upon notice of issuance on the NASDAQ/NMS interdealer quotation system, the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Spokane Stock Exchange, the Chicago Board Options Exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing, is exempted under RCW 21.20.310(8).

WSR 91-04-010
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 25, 1991, 8:11 a.m.]

Date of Adoption: January 25, 1991.

Purpose: Amending WAC 460-42A-081 so that mere listing on one of the exchanges or NASDAQ NMS qualifies the security for the exemption provided by RCW 21.20.310(8). Adding Chicago Board Options Exchange to the list of designated exchanges.

Citation of Existing Rules Affected by this Order: Amending WAC 460-42A-081.

Statutory Authority for Adoption: RCW 21.20.450 and 21.20.310(8).

Pursuant to notice filed as WSR 90-23-035 on November 15, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 25, 1991
 Mary Faulk
 Director

AMENDATORY SECTION (Amending Order SDO-161-89, filed 10/11/89, effective 11/11/89)

WAC 460-42A-081 EXCHANGE AND NATIONAL MARKET SYSTEM EXEMPTION. (1) Any securities listed or designated, or approved for listing or designation upon notice of issuance, on the New York Stock Exchange, the American Stock Exchange, ~~(or)~~ the NASDAQ/NMS interdealer quotation system, or the Chicago Board Options Exchange, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant

WSR 91-04-011
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 25, 1991, 8:22 a.m.]

Date of Adoption: January 25, 1991.

Purpose: Clarify availability of corporate limited offering exemption. New sections to allow the issuance of preferred stock and debt under the exemption.

Citation of Existing Rules Affected by this Order: Amending WAC 460-46A-020, 460-46A-040, 460-46A-050, 460-46A-095, and 460-46A-110.

Statutory Authority for Adoption: RCW 21.20.450 and 21.20.320(9).

Pursuant to notice filed as WSR 90-23-036 on November 15, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 25, 1991
 Mary Faulk
 Director

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

WAC 460-46A-020 AVAILABILITY OF EXEMPTION. (1) The corporate limited offering exemption (CLOE) is intended to allow small businesses to conduct limited offerings of securities. CLOE uses a simplified offering format designed to provide adequate disclosure to investors concerning the issuer, the securities offered, and the offering itself. Certain issuers may not be able to make adequate disclosure using the corporate limited offering exemption format and will, therefore, be unable to utilize the exemption. The corporate limited offering exemption is unavailable for the following types of offerings:

(a) "Blind pools" or other offerings for which the specific business to be engaged in or property to be acquired cannot be specified;

(b) Offerings involving petroleum exploration or production, mining, or other extractive industries; and

(c) Theatrical productions.

(2) The administrator finds that CLOE is generally unsuitable for the following issuers and programs and that, therefore, such offerings will not be allowed to use the CLOE unless written permission is obtained from the administrator based upon a showing that adequate disclosure can be made to investors using the CLOE format:

(a) Holding companies, companies whose principal purpose is owning stock in, or supervising the management of, other companies;

(b) Portfolio companies, such as real estate investment trusts as defined in Section (1)(q) of the North American Securities Administrators Association's Statement of Policy regarding real estate investment trusts as adopted by the administrator in WAC 460-16A-205 (1)(e);

(c) Issuers with complex capital structures;

(d) Commodity pools;

(e) Equipment leasing programs; and

(f) Real estate programs.

(3) Only corporations may use the corporate limited offering exemption. The corporate limited offering exemption may be used by an issuer more than once provided that the aggregate amount raised by all offerings by the issuer and its affiliates under the corporate limited offering exemption shall not exceed \$500,000. (The foregoing notwithstanding, offerings by affiliates of the issuer under the corporate limited offering exemption with respect to business ventures unrelated to that of the issuer occurring twenty-four months prior to or twenty-four months after the offering of the issuer under consideration shall not be included in calculating the \$500,000 limitation as to the issuer.) ~~((The corporate limited offering exemption is available only if one class of stock is outstanding after the offering provided however, that upon written request, this requirement may be waived by the administrator as not being necessary under the circumstances for the protection of investors.))~~

(4) The corporate limited offering exemption may ~~((not))~~ be used only for the offer and sale of common stock, preferred stock as provided in WAC 460-46A-071, or debt securities as provided in WAC 460-46A-061 and 460-46A-065.

(5) The corporate limited offering exemption is not available if the issuer or its affiliates have previously sold securities of such issuer or affiliate under the provisions of RCW 21.20.210 (registration by qualification) or RCW 21.20.180 (registration by coordination) or of similar provisions of the securities or blue sky laws of any other state. ~~((If an issuer has previously filed an application for registration of its securities in this or any state but no sales were made pursuant to that registration, the corporate limited offering exemption remains available, but the issuer must advise the securities division of its prior applications for registration. The securities division may require disclosure of the reasons why~~

~~no sales were made pursuant to the prior registration applications.))~~

(6) The total amount of funds raised by the issuer and its affiliates under all exemptions, including the corporate limited offering exemption, but excepting the statutory nonpublic offering exemption of RCW 21.20.320(1), may not exceed \$500,000 in any 12-month period during which the corporate limited offering exemption is used.

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

WAC 460-46A-040 MAXIMUM NUMBER OF PURCHASERS UNDER EXEMPTION. The maximum number of purchasers under the corporate limited offering exemption in any consecutive twelve months shall be ~~((forty))~~ fifty. Husband and wife shall be counted as one purchaser, as shall an estate. Each shareholder of a corporation and each beneficiary of a trust shall be counted separately as a purchaser in addition to the corporation or trust unless the shareholder or beneficiary has been such for at least six months prior to the purchase. ~~((This section shall be given retroactive effect to August 15, 1983.))~~

Note: Notwithstanding the amendment of this section, the change in the number of purchasers from 25 to 40 on August 20, 1987, was retroactive from August 20, 1987, to August 15, 1983.

AMENDATORY SECTION (Amending Order SDO-035-89, filed 3/13/89)

WAC 460-46A-050 PROMOTIONAL SHARES. The promotional shares rules set forth in WAC 460-16A-101, 460-16A-102, 460-16A-104 through 460-16A-106, ~~((and))~~ 460-16A-109, and 460-16A-110 shall apply except that promotional shares need be es-crowed pursuant to WAC 460-16A-104 only to the extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering.

NEW SECTION

WAC 460-46A-055 VOTING RIGHTS OF COMMON STOCK. Common stock and similar equity securities offered under the corporate limited offering exemption should normally carry equal voting rights on all matters where such vote is permitted by applicable law.

NEW SECTION

WAC 460-46A-061 AVAILABILITY OF CORPORATE LIMITED OFFERING EXEMPTION FOR DEBT OFFERINGS: DEBT SERVICE REQUIREMENTS. (1) The corporate limited offering exemption may be used for the offer and sale of debt securities if the issuer shows, based upon the results of its operations for its most recently ended fiscal year and for its latest interim period as reflected in its financial statements, a pro forma ratio of earnings to fixed charges of 1 to 1 or greater.

(2) For the purpose of this section:

(a) "Earnings" shall mean pretax income from continuing operations plus fixed charges as defined in (b) of this subsection, adjusted to exclude any interest capitalized during the period;

(b) "Fixed charges" shall mean the total of (i) interest, whether expensed or capitalized, (ii) amortization of debt expense and discount or premium relating to indebtedness, whether expensed or capitalized, and (iii) such portion of rental expense as can be demonstrated to be representative of the interest factor in the particular case;

(c) Pro forma earnings to fixed charges ratios shall be calculated by adjusting the corresponding historical ratio to give effect to the net increase or decrease in interest expense resulting from (i) the proposed issuance of new debt and (ii) the corresponding retirements of any debt presently outstanding (but only for the period of time outstanding) which will be retired with the proceeds from the proposed offering. If only a portion of the proceeds will be used to retire presently outstanding debt, only a related portion of the interest should be used in the pro forma adjustment.

(d) An issuer may elect to use the definitions of "earnings," "fixed charges," and the method for determining the ratio of earnings to fixed charges set forth in Item 503 of Securities and Exchange Commission Regulation S-K to determine whether that issuer meets the requirement of subsection (1) of this section.

NEW SECTION

WAC 460-46A-065 AVAILABILITY OF CORPORATE LIMITED OFFERING EXEMPTION FOR DEBT OFFERINGS NOT MEETING THE DEBT SERVICE REQUIREMENTS OF WAC 460-46A-060. If the issuer cannot show a pro forma debt service ratio meeting the requirements of WAC 460-46A-061(1) it may nevertheless use the corporate limited offering exemption for the sale of debt securities under the following conditions or as otherwise permitted by the securities administrator:

(1) The issuer sells only to persons who are, or the issuer reasonably believes to be, accredited investors as defined in WAC 460-44A-501(1); or

(2)(a)(i) The issuer sells only to persons who the issuer reasonably believes meet the following conditions (A) the person's purchase of securities in the offering represents no more than 10% of the person's individual or joint net worth (exclusive of home, furnishings, and automobiles), and either (B) the person has, individually or jointly with the person's spouse, annual income for the year of purchase of at least \$50,000 or (C) the person has, individually or jointly with the person's spouse, net worth (exclusive of home, furnishings, and automobiles) of at least \$100,000; and

(ii) The disclosure document for the offering prominently discloses (A) that the issuer's earnings are inadequate to cover its fixed charges, (B) the dollar amount of the deficiency, (C) that the securities offered do not meet the Washington securities division's debt service requirements for debt securities to be sold under the corporate limited offering exemption, and (D) that the

securities offered therein represent a high risk that purchasers may lose their entire investments; and

(b)(i) The debt securities offered are, to the satisfaction of the securities administrator, secured in a security arrangement by tangible assets, as determined according to generally accepted accounting principles (GAAP) with a book value or appraised value, as of the date the corporate limited offering exemption filing for the offering is declared effective by the securities administrator, of at least 150% of the aggregate principal amount of the debt securities offered; or

(ii) The debt securities offered are guaranteed, to the satisfaction of the securities administrator and the guarantor meets the pro forma debt service requirements of WAC 460-46A-061(1); or

(iii) The issuer has net tangible book value, as determined according to GAAP, as of the date the corporate limited offering exemption filing for the offering is declared effective by the securities administrator of at least twice the aggregate principal amount of the debt securities offered; and

(c) The issuer agrees that no distributions (including dividends) shall be made to shareholders with respect to capital stock and that compensation to officers and directors of the issuer shall not increase during any period in which the debt securities offered are outstanding and any payments on those securities are in arrears.

NEW SECTION

WAC 460-46A-071 AVAILABILITY OF CORPORATE LIMITED OFFERING EXEMPTION FOR OFFERINGS OF PREFERRED STOCK. The corporate limited offering exemption may be used for the offer and sale of preferred stock only under the following conditions, unless otherwise permitted by the administrator:

(1) The preferred stock is offered only to accredited investors as defined in WAC 460-44A-501(1); or

(2)(a) The issuer meets the debt service requirements of WAC 460-46A-061(1) when any fixed or projected dividends on the preferred stock being issued are treated as fixed charges for the purpose of the pro forma debt service calculation; and

(b)(i) The shares offered have voting rights equal to the maximum per share voting rights held by any outstanding class of the issuer's common stock (in the case of shares convertible into common stock, equal to the aggregate voting rights of the shares of common stock into which each preferred share is convertible); or

(ii) The articles of incorporation of the issuer provide that the holders of the preferred shares to be offered have the right to reasonable representation on the board of directors for any fiscal year following a fiscal year in which those shareholders have not been paid a dividend to the extent of their fixed or projected dividend payment; and

(c)(i) The shares offered participate at least equally with common shares as to dividends and liquidation; or

(ii) The articles of incorporation contain the following protective provisions: (A) A provision that the dividends on such shares are cumulative, (B) a provision prohibiting any dividends on common stock during the existence

of any arrears on the preferred shares, and (C) an appropriate requirement for the approval by the vote or written consent of two-thirds of the preferred shares of any sale of substantially all of the issuer's assets or any adverse change in the rights of such shares or of the issuance of any shares having priority over such preferred shares; or

(3)(a) The preferred stock offered and sold (i) participates at least equally with common stock as to dividends and liquidation; and (ii) has per share voting rights equal to the maximum per share voting rights held by any outstanding class of the issuer's common stock (in the case of shares convertible into common stock, equal to the aggregate voting rights of the shares of common stock into which each preferred share is convertible); and

(b) The disclosure document prominently discloses (i) that the issuer's current operations do not produce earnings adequate to pay dividends projected or required to be paid to the holders of preferred stock, and there is no assurance that the issuer will ever have earnings adequate to pay such dividends, (ii) the dollar amount by which the issuer's earnings are inadequate to pay such dividends, and (iii) that the securities offered therein represent a high risk that purchasers may lose their investments.

NEW SECTION

WAC 460-46A-072 PROHIBITED PRACTICES WITH REGARD TO PREFERRED STOCK. An issuer may not, without the permission of the administrator:

(1) Refer (in its disclosure document or otherwise) to stock issued pursuant to the corporate limited offering exemption as preferred stock unless the stock has preference over all outstanding classes of stock of the issuer as to both liquidation and dividends, nor may the issuer refer to the stock as having a specified dividend payment, e.g., as being "(specified) percentage preferred stock," unless the dividends on the stock are cumulative; or

(2) Offer preferred stock pursuant to the corporate limited offering exemption which provides for mandatory repurchase at the option of the purchaser or in accordance to a fixed schedule.

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

WAC 460-46A-095 PRICE OF SHARES. All shares sold pursuant to the corporate limited offering exemption must be sold for cash (~~(, must be of the same class,)~~) and must be offered and sold at the same price. Where good cause is shown the administrator may, in writing, waive the provisions of this section.

AMENDATORY SECTION (Amending WSR 90-09-059, filed 4/17/90, effective 5/18/90)

WAC 460-46A-110 MONIES TO BE DEPOSITED IN ESCROW ACCOUNT—PERIOD OF ESCROW AND OF OFFERING. The issuer must establish a separate escrow account with a bank acting as escrow agent for all funds received for sales of securities

under the corporate limited offering exemption until at least the minimum amount has been raised. When the minimum is raised, the issuer shall have the escrow agent so notify the securities administrator. If the minimum amount is not raised within twelve months of the date of effectiveness of the offering, then all funds, including any interest thereon, shall be promptly returned to the investors. In any event, the offering period may not exceed twelve months from the date of effectiveness of the offering.

**WSR 91-04-012
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed January 25, 1991, 8:25 a.m.]**

Date of Adoption: January 25, 1991.

Purpose: Repeals chapters 460-31A, 460-34A and 460-36A WAC, in connection with adoption of NASAA statements of policy in WAC 460-16A-205.

Citation of Existing Rules Affected by this Order: Repealing chapters 460-31A, 460-34A, and 460-36A WAC.

Statutory Authority for Adoption: RCW 21.20.450.

Pursuant to notice filed as WSR 90-23-037 on November 15, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 25, 1991

Mary Faulk
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 460-31A-410 APPLICATION.
- WAC 460-31A-415 DEFINITIONS.
- WAC 460-31A-420 EXPERIENCE OF SPONSOR.
- WAC 460-31A-425 NET WORTH OF SPONSOR.
- WAC 460-31A-430 REPORTS TO ADMINISTRATOR.
- WAC 460-31A-435 LIABILITY OF SPONSOR.
- WAC 460-31A-440 SUITABILITY STANDARDS FOR THE PARTICIPANTS.
- WAC 460-31A-445 SALES TO APPROPRIATE PERSONS.
- WAC 460-31A-450 MAINTENANCE OF RECORD OF SUITABILITY.
- WAC 460-31A-455 MINIMUM INVESTMENT OF PARTICIPANT.
- WAC 460-31A-460 FEES, COMPENSATION AND EXPENSES.
- WAC 460-31A-465 ORGANIZATION AND OFFERING EXPENSES.
- WAC 460-31A-470 INVESTMENT IN PROPERTIES.
- WAC 460-31A-475 PROGRAM MANAGEMENT FEE.

- WAC 460-31A-480 PROMOTIONAL INTEREST.
- WAC 460-31A-485 REAL ESTATE COMMISSIONS ON RESALE.
- WAC 460-31A-490 PROPERTY MANAGEMENT FEE.
- WAC 460-31A-495 INSURANCE SERVICES.
- WAC 460-31A-500 SALES, LEASES, LOANS, AND RELATED PROGRAMS.
- WAC 460-31A-505 EXCHANGE OF LIMITED PARTNERSHIP INTERESTS.
- WAC 460-31A-510 EXCLUSIVE AGREEMENT.
- WAC 460-31A-515 SALES COMMISSIONS ON REINVESTMENT OR DISTRIBUTION.
- WAC 460-31A-520 EXPENSES OF THE PROGRAM.
- WAC 460-31A-525 REIMBURSEMENT OF COSTS.
- WAC 460-31A-530 OTHER SERVICES BY SPONSOR.
- WAC 460-31A-535 REBATES, KICKBACKS AND RECIPROCAL ARRANGEMENTS.
- WAC 460-31A-540 COMMINGLING.
- WAC 460-31A-545 INVESTMENTS IN OTHER PROGRAMS.
- WAC 460-31A-550 LENDING PRACTICES.
- WAC 460-31A-555 DEVELOPMENT OR CONSTRUCTION CONTRACT.
- WAC 460-31A-560 COMPLETION BOND REQUIREMENTS.
- WAC 460-31A-565 REQUIREMENT FOR REAL PROPERTY APPRAISAL.
- WAC 460-31A-570 NONSPECIFIED PROPERTY PROGRAMS.
- WAC 460-31A-575 MINIMUM CAPITALIZATION.
- WAC 460-31A-580 EXPERIENCE OF SPONSOR.
- WAC 460-31A-585 STATEMENT OF INVESTMENT OBJECTIVES.
- WAC 460-31A-590 PERIOD OF OFFERING AND EXPENDITURE OF PROCEEDS.
- WAC 460-31A-595 SPECIAL REPORTS.
- WAC 460-31A-600 ASSESSMENTS.
- WAC 460-31A-605 MULTIPLE PROGRAMS.
- WAC 460-31A-610 RIGHTS AND OBLIGATIONS OF PARTICIPANTS—MEETINGS.
- WAC 460-31A-615 VOTING RIGHTS OF LIMITED PARTNERS.
- WAC 460-31A-620 REPORTS TO HOLDERS OF LIMITED PARTNERSHIP INTERESTS.
- WAC 460-31A-625 ACCESS TO RECORDS.
- WAC 460-31A-630 ADMISSION OF PARTICIPANTS.
- WAC 460-31A-635 REDEMPTION OF PROGRAM INTERESTS.
- WAC 460-31A-640 TRANSFERABILITY OF PROGRAM INTERESTS.
- WAC 460-31A-645 ASSESSMENTS AND DEFAULTS.
- WAC 460-31A-650 SALES LITERATURE.
- WAC 460-31A-655 GROUP MEETINGS.
- WAC 460-31A-660 CONTENTS OF PROSPECTUS.
- WAC 460-31A-665 USE OF FORECASTS.
- WAC 460-31A-670 FORECASTS FOR SPECIFIED PROPERTY PROGRAMS.
- WAC 460-31A-675 REALISTIC FORECASTS.
- WAC 460-31A-680 MATERIAL INFORMATION.
- WAC 460-31A-685 PRESENTATION OF FORECASTS.
- WAC 460-31A-690 ADDITIONAL DISCLOSURES AND LIMITATIONS.
- WAC 460-31A-695 FORECASTS FOR UNIMPROVED PROPERTY PROGRAMS.
- WAC 460-31A-700 FIDUCIARY DUTY.
- WAC 460-31A-705 DEFERRED PAYMENTS.
- WAC 460-31A-710 RESERVES.
- WAC 460-31A-715 REINVESTMENT OF CASH FLOW AND PROCEEDS ON DISPOSITION OF PROPERTY.
- WAC 460-31A-720 FINANCIAL INFORMATION REQUIRED ON APPLICATION.
- WAC 460-31A-725 OPINIONS OF COUNSEL.
- WAC 460-31A-730 PROVISIONS OF THE PARTNERSHIP AGREEMENT.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 460-34A-010 APPLICATION.
- WAC 460-34A-015 DEFINITIONS.
- WAC 460-34A-020 NET WORTH, EXPERIENCE AND INVESTMENT REQUIREMENTS OF SPONSOR.
- WAC 460-34A-025 PARTICIPANTS SUITABILITY STANDARDS.
- WAC 460-34A-030 MINIMUM INVESTMENT.
- WAC 460-34A-035 FEES, COMPENSATION AND EXPENSES.
- WAC 460-34A-037 ORGANIZATION AND OFFERING EXPENSES, AND MANAGEMENT FEES.
- WAC 460-34A-040 PROMOTIONAL COMPENSATION.
- WAC 460-34A-045 PROGRAM EXPENSES.
- WAC 460-34A-050 TRANSACTIONS WITH AFFILIATES.
- WAC 460-34A-055 FARM-OUTS.
- WAC 460-34A-060 RIGHTS AND OBLIGATIONS OF PARTICIPANTS.
- WAC 460-34A-065 ASSESSABILITY AND DEFAULTS.
- WAC 460-34A-070 VOTING RIGHTS OF LIMITED PARTNERS.
- WAC 460-34A-075 MINIMUM PROGRAM CAPITAL.
- WAC 460-34A-080 TEMPORARY INVESTMENT OF PROCEEDS.
- WAC 460-34A-085 RETURN OF UNUSED PROCEEDS.

- WAC 460-34A-090 DEFERRED PAYMENTS.
- WAC 460-34A-095 CASH REDEMPTION VALUES.
- WAC 460-34A-100 FUTURE EXCHANGE.
- WAC 460-34A-105 REINVESTMENT OF REVENUES.
- WAC 460-34A-110 DISTRIBUTION OF REVENUES.
- WAC 460-34A-112 SELLING OF UNITS.
- WAC 460-34A-115 SALES MATERIALS AND MARKETING RESTRICTIONS.
- WAC 460-34A-120 CONTENTS OF THE PROSPECTUS.
- WAC 460-34A-125 FINANCIAL INFORMATION REQUIRED ON APPLICATIONS.
- WAC 460-34A-130 OPINIONS OF COUNSEL.
- WAC 460-34A-135 LIABILITY AND INDEMNIFICATION.
- WAC 460-34A-200 REGULATION B FILINGS.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 460-36A-100 DEFINITIONS OF TERMS.
- WAC 460-36A-105 FAIRNESS OF REIT OFFERINGS.
- WAC 460-36A-110 TRUSTEES.
- WAC 460-36A-115 INVESTMENT POLICY.
- WAC 460-36A-120 LIABILITY OF SHAREHOLDERS.
- WAC 460-36A-125 REPORTS AND MEETINGS.
- WAC 460-36A-130 SPECIAL MEETINGS.
- WAC 460-36A-135 INSPECTION OF RECORDS.
- WAC 460-36A-140 DISTRIBUTIONS.
- WAC 460-36A-145 CHANGE IN DECLARATION OF TRUST.
- WAC 460-36A-150 TERMINATION OF REIT.
- WAC 460-36A-155 ADVISORY CONTRACT.
- WAC 460-36A-160 ADVISER COMPENSATION.
- WAC 460-36A-165 TOTAL EXPENSES.
- WAC 460-36A-170 LEVERAGE.
- WAC 460-36A-175 MINIMUM CAPITAL.
- WAC 460-36A-180 APPRAISAL.
- WAC 460-36A-185 INDEMNIFICATION.
- WAC 460-36A-190 OTHER LIMITATIONS.
- WAC 460-36A-195 IMPLEMENTATION.

WSR 91-04-013

ATTORNEY GENERAL OPINION

Cite as: AGO 1991 No. 2

[January 22, 1991]

TREASURER—COUNTIES—TAXATION—PROPERTY—
PAYMENT BY CREDIT CARD

1. RCW 84.56.023 authorizes counties to accept payment of property taxes by credit card. If the county

utilizes this procedure, it must collect fully payment of taxes, interest and penalties without discount.

2. RCW 84.56.023 does not grant the county the authority to collect from the taxpayer a service fee on behalf of the bank issuing the credit card.

Requested by:

The Honorable C. C. Bridgewater
Cowlitz County Prosecuting Attorney
Hall of Justice
312 Southwest First Avenue
Kelso, Washington 98626

WSR 91-04-014

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 128—Filed January 28, 1991, 9:13 a.m.]

Date of Adoption: January 28, 1991.

Purpose: To implement the provisions of RCW 47.28-.070, assure that each highway construction contract is awarded to a competent and responsible contractor and to provide guidance for the qualification of contractors.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

Pursuant to notice filed as WSR 90-22-092 on November 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 468-16-030(16), page 213, line 2, insert "contract" before the word "work"; WAC 468-16-030(17), page 213, line 2, delete "a contractor that reports the" and insert "of the" before the word "quality"; WAC 468-16-030(26), page 213, line 2, insert "contract" before the word "work"; WAC 468-16-030(19), page 213, line 2, change "is" to "may be"; WAC 468-16-060, page 213, line 3, change "shall" to "may"; WAC 468-16-060(4), page 213, insert the words "Neglectful or willful" before the word "failure"; WAC 468-16-100(3), page 215, line 6, change "there" to "thereon"; WAC 468-16-100(4), page 215, insert the word "Normally" before the word "a"; WAC 468-16-120(5), page 215, line 2, delete the words "less than" following the word "other"; WAC 468-16-130, page 216, Work Class 14, delete ", dirt" after "rock" and Work Class 15, change "station" to "stations"; WAC 468-16-140(1), page 217, insert after "(standard)." ", however no decrease in the bidding capacity will become effective until agreed to by both parties or until action to appeal, as specified in these rules has been completed."; WAC 468-16-140 (2)(b), page 217, insert after "subsidiary." "An audited financial statement as prescribed in WAC 468-16-090 (9)(a), may be requested when deemed appropriate, from the parent firm"; WAC 468-16-140(4), page 217, insert after "work" "for the department"; WAC 468-16-150(10), page 217, insert after "engineer" "or designee"; WAC 468-16-150(14), page 217, delete "the" after the word "review" and change the word "appeal" to "appeals"; WAC 468-16-150(15), page 217, line 5, delete "by a contracting association" and insert after the word "chosen" "randomly

from the list of prequalified contractors" and line 6, change "by" to "from"; WAC 468-16-160(2), page 218, delete (2) and change (3) to (2), (4) to (3) and (5) to (4); WAC 468-16-160(4), page 218, delete "and are not subject to WAC 468-16-150 (13) through (17)"; WAC 468-16-160(5), page 218, add "(5) DOT Form 421-010 revised 7/90 is authorized for use effective July 1, 1991, until such time DOT Form 421-010 revised 9/86 will be used"; WAC 468-16-200(1), page 218, line 2, insert ", " after "firm", line 3, insert ", " after "qualification", line 4, delete "to the secretary", and line 5, delete "the secretary's"; WAC 468-16-200 (2)(f), page 219, line 2, delete "in writing" and insert after "official" the words "by certified mail, return receipt requested" and line 3, insert after "or" the work "in"; WAC 468-16-200 (2)(g), page 219, delete "That, except" before the word "when"; WAC 468-16-210, page 219, line 3, change "forms" to "a form"; and Prime Contractor Performance Report, page 220, utilize attached Prime Contractor Performance Report. Minor changes were made to the Instruction and Authentication sections of the form to coincide with the changes made throughout the WAC. Most of the foregoing changes were made to the proposed rule after consideration of the written comments received. The remainder were made to provide for more clarity and to establish an effective date for using the new contractor performance evaluation form.

Effective Date of Rule: Thirty-one days after filing.
 January 28, 1991
 Ed W. Ferguson
 Deputy Secretary

Chapter 468-16 WAC
 PREQUALIFICATION OF CONTRACTORS

WAC	
468-16-010	General.
468-16-020	Purpose.
468-16-030	Definitions.
468-16-040	Criteria for a determination of an unsatisfactory record of performance.
468-16-050	Criteria for a determination of an unsatisfactory record of integrity and judgment.
468-16-060	Criteria for a determination of inability to comply with performance schedules.
468-16-070	Criteria for a determination of inadequate experience, organization, or technical qualifications.
468-16-080	Qualification procedures for projects under fifty thousand dollars.
468-16-090	Standard questionnaire.
468-16-100	Conditional qualification.
468-16-110	Joint ventures.
468-16-120	Work class ratings.
468-16-130	Prequalification work classes.
468-16-140	Maximum capacity rating.
468-16-150	Prime contractor performance reports.
468-16-160	Interim reports.
468-16-170	Refusal to issue proposal.
468-16-180	Suspension of qualification.

468-16-190	Revocation of qualification.
468-16-200	Hearings procedure.
468-16-210	Prime contractor performance report.

NEW SECTION

WAC 468-16-010 GENERAL. No contract for the construction, improvement or repair of any state highway, or of any other public highway to be awarded and administered by the department of transportation, may be awarded to any contractor who has not first been prequalified to perform the work. Bidding proposals will be issued only to prequalified contractors.

NEW SECTION

WAC 468-16-020 PURPOSE. This chapter is promulgated to assure that contractors engaged in the improvement and construction of state highways possess the necessary qualifications as required by RCW 47.28-.070. It is further intended to:

- (1) Establish a method for determining a contractor's qualifications to undertake department work and for the retention of that qualification.
- (2) Provide a means for contractors to enhance their prequalification status and bidding capacity through higher standards of performance.
- (3) Increase the opportunity for a better relationship between the department and construction contracting firms.
- (4) Provide for the award, denial, suspension, or revocation of qualification; denial of proposal issuance; and for a hearing procedure, if required, for such actions.

NEW SECTION

WAC 468-16-030 DEFINITIONS. The definitions set forth in this section apply throughout this chapter and have the following meanings, unless the context clearly indicates otherwise.

- (1) Above standard - Performance ranging from standard to that meeting the lower range of superior.
- (2) Active contractor - A contractor who has participated in department activities through maintaining required prequalification, bidding, or construction activities.
- (3) Affiliate - An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or directors of one or more firms.
- (4) Assistant secretary for operations - The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.
- (5) Below standard - Performance bordering on standard extending to the limits of inadequate.
- (6) Bidding proposal - A form issued by the department for the submission of a contractor's bid, containing spaces for entering bid amounts, authentication, and other data.
- (7) Capacity multiplier - The number 5.0 multiplied by a firm's net worth to calculate its initial maximum bidding capacity.
- (8) Conditional qualification - A temporary qualification status given a contractor who has received "below

standard" or "inadequate" ratings or for other reasons which result in restrictions to a contractor's ability to bid on department work.

(9) Contractor – Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(10) Department – The department of transportation.

(11) Endorser – The district operations engineer or immediate supervisor of the project engineer or, under specified conditions, the district administrator responsible for reviewing contractor's performance reports.

(12) Inadequate – Performance failing completely to meet the prescribed standards or requirements.

(13) Integrity – The quality of being of sound moral principle, uprightness, honesty, and sincerity.

(14) Joint venture – Two or more persons, sole proprietorships, companies, corporations, or combinations thereof, entering into an agreement for a business venture such as a construction project.

(15) Limited work class – A work classification given when a contractor lacks the total experience, equipment, or skills required to perform the entire range of work within a work class.

(16) Maximum capacity rating – The total value of uncompleted prime contract work a contractor is permitted to have under contract at any time.

(17) Performance inquiry – A request made to a contractor's previous employers for an evaluation of the quality and manner of that contractor's performance.

(18) Performance rating – A numerical rating which is equal to the grand total of the evaluation elements of the prime contractor's performance report used as a guide to measure and quantify the quality of contractor performance.

(19) Performance score – The product of the performance rating when multiplied by a numerical factor which may be used to calculate prequalification ratings.

(20) Prequalification – The process of reviewing a contractor's financial status, organizational structure, experience, equipment, integrity, and other required qualifications to determine responsibility and suitability for performing department work. This term is used interchangeably with qualification.

(21) Prime contractor performance report – A report prepared to evaluate the performance of a prime contractor upon completion of, or at an interim period during a department project which is used as a guide to adjust a prime contractor's qualification status.

(22) Project estimate – A document prepared by the department establishing the estimated value of all items of work, the total estimated value of work within each class of work, and the estimated total value of a project.

(23) Rater – The individual, normally the project engineer, responsible for evaluation of the quality and manner of performance of a contractor in the completion of a project.

(24) Revocation of qualification – The act by which a contractor's qualification is terminated.

(25) Secretary – The secretary of transportation who may delegate his or her functions under this chapter to

the assistant secretary for operations or such other individual as deemed appropriate.

(26) Standard – The expected, acceptable quality of performance, considered to meet the demand, need or requirements.

(27) Standard questionnaire – The application form completed by a contractor to present information relating to the applicant's financial status, experience, organization, and equipment for the purpose of becoming qualified to perform department work.

(28) Superior – Preeminent performance, generally at a higher level than that of others.

(29) Suspension of qualification – The termination of a contractor's qualification for a specified period of time.

(30) Unsatisfactory – Below standard or inadequate performance, failing to meet requirements.

(31) Work class – A specific type of work within the various classifications of work, e.g., grading, draining, fencing, etc.

(32) Work class rating – The maximum value within a class of work which a contractor may bid upon in a single project.

NEW SECTION

WAC 468-16-040 CRITERIA FOR A DETERMINATION OF AN UNSATISFACTORY RECORD OF PERFORMANCE. The following list of elements may be considered cause for a determination that an unsatisfactory record of performance exists:

(1) Failure to complete project on time; or

(2) Continued workmanship below the level of standard or inadequate; or

(3) Nonadherence to the requirements of plans and specifications; or

(4) Disregard for the welfare or safety of traveling public; or

(5) Inadequate supervision and control of subcontractors; or

(6) Insufficient supervision available on project site; or

(7) Inadequate coordination and planning with owner; or

(8) Inadequate procurement and delivery of supplies and materials; or

(9) Inadequate control and utilization of equipment; or

(10) An overall performance rating in the prime contractor performance report of less than standard as defined in WAC 468-16-030.

NEW SECTION

WAC 468-16-050 CRITERIA FOR A DETERMINATION OF AN UNSATISFACTORY RECORD OF INTEGRITY AND JUDGMENT. (1) The following may be cause for a determination of an unsatisfactory record of integrity and judgment:

(a) Conviction by the firm or its principals of violating a federal or state antitrust law by bid-rigging, collusion, or restraint of competition between bidders; or conviction of violating any other federal or state law related to bidding or contract performance; or

(b) Knowingly concealing any deficiency in the performance of a prior contract; or

(c) Falsification of information or submission of deceptive or fraudulent statements in connection with prequalification, bidding, performance of a contract, or in legal proceedings; or

(d) Debarment of the contractor by a federal or state agency; or

(e) Willful disregard for applicable laws, rules or regulations.

(2) Only such data relating to subsection (1)(a) through (e) of this section having taken place within three years next preceding the date of the most recently submitted standard questionnaire may be used for the purpose of this section.

NEW SECTION

WAC 468-16-060 CRITERIA FOR A DETERMINATION OF INABILITY TO COMPLY WITH PERFORMANCE SCHEDULES. The following may be cause for a determination of inability to comply with performance schedules:

(1) A majority of responses to inquiries made to previous owners of previously completed projects reveal that projects have not been completed on time; or

(2) A major portion of projects completed within the last three years for the department have not been completed on time; or

(3) When two or more consecutive performance reports are rated below standard in the areas of "progress of work"; or

(4) Neglectful or willful failure to meet interim completion dates as defined in the contract.

NEW SECTION

WAC 468-16-070 CRITERIA FOR A DETERMINATION OF THE LACK OF NECESSARY EXPERIENCE, ORGANIZATION, OR TECHNICAL QUALIFICATIONS. A determination of lack of necessary experience, organization, or technical qualification may be made when data has been presented which reveals:

(1) A lack of prior experience in the classes of work for which qualification is sought; or

(2) That supervisory experience of key personnel responsible for prior projects has been reported predominantly below standard or less than satisfactory on performance reports and responses to inquiries made to other project owners or agencies; or

(3) That permanent employment status of key supervisory personnel has not been of a duration of at least one year or for the duration of the project in which they have been engaged; or

(4) That previous work experience in a work class presented for qualification did not conform to plans and specifications; or

(5) That work claimed by the contractor was completed by others; or

(6) A performance rating in appropriate categories of the prime contractor performance report of less than standard as defined in WAC 468-16-030.

NEW SECTION

WAC 468-16-080 QUALIFICATION PROCEDURES FOR PROJECTS UNDER FIFTY THOUSAND DOLLARS. (1) Contractors may be qualified by district administrators for projects valued under fifty thousand dollars.

(2) Procedures for letting district level projects valued under fifty thousand dollars are published in Department Directives.

(3) A limited prequalification questionnaire and other requirements are prescribed in WAC 468-14-040.

NEW SECTION

WAC 468-16-090 STANDARD QUESTIONNAIRE. The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: Precontract administration office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated subsidiary or companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is a foreign corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience engaged in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be

currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently submitted or amended prequalification questionnaire. Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, subcontractor, assignee, or agent of the applicant contractor although they are placed on the applicant contractor's payroll.

(8) A list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(9) An initial financial statement.

(a) For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

(b) Financial statements must be for the current twelve month period and must reflect a ratio of total current assets to total current liabilities of 1.0 or greater.

(10) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (9) of this section must be fulfilled.

(11) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(12) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department

and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested) of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(13) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus one calendar quarter as established by the date of the year-end financial statement. Prequalification will be renewed annually thereafter or at other times as designated.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received by the department no less than fifteen calendar days prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from

any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(i) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(14) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification shall not be made available for public inspection and copying pursuant to RCW 42.17.310 (1)(m). The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(15) Qualified contractors will be provided with notices which list projects currently being advertised.

NEW SECTION

WAC 468-16-100 **CONDITIONAL QUALIFICATION.** (1) A firm may be conditionally qualified when it has been given a below standard (1.0 or below) performance score on a final performance report. A firm may also be qualified conditionally when performance has become below standard in either "quality of work" or "progress of work" on an interim report for a current project. A conditionally qualified contractor will be denied bidding proposals while in that status but may receive, at the discretion of the secretary, a bidding proposal for one project at a time if special circumstances warrant such action.

(2) The assistant secretary for operations shall advise the contractor and the district administrator when a contractor has been placed in conditional status.

(3) Should the contractor be the low successful bidder and be awarded a contract subsequent to being placed in conditional status, the issuance of further bidding proposals will be considered only when an interim report is submitted in accordance with WAC 468-16-160 or when a final performance report is submitted in accordance with WAC 468-16-150(12) and the rating thereon is standard or better.

(4) Normally a contractor may have only one active prime contract for the department while qualified conditionally.

(5) Return to fully qualified status of a conditionally qualified contractor will be effected by:

(a) A performance rating of standard or above on contracts completed during the current prequalification year; or

(b) An interim rating of standard or above average on all concurrent contracts; or

(c) A standard or above rating on the first interim report for a project awarded subsequent to conditional qualification.

(6) Should the rating continue to be less than standard, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

NEW SECTION

WAC 468-16-110 **JOINT VENTURES.** (1) Joint ventures are prequalified under two categories as follows:

(a) Individual project joint venture – An association of two or more firms formed for the specific purpose of submitting a bid on a specific project.

(i) All firms must be individually prequalified.

(ii) The firms must file an "individual project statement of joint venture" and a joint venture agreement in the formats prescribed.

(b) Continuing joint venture – An association of two or more firms formed for the purpose of submitting bids for projects to be advertised over a period of time.

(i) All firms must be individually prequalified.

(ii) The firms must file a "statement of continuing joint venture."

(iii) Continuing joint ventures must maintain a standard or higher performance rating in order to remain qualified.

(iv) A rating of less than standard will cause the joint venture to be placed in conditional qualification status.

(2) A standard questionnaire and financial statement for each member, if not on file, and a standard questionnaire and financial statement designating the assets and liabilities of the venture shall be submitted for the joint venture with a copy of the joint venture agreement. The agreement shall specify the name under which the joint venture will operate and the names of those individuals authorized to sign proposals, contracts, and other documents on behalf of the joint venture. It shall contain provisions which will unequivocally bind the parties, jointly and severally, to any contract entered into thereunder.

NEW SECTION

WAC 468-16-120 **WORK CLASS RATINGS.** (1) Qualification shall be granted a contractor in one or more classes of work in which the firm has shown the capability to satisfactorily perform with its own forces under its own immediate supervision.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work as provided for in the current issue of the Standard Specifications.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment. Higher performance ratings result in higher work class ratings.

(4) Data provided by project owners, other than the department, to inquiries made concerning new applicants

seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. The applicant's experience multiplier shall be used to calculate the applicant's initial work class rating. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance data provided by agencies or organizations having previously employed the applicant. Such other data as the department may have on file may also be used. Work submitted by the new contractor and verified by the department will be given an initial work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class during the past three years. If a specific portion of a work class is performed by the contractor, the prequalification for that class will be limited to that portion of the work.

(5) Work reported as less than satisfactory will not be accepted for qualification purposes, but may be included with other satisfactory performance reports in determining the status of the contractor's prequalification.

(6) Work class ratings previously granted will not be reduced providing the contractor has maintained a satisfactory (standard) performance record on department work and the contractor continues to submit the required questionnaire annually. Should a significant reduction of resources occur, the contractor's work class ratings may be modified or reduced to an amount within the contractor's current capacity.

(7) A contractor's work class ratings will be reviewed annually effective on the date the renewal questionnaire has been received. Work class ratings for those contractors renewing prequalification will be reviewed for increases, decreases, and additional work classes not previously granted. In determining the annual status of the contractor's work class ratings, prime work completed for the department and the performance rating given for that work shall be weighted more heavily than work completed for other agencies.

(8) Work class ratings shall be computed by multiplying the highest value of the work class completed satisfactorily during the preceding prequalification year by a factor of 2.5, provided that the currently established work class rating is not higher. In that event, the currently established work class shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the prequalification year.

(9) Work class ratings for inactive contractors renewing prequalification will be computed annually in the same manner as for new applicants for a period not to exceed three years. Work class ratings granted within three successive renewal periods shall remain the same as for an inactive contractor if the contractor continues to submit the required questionnaire annually and the questionnaire does not reveal a significant reduction in organizational resources. When a significant reduction of resources occurs, the inactive contractor's work class ratings may be modified to an amount within the contractor's current capacity.

NEW SECTION

WAC 468-16-130 PREQUALIFICATION WORK CLASSES. A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its proven ability to perform the work class sought.

- Class 1 CLEARING, GRUBBING, GRADING & DRAINING
Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, and the placement of drainage structures.
- Class 2 PRODUCTION AND PLACING OF CRUSHED MATERIALS
Production and placing crushed surfacing materials and gravel.
- Class 3 BITUMINOUS SURFACE TREATMENT
Placing of crushed materials with asphaltic application.
- Class 4 ASPHALT CONCRETE PAVING
Production and placing Asphalt Concrete Plant Mix Pavement.
- Class 5 CEMENT CONCRETE PAVING
Production and placing cement concrete pavement.
- Class 6 BRIDGES AND STRUCTURES
Construction of bridges, walls and other major structures of timber, steel, and concrete.
- Class 7 BUILDINGS
Construction of buildings and related structures within the right of way and major reconstruction and remodeling of such buildings.
- Class 8 PAINTING
Painting bridges, buildings, and related structures.
- Class 9 TRAFFIC SIGNALS
Installation of traffic signal and control systems.
- Class 10 STRUCTURAL TILE CLEANING
Cleaning tunnels, large buildings and structures and storage tanks.
- Class 11 GUARDRAIL
Construction of a rail secured to uprights and erected along the exposed sides and ends of platforms or as a barrier between, or beside lanes of a highway.
- Class 12 PAVEMENT MARKING (EXCLUDING PAINTING)
Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.
- Class 13 DEMOLITION
Removal of timber, steel, and concrete structures and obstructions.

Class 14	DRILLING AND BLASTING Controlled blasting of rock and obstructions by means of explosives.	Class 28	ELECTRONICS Surveillance and control systems design and installation, electronics training and maintenance.
Class 15	SEWERS AND WATER MAINS Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.	Class 29	SLURRY DIAPHRAGM AND CUT-OFF WALLS Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
Class 16	ILLUMINATION & GENERAL ELECTRICAL Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.	Class 30	SURVEYING Highway construction surveying.
Class 17	CEMENT CONCRETE CURB AND GUTTER Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 31	WATER DISTRIBUTION AND IRRIGATION Irrigation systems and heavy duty water distribution.
Class 18	ASPHALT CONCRETE CURB AND GUTTER Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.	Class 32	LANDSCAPING Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
Class 19	RIPRAP AND ROCK WALLS Mortar rubble masonry walls, rock retaining walls, and the placing of large broken stone on earth surfaces for protection against the action of water.	Class 33	ENGINEERING Work other than surveying, including engineering calculations, drawing and other related work for highway construction.
Class 20	CONCRETE STRUCTURES EXCEPT BRIDGES Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.	Class 34	EROSION CONTROL Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
Class 21	TUNNELS AND SHAFT EXCAVATION Tunnel excavation, rock tunneling, and soft bore tunneling.	Class 35	PRECAST MEDIAN BARRIER A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
Class 22	PILEDIVING Driving concrete, steel, and timber piles.	Class 36	PERMANENT TIE BACK ANCHOR Installation of permanent rock and soil anchors, soldier piles and timber lagging. Soldier pile tie back anchor wall construction.
Class 23	CONCRETE SURFACE TREATMENT Exposed aggregate, fractured-fin and rope textured finished waterproofing concrete surfaces (clear or pigmented sealer).	Class 37	IMPACT ATTENUATORS Installation of approved protective systems filled with sand, water, or foam which prevent errant vehicles from impacting roadside hazards.
Class 24	FENCING Wire and metal fencing, glare screens.	Class 38	PAINT STRIPING Painted bars, letters, symbols, and striping.
Class 25	BRIDGE DECK REPAIR Bridge expansion joint repair and modification, bridge deck resurfacing and repair.	Class 39	WIRE MESH SLOPE PROTECTION The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway.
Class 26	DECK SEAL Waterproof membrane.	Class 40	GABION AND GABION CONSTRUCTION Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
Class 27	SIGNING Sign structures and signs.	Class 41	NOT USED

Class 42	ELECTRONICS—FIBER OPTIC BASED COMMUNICATIONS SYSTEMS Design and installation of fiber optic based communication systems.
Class 43	MECHANICAL Plumbing work and the installation of heating or air conditioning units.
Class 44	NOT USED
Class 45	NOT USED
Class 46	CONCRETE RESTORATION Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
Class 47	CONCRETE SAWING, CORING, AND GROOVING Concrete sawing, concrete planing and grooving, bump grinding, joint repair, concrete coring.
Class 48	DREDGING Excavating underwater materials.
Class 49	MARINE WORK Underwater surveillance, testing, repair, subaquatic construction.
Class 50	NOT USED
Class 51	WELL DRILLING Drilling wells, installing pipe casing and pumping stations.
Class 52	SEWAGE DISPOSAL Hauling and disposing liquid and solid wastes.
Class 53	TRAFFIC CONTROL Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.
Class 54	RAILROAD CONSTRUCTION Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
Class 55	STEEL FABRICATION Welding of steel members, heat straightening steel.
Class 56	STREET CLEANING Street sweeping with self-propelled sweeping equipment.
Class 57	MATERIALS TRANSPORTING Truck hauling.
Class 58	SAND BLASTING Steam cleaning, sand blasting.

NEW SECTION

WAC 468-16-140 MAXIMUM CAPACITY RATING. (1) The maximum capacity rating shall be determined by multiplying the contractor's reported net worth by a factor of 5.0. The factor may be increased at a rate of 0.5 annually, provided the contractor has maintained a satisfactory performance record with the

department and has completed a contract of fifty thousand dollars or more within the preceding prequalification year. The maximum factor shall be 7.5. The department may at any time decrease the rating factor if the contractor's performance becomes less than satisfactory (standard), however no decrease in the bidding capacity will become effective until agreed to by both parties or until action to appeal, as specified in these rules, has been completed.

(2) For the purpose of prequalification and establishing the maximum capacity rating, the following additional resources may be added to net worth if supported with documentation as specified:

(a) An operating line of credit – Documentation from an acceptable financial institution stating the amount of credit authorized, its expiration date, and the amount currently available. The document must be authenticated by an official authorized to execute lines of credit on behalf of the institution. Should the operating line of credit be revoked, it shall be deducted before computing a new annual maximum capacity rating.

(b) A parent firm pledge of net worth – A sworn statement from the parent firm that guarantees the performance of the subsidiary for any contracts awarded it. The document shall include a parent firm pledge in an amount such that when calculated in subsection (1) of this section will not be less than the value of uncompleted contracts of the subsidiary. An audited financial statement, as prescribed in WAC 468-16-090 (9)(a), may be requested, when deemed appropriate, from the parent firm.

(c) A personal pledge of net worth – A sworn statement pledging a specific amount of personal assets. The statement must be accompanied by acceptable documents that will verify the ownership and value of the assets.

(3) Resources listed above will not be accepted in lieu of a minimum net worth of fifty thousand dollars.

(4) When the value of a firm's uncompleted work for the department exceeds its maximum capacity rating, a bidding proposal shall be denied that firm.

NEW SECTION

WAC 468-16-150 PRIME CONTRACTOR PERFORMANCE REPORTS. (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are established for performance reports:

- (a) Superior.
- (b) Above standard.
- (c) Standard.
- (d) Below standard.
- (e) Inadequate.

(4) The report shall contain a numerical section which quantifies the adjectival ratings into a total performance rating which is multiplied by .001 to obtain a performance score falling within one of the following ranges:

Superior	1.550 – 2.000
Above Standard	1.101 – 1.549
Standard	1.000 – 1.100
Below Standard	0.550 – 0.999
Inadequate	0.000 – 0.549

(5) The performance score (PS) is computed by multiplying the performance rating (PR) obtained from the prime contractor's performance report by a factor (F) of .001 e.g. 1685 (PR) x .001 (F) = 1.685 (PS).

(6) The annual performance score is the average of the scores, by work class, obtained from all performance reports submitted for department projects completed during the one-year period next preceding the date of expiration of the contractor's qualification.

(7) The performance report shall be used as an additional tool in fixing a contractor's prequalification status.

(8) The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.

(9) The performance report will be prepared by the project engineer who will include numerical ratings substantiated by a narrative report which describes the contractor's typical performance.

(10) The report will be endorsed by the district operations engineer or designee who will provide a copy to the contractor and discuss all ratings with the contractor.

(11) The contractor may appeal the rating to the district administrator in writing within twenty calendar days of the date of the report. The appeal must set forth the basis upon which it has been made.

(12) The district administrator will review all contractor performance reports after they have been endorsed and may modify the rating if such is deemed appropriate, advising the contractor when appropriate. The district administrator will enter narrative comments thereon only when the contractor's performance has been rated below standard, inadequate, or superior.

(13) Performance reports, when completed at district level, will be submitted to the secretary, Attn: Manager, precontract administration office, not later than thirty calendar days following completion of the project.

(14) The district administrator shall review appeals and provide a written response to the contractor by certified mail within ten calendar days of receipt of an appeal. A copy of the appeal and the response thereto will be forwarded to the secretary.

(15) Upon receipt of a copy of the district administrator's response and further appeal by the contractor, the secretary shall appoint a committee of three individuals who have not been directly involved with the project

to review the response and the performance report. The committee shall be composed of one member chosen randomly from the list of prequalified contractors, a member chosen from the department, and a third member chosen by both members. The department's member shall chair the committee. The review shall consider the objectivity, accuracy, and completeness of the report; the appeal, and the response. The board shall use the project engineer's diary, the inspector's journal, and other written documentation including such data as may be provided by the contractor, as a basis for its determination and written recommendation which shall be submitted to the secretary within fifteen calendar days of their appointment.

(16) The committee's report shall be advisory.

(17) The contractor may further appeal to the secretary in writing. The appeal shall be made within ten calendar days of the date of receipt of the district administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within thirty calendar days of its receipt. This determination shall be the final administrative act of the department.

NEW SECTION

WAC 468-16-160 INTERIM REPORTS. (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year and submitted to the manager, precontract administration office. They will be completed annually on the anniversary of the start date of the contract as prescribed in WAC 468-16-100. An interim report will also be completed when a contractor's work has become less than standard and the firm has been advised in writing of such performance. The report will be used by the secretary as a basis for determining whether a contractor will be placed in conditional status.

(2) In the case of a conditionally qualified firm, an interim report shall be submitted at sixty working day intervals for all projects being undertaken by that firm subsequent to its being placed in conditional status. Projects of short duration will be rated as prescribed in subsection (2) of this section.

(3) The project engineer shall submit an interim report when it becomes evident that he or she will no longer be involved in the project, providing that project has been in progress for twenty-five percent of the working days assigned the project.

(4) Interim performance reports will be made a part of the final performance report.

(5) DOT Form 421-010 revised 7/90 is authorized for use effective July 1, 1991, until such time DOT Form 421-010 revised 9/86 will be used.

NEW SECTION

WAC 468-16-170 REFUSAL TO ISSUE PROPOSAL. Refusal to issue a proposal may continue in effect until the cause for the refusal has been eliminated. One or more of the following conditions may be considered sufficient for refusal to issue a proposal:

(1) The value of outstanding work plus the contract total of the work proposed to be bid exceeds the contractor's maximum capacity rating.

(2) Being placed in conditional status.

(3) Making false, fraudulent, or deceptive statements on the standard questionnaire, related documents, or documents prepared in the course of prosecuting the work.

(4) Debarment or suspension from participation in federal projects.

(5) Expiration of qualification.

(6) Failure to update the latest questionnaire to fairly represent the contractor's current organization and financial status.

(7) Noncompliance with equal employment opportunity (EEO), or minority and women's business enterprise (MWBE), or disadvantaged business enterprise (DBE) regulations.

(8) Bankruptcy.

(9) The existence of any conditions described in WAC 468-16-040 through 468-16-070 inclusive.

NEW SECTION

WAC 468-16-180 SUSPENSION OF QUALIFICATION. (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

(2) The secretary may, upon determination from reports, other documents, or through investigation that cause exists to suspend the qualification of a contractor, impose suspension upon a contractor.

(3) The secretary may suspend qualification for:

(a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.

(b) Inadequate performance on one or more projects.

(c) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.

(d) Uncompleted work which might prevent the prompt completion of other work.

(e) Failure to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.

(f) Debarment or suspension from participation in federal projects.

(g) Pending completion of debarment proceedings in federal projects.

(4) The maximum period of suspension for acts or deficiencies enumerated above are as follows:

(a) For subsection (3)(a) of this section - Two months.

(b) For subsection (3)(b), (c), (d), and (e) of this section - Three months.

(c) For subsection (3)(f) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)(g) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Elimination of causes for which the suspension was imposed.

NEW SECTION

WAC 468-16-190 REVOCATION OF QUALIFICATION. (1) The secretary, upon determination from reports, other documents, or investigation that cause exists to revoke the qualification of a contractor, may revoke the contractor's qualifications for a maximum period of two years.

(2) The secretary may revoke the qualification of a contractor upon a plea by the firm of nolo contendere, conviction, judgment, or admission for any of the following causes:

(a) Existence of any condition cited in WAC 468-16-050.

(b) Intentional falsification with intent to defraud or unauthorized destruction of project related records.

(3) Revocation of qualification may also be imposed for the following reasons:

(a) Default on a contract within three years prior to the date of application for qualification.

(b) Bankruptcy or insolvency.

(c) Breach of contract.

(d) Having been suspended two or more times within a two-year period.

(4) A contractor shall be required to reapply for qualification upon again reaching eligibility status when qualification has been revoked.

(5) Revocation of qualification shall be final after twenty calendar days following receipt of notification thereof by certified mail unless a hearing has been requested.

(6) The secretary may reverse the decision to revoke qualifications upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Reversal of the conviction or judgment upon which the revocation was based; and

(c) Elimination of causes for which the revocation was imposed.

NEW SECTION

WAC 468-16-200 HEARINGS PROCEDURE.

(1) A contracting firm, which has been notified by the secretary that the department is contemplating suspending or revoking its qualification, may request in writing within twenty calendar days of the date of notification by certified mail, that a hearing be conducted. Unless the department is otherwise prohibited from contracting with the contractor, the suspension or revocation shall not become effective until the final decision of the secretary has been rendered. The hearing shall be conducted in accordance with the procedure set forth in this section.

(2) The secretary shall designate a hearing official to conduct any hearing held under this chapter. The hearing official shall furnish written notice by certified mail of a hearing to the contractor and any named affiliates at least twenty calendar days before the effective date of

suspension or revocation of qualifications. The notice shall state:

(a) That suspension or revocation of qualification is being considered.

(b) The effective date of the proposed action.

(c) The facts giving cause for the proposed action.

(d) The cause or causes relied upon for proposing the action, i.e., fraud, statutory violations, etc.

(e) If suspension is proposed, the duration of the suspension.

(f) That the contractor may, within twenty calendar days of receipt of the notice, submit to the hearing official by certified mail, return receipt requested, information and argument in opposition to or in clarification of the proposed action.

(g) When the action is based on a conviction, judgment, or admission, fact-finding shall be conducted if the hearing official determines that the contractor's submission raises a genuine dispute over material facts upon which the suspension or revocation is based or whether the causes relied upon for proposing suspension or revocation exist.

(h) The time, place, and date of the hearing.

(i) The name and mailing address of the hearing official.

(j) That proposals shall not be issued nor contracts awarded to the contractor subsequent to the dispatch of the notice of hearing pending the final decision of the secretary.

(3) The hearing official may extend the date of any hearing upon request of the contractor, but the hearing shall not be extended beyond forty-five calendar days from the date of the notice. The hearing official shall schedule and conduct the hearing within thirty calendar days of the date of the notice, except when an extension is granted as provided in this subsection.

(4) In the course of the hearing, the hearing official shall:

(a) Regulate the course and scheduling of the hearings;

(b) Rule on offers of proof, receipt of relevant evidence, and acceptance of proof and evidence as part of the record;

(c) Take action necessary to insure an orderly hearing; and

(d) At the conclusion of the hearing, issue written findings of fact and recommended administrative action to the secretary. The hearing officer shall deliver the entire record to the secretary.

(5) The contractor shall have the opportunity to be present and appear with counsel, submit evidence, present witnesses, and cross-examine all witnesses. A transcribed or taped record shall be made of the hearing unless the secretary and the contractor waive the transcript or taping requirement. The transcript or tape shall be available to the contractor and all named affiliates upon request at cost.

In actions where it has been established by conviction, judgment or admission, or where it has been established by findings made in accordance with this chapter, that the named contractor has engaged in conduct described

in WAC 468-16-050 and the sole issue before the hearing official is the appropriateness of revocation of qualification or the length of suspension of qualification to be recommended to the secretary, prior judicial or administrative decision or findings shall not be subject to collateral attack.

The secretary, after receiving the record, findings of fact, and recommendations of the hearing official shall determine the administrative action to be taken. The secretary shall notify the contractor of his determination in writing.

Upon denial, suspension or revocation of prequalification, the respondent may appeal therefrom to the superior court of Thurston County pursuant to RCW 47.28-.070. If the appeal is not made within the time prescribed in that statute, the department's action is conclusive.

NEW SECTION

WAC 468-16-210 PRIME CONTRACTOR PERFORMANCE REPORT. The evaluation of contractor performance shall be made on a form substantially in the format as illustrated herein.

Prime Contractor Performance Report

Section I Contractor Data			Section II Project Data			
Report type	Date	Contractor no. (I/Q use only)	District	Contract no. FA no.	County	SR
Company Name			Project title			
Principal	Superintendent		Schedule completion		Date of actual completion	
Foreman			Contract award amount		Contract completion amount	
Project description						

Section III Numerical Rating

	* Inadeq	**Below Sta.	Standard	Above Sta.	* Superior	
A ADMINISTRATION / MANAGEMENT / SUPERVISION						
1 Supervision and decision making	0	20	40	55	70	
2 Coordination and communication with subcontractors and suppliers	0	15	30	43	56	
3 Submission of documents and reports	0	13	25	36	47	
4 Adequacy and timeliness of progress schedules	0	12	25	35	45	
5 Public safety and traffic control	0	10	22	32	42	
6 Compliance with laws, ordinances and regulations	0	10	20	28	36	
7 Maintenance of employee safety standards	0	10	20	28	36	
8 Coordination and cooperation with department personnel on project matters	0	10	20	28	36	
9 Compliance with EEO, affirmative action requirements and MBE/DBE/WBE requirements	0	10	20	28	36	
10 Public relations with the general public, other agencies and adjacent contractors	0	10	20	28	36	
Total	0	120	242	341	440	
Q QUALITY OF WORK						
1 Adherence to plans and specifications	0	125	250	353	456	
2 Standards of workmanship	0	100	200	282	364	
3 Completion of final (punch list) work	0	23	45	63	80	
Total	0	248	495	698	900	
P PROGRESS OF WORK						
1 Completion of project within allotted time	0	100	200	282	364	
2 Scheduling and execution of schedule	0	35	70	99	128	
3 Delivery of materials and supplies	0	10	20	28	36	
4 Operation and use of equipment	0	10	20	28	36	
5 Use of personnel	0	10	20	28	36	
Total	0	165	330	465	600	
E EQUIPMENT						
1 Condition	0	9	15	23	30	
2 Maintenance	0	8	18	23	30	
Total	0	17	33	46	60	
Grand Total (A+Q+P+E*)						
	(Performance Rating)	0	550	1100	1550	2000

* Explain any inadequate, below standard, or superior ratings in narrative section.

PERFORMANCE SCORE NO USE ONLY

SECTION IV: NARRATIVE RATING

A GENERAL ELEMENTS Enter comments which generally describe the contractor's performance.

Lined area for general elements comments.

B BELOW STANDARD ELEMENTS Enter comments here to substantiate below standard ratings. (See instructions)

Lined area for below standard elements comments.

C SUPERIOR ELEMENTS Enter comments here to substantiate superior ratings. (See instructions)

Lined area for superior elements comments.

SECTION V: AUTHENTICATION AND REVIEW

I certify that I have objectively prepared this report basing it upon data contained in available project records.

PROJECT ENGINEER _____ DATE _____

I have discussed and given a copy of this report to the rated contractor this date and I have advised the contractor that any appeal must be made within 20 calendar days.

OPERATIONS ENGINEER OR DESIGNER _____ DATE _____

I have reviewed this Contractor Performance Report for objectivity and accuracy and make the following comments and recommendations:

Lined area for comments and recommendations.

DISTRICT ADMINISTRATOR _____ DATE _____

PRIME CONTRACTOR PERFORMANCE REPORT**INSTRUCTIONS**

The Prime Contractor Performance Report, D.O.T. Form 421-010, consists of two forms which are identified as Pg. 1 and Pg. 2 in the lower left corner. Page 1 consists of Section I, II, and III. Page 2 consists of Section IV and V. Please note that both Pg.1 and Pg. 2 are 4 part forms with a distribution list at the bottom of each form. After completing all sections please separate the plies and forward the appropriate copies to the locations indicated on the distribution list. Remove this instruction page from Page 1 to use as reference when completing the sections.

Section I CONTRACTOR DATA

This section denotes the type report being submitted and provides data relating to the contracting firm, its status, principals and supervisors. Interim reports must be submitted annually on the anniversary of the project start date for all projects exceeding a duration of one year.

Section II PROJECT DATA

This section provides basic project data to assist those reviewing or otherwise using the report to place this evaluation in proper perspective with regard to project size, complexity and completion time. Under (*Specific Work Performed by Contractor*) list such work using the general headings used in the proposal (*e.g. preparation, grading, structure, asphalt concrete paving etc.*)

Section III NUMERICAL RATING

This section contains the four weighted rating areas of (A) Administration/Management and Supervision, (Q) Quality of Work, (P) Progress of Work and (E) Equipment. Each area contains statements which are weighted as to their importance within the rating area. The rater must consider the contractor's merits in relation to each statement by checking the adjectival rating space that best describes the contractor's performance for each statement and by assigning an appropriate numerical score in the RATING column. The rater must enter the chosen score for each statement under the heading RATING, total each area and enter the grand total of all scores. The rater must be as objective as possible. There is only one value for the rating of standard, therefore a continuum exists between those contractors slightly below standard through slightly above standard. Standard is equated with satisfactory (Satisfactory is defined as the performance sufficient to meet the demand, need or requirement). Those statements warranting an inadequate, below standard or superior rating require justification in the narrative section of the report. If more space is needed, use additional sheets.

Section IV NARRATIVE RATING

This section is divided into three parts.

- A General Elements - Make any general statements pertinent to reporting the contractors work activity, e.g. innovativeness in performing the work and any other noteworthy contractor activities.
- B Below Standard Elements - List any actions or activities which substantiate a numerical rating for each statement falling within the range of inadequate or below standard. Each comment must be correlated to identify the rating area and statement number. Each comment must be related to substantiating data reported during the life of the project in the Inspector's Daily Report, Project Engineer's Diary, correspondence or other pertinent records. This data must be available as a part of the administrative record for hearings or litigation.
- C Superior Elements - Make supportive comments for superior ratings. Although the detail of substantiation by recorded data is not required as for inadequate or below standard ratings, such data also should be available.

Comments made in response to A, B, and C above should make reference to documented activities that describe the typical performance of the contractor.

If additional space is needed for the narrative report, use additional sheets.

Section V REVIEW AND AUTHENTICATION

This section provides for the recording of the review and authentication of the report by the rater, endorser and reviewer. Its purpose is to verify that the contractor has been given a copy of the report and that the contractor is aware of his right to comment on it. It also serves the purpose of verifying that the report has been reviewed for the purposes of assuring objectivity in its preparation and for the elimination of the influences of personalities. The report will be reviewed by the District Administrator when the overall rating is inadequate, below standard or superior. The completed report is to be forwarded to the Secretary (ATTN: Manager, Precontract Administration) to arrive not later than 30 calendar days after project completion.

WSR 91-04-015
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed January 28, 1991, 10:46 a.m.]

Date of Adoption: January 25, 1991.

Purpose: To bring the definitions used in the accreditation program in line with action taken by the State Board of Education in November 1990 and to correct statutory authority reference.

Citation of Existing Rules Affected by this Order: Amending WAC 180-55-005 and 180-55-015.

Statutory Authority for Adoption: RCW 28A.305.130(6).

Pursuant to notice filed as WSR 91-01-128 on December 19, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1991

Dr. Monica Schmidt
 Executive Director
 Secretary

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-55-005 STATUTORY AUTHORITY. Pursuant to provision of RCW 28A.305.130 ~~((+))~~ (6), the state board of education hereby establishes standards and procedures for accreditation of all schools as herein after set forth.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-55-015 DEFINITIONS. (1) An accredited school is a public or an approved private school that meets ~~((all statutory provisions for schools in the state of Washington and all))~~ the regulations established by the state board of education, and one that has completed ~~((either self-study or standards-only))~~ the accreditation procedures described by the state superintendent of public instruction pursuant to RCW 28A.305.130 ~~((+))~~ (6) and WAC 180-55-005 through 180-55-135.

(2) "Accredited" status shall be assigned to public or approved private schools that:

(a) Complete and meet fully the requirements for ~~((self-study))~~ accreditation ~~((procedures))~~ as described in WAC ~~((180-55-040))~~ 180-55-020 through ~~((180-55-065))~~ 180-55-135, or;

(b) ~~((Complete and meet substantially the requirements for standards-only accreditation procedures as described in WAC 180-55-070 through 180-55-135, or~~

~~((c)))~~ Participate and qualify in accordance with standards and procedures established by the Northwest Association of Schools and Colleges ~~((NWASC))~~ (NASC).

(3) ~~((Self-study))~~ shall mean an approved comprehensive set of needs-assessment and program improvement plan procedures as described in WAC 180-55-040 through 180-55-065.

~~((4)))~~ "Standards-~~((only))~~ review" shall mean an appraisal whereby requirements established by the state

board of education are applied to an individual school ~~((as described in WAC 180-55-070 through 180-55-135))~~. The standards-review shall take place during the application process and implementation update.

(4) "Self-study" shall mean an approved comprehensive set of needs-assessment and program improvement plan procedures as described in WAC 180-55-050.

(5) "Plan for ~~((program))~~ school improvement" shall mean a formal document produced as a result of the self-study procedure for implementation at an accredited school.

(6) "Validation" shall mean an objective, external review of ~~((self-study or standards-only))~~ a school's accreditation activities for the purposes of establishing their correctness, accuracy and thoroughness, ~~((and in the case of self-study accreditation procedures;))~~ including an objective, external review of the self-study process, the plan for program improvement ~~((in terms of its feasibility of operation;))~~, and the accreditation standards as part of the application process and implementation update as described in WAC 180-55-035.

(7) "Implementation update" shall mean an interim report submitted to the superintendent of public instruction by an accredited school after three years in the standard accreditation status. The implementation update shall include a status report on the implementation of the plan for school improvement and an accreditation standards review.

(8) "Northwest Association of Schools and Colleges alternative" shall mean the ~~((secondary and vocational-technical institute school))~~ accreditation activities provided through school membership in the ~~((NWASC))~~ NASC and shall be accepted by the state board of education in lieu of state board accreditation procedures ~~((as described in WAC 180-55-025 through 180-55-135))~~.

~~((8))~~ (9) "Approved private school" shall mean a school approved by the state board of education pursuant to chapter 180-90 WAC.

~~((9))~~ (10) "Vocational-technical institute" shall mean a specialized area nongraded vocational education facility established and operated for the purpose of offering comprehensive courses primarily oriented to the job market area for persons sixteen years of age or older without regard to residence, pursuant to laws and rules and regulations pertaining to the maintenance, operation, and funding of vocational-technical institutes. In applying the provisions of this chapter the terms "school" and "principal" shall mean a vocational-technical institute and director of such institute, respectively.

WSR 91-04-016
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed January 28, 1991, 10:53 a.m.]

Date of Adoption: January 25, 1991.

Purpose: To implement new numbering system of Title 28A RCW as recodified in HB 2276, chapter 33, Laws of 1990.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-003, 180-79-080, 180-85-003, and 180-85-045.

Statutory Authority for Adoption: HB 2276, chapter 33, Laws of 1990.

Pursuant to notice filed as WSR 91-01-091 on December 18, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1991
Dr. Monica Schmidt
Executive Director
Secretary

AMENDATORY SECTION (Amending Order 4-87, filed 4/3/87)

WAC 180-79-003 AUTHORITY. The authority for this chapter is RCW ((~~28A.70.005~~) 28A.410.010) which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW ((~~28A.04.120~~) 28A.305.130(3)) which authorizes the state board of education to specify the types and kinds of certificates necessary for the several departments within the common schools. (Note: RCW ((~~28A.02.201~~) 28A.195.010(3)(a)) requires most private school classroom teachers to hold appropriate state certification with few exceptions.)

AMENDATORY SECTION (Amending WSR 90-12-075, filed 6/1/90, effective 7/2/90)

WAC 180-79-080 AUTHORIZED ENDORSEMENTS FOR TEACHERS. Endorsements for grade levels and subject areas within such grade levels for certificated teachers receiving endorsements shall be limited to the following:

(1) Preschool through grade three endorsements shall be granted in the subject area of:

- (a) Early childhood special education.
- (b) Early childhood education.

(2) Grade kindergarten through grade eight endorsements shall be granted in the subject area of elementary education which shall include all subject areas taught in such grades.

(3) Grade kindergarten through grade twelve endorsements shall be granted in:

- (a) Art
- (b) Music (broad subject area endorsement) and the specialized subject areas of:
 - (i) Choral music
 - (ii) Instrumental music
 - (c) Physical education
 - (d) Reading
 - (e) Designated foreign language
 - (f) Special education
 - (g) Learning resources
 - (h) English as a second language
 - (i) Bilingual education.

(4) Grade four through grade twelve endorsements shall be granted in:

(a) English/language arts (broad subject area endorsement) and the specialized English/language arts subject areas of:

- (i) Drama
- (ii) English
- (iii) Journalism
- (iv) Speech.

(b) Science (broad subject area endorsement) and the specialized science subject areas of:

- (i) Biology
- (ii) Chemistry
- (iii) Earth science
- (iv) Physics.
- (c) Social studies (broad subject area endorsement)

and the specialized social studies subject areas of:

- (i) Anthropology
- (ii) Economics
- (iii) Geography
- (iv) History
- (v) Political science
- (vi) Psychology
- (vii) Sociology.

(d) The specialized subject areas of:

- (i) Agriculture
- (ii) Business education
- (iii) Computer science
- (iv) Health
- (v) Home and family life education (formerly home economics)
- (vi) Technology education (formerly industrial arts)
- (vii) Mathematics
- (viii) Marketing education.

(5) Traffic safety endorsements may be noted on certificates issued under this chapter if the candidate meets the requirements of the regulations promulgated by the superintendent of public instruction pursuant to RCW ((~~28A.08.010~~) 28A.220.020(3)).

AMENDATORY SECTION (Amending Order 8-86, filed 6/10/86)

WAC 180-85-005 AUTHORITY. The authority for this chapter is RCW ((~~28A.70.005~~) 28A.410.010) which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW ((~~28A.02.201~~) 28A.195.010(3)(a)) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

AMENDATORY SECTION (Amending WSR 90-12-076, filed 6/1/90, effective 7/2/90)

WAC 180-85-045 APPROVED IN-SERVICE EDUCATION AGENCY—DEFINITION. As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the state board of education to provide in-service education programs and to grant continuing education credit hours to

all or a selective group of educators. Such agency must demonstrate the following characteristics:

(1) The agency is one of the following entities or a department or section within such entities:

(a) A college or university referenced in WAC 180-85-025(1);

(b) A professional organization which for the purpose of this chapter shall mean any local, state, regional, or national organization composed primarily of teachers, administrators, and/or educational staff associates;

(c) A school district, an educational service district, and the superintendent of public instruction; or

(d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112.

(2) The agency has either a committee or board of directors which provides prior approval to proposed in-service education programs on the basis that the proposed programs are designed to meet the program standards set forth in WAC 180-85-200. In the case of school districts or educational service districts the committee shall be composed of the same representatives as required by RCW ((28A.71.210)) 28A.415.040—i.e., "representatives from the ranks of administrators, building principals, teachers, classified and support personnel . . . , the public . . . , and . . . institution(s) of higher education,"

WSR 91-04-017

PERMANENT RULES

DEPARTMENT OF

COMMUNITY DEVELOPMENT

[Order 91-01—Filed January 28, 1991, 11:09 a.m.]

Date of Adoption: January 14, 1991.

Purpose: Amending chapter 365-90 WAC to reflect a new dedicated funding source and a new eligible jurisdiction for the bordertown program, and to update the name of the department.

Citation of Existing Rules Affected by this Order: Repealing WAC 365-90-030 and 365-90-050; and amending WAC 365-90-010, 365-90-020, 365-90-040, 365-90-070, 365-90-080, and 365-90-090.

Statutory Authority for Adoption: RCW 43.63A.060.

Pursuant to notice filed as WSR 90-22-107 on November 7, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 14, 1991

Chuck Clarke

Director

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-010 DECLARATION OF PUBLIC POLICY. The following regulations are adopted pursuant to chapter ((34.04)) 34.05 RCW, for the purpose of distributing ((funds appropriated by the legislature)) excess funds from the liquor revolving fund as supplemental resources for border areas, and commonly referred to as the bordertowns program.

The legislature has found and declared that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. In addition, the legislature has further found that it is in the public interest and for the protection of the health, property, and welfare of both the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in these areas.

((Funding for the bordertowns program has been appropriated to the planning and community affairs agency by the legislature.)) The legislature has directed the liquor control board to disburse a percentage share of the excess funds from the liquor revolving fund to the department of community development for the bordertowns program. These rules are intended to provide the criteria and procedures that the ((planning and community affairs agency)) department of community development will utilize to distribute these funds to eligible jurisdictions.

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-020 DEFINITIONS. (1) (("Agency")) "Department" means the ((planning and community affairs agency)) department of community development and any of its employees or personnel designated thereof.

(2) "Border areas" means ((any incorporated city or town located within seven miles of the Washington-Canadian border and any point of land surrounded on three sides by water and adjacent to the Canadian border. Further, border areas are based on measurements from the boundary of Canada to the incorporated jurisdiction or affected area:)) Blaine, Everson, Friday Harbor, Lynden, Nooksack, Northport, Oroville, Port Angeles, Sumas, and the area of Whatcom County commonly referred to as Point Roberts. All funds received by Whatcom County shall be spent within the Point Roberts area.

(3) "Formula" means the formula developed by the ((planning and community affairs agency)) department of community development under RCW 43.63A.190 based on border traffic and historical public impacts of law enforcement problems.

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-040 ALLOCATION OF FUNDS. The liquor control board shall disburse to the department three-tenths of one percent of the excess funds from the liquor revolving fund not less than once every three months. The department shall allocate those funds ((appropriated by the legislature shall be allocated)) within thirty days to the eligible jurisdictions based on criteria to include but not be limited to the following: (1) Traffic, (2) crime, and (3) per capita law enforcement budget.

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-070 CHANGES. The ((agency)) department, after consultation, discussion, or advisement, may modify or make minor adjustments to the formula for allocation of funds for the program. All decisions of the ((agency)) department under this program shall be final.

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-080 UNEXPENDED FUNDS. Any unspent funds may be reallocated by the ((agency)) department to other eligible jurisdictions.

AMENDATORY SECTION (Amending Order 83-08, filed 10/27/83)

WAC 365-90-090 ANNUAL REVIEW. The bordertowns program shall be reviewed on an annual basis in the first quarter of each fiscal year with the eligible jurisdictions to discuss the allocation formula and any recent changes that may affect the purpose of the program or the allocation of funds.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 365-90-030 ELIGIBLE JURISDICTION.
WAC 365-90-050 PROCEDURE FOR NOTIFICATION AND DISTRIBUTION.

WSR 91-04-018

NOTICE OF PUBLIC MEETINGS
WASHINGTON INSTITUTE
OF APPLIED TECHNOLOGY
[Memorandum—January 28, 1991]

BOARD OF DIRECTORS MEETING
Wednesday, January 30, 1991
7:30 a.m.

WIAT Sixth Floor Boardroom

The next regularly scheduled meeting of the board of directors is Wednesday, March 27, 1991, at 7:30 a.m. in the WIAT boardroom.

WSR 91-04-019

PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Filed January 28, 1991, 1:20 p.m.]

Date of Adoption: January 25, 1991.

Purpose: The amendments provide a workable process to accomplish effective and expeditious cleanup of hazardous waste sites in a manner protective of human health and the environment. They incorporate the requirements for establishing cleanup standards, selecting

cleanup actions, and performing underground storage tank corrective actions.

Citation of Existing Rules Affected by this Order: Amending the Model Toxics Control Act cleanup regulation, chapter 173-340 WAC.

Statutory Authority for Adoption: The Model Toxics Control Act, chapter 70.105D RCW.

Pursuant to notice filed as WSR 90-15-066 on July 18, 1990.

Changes Other than Editing from Proposed to Adopted Version: The following is a summary of the changes, other than editing, made in response to public concerns voiced through written and oral testimony. The changes are categorized according to the appropriate section in the regulation. Rationale for changes:

WAC 173-340-120 (2)(a) was clarified by specifying that discovery of an historical release must be reported "within 90 days of discovery," and that most current releases must be reported "immediately." These additions provide potentially liable parties with clearer guidance; and WAC 173-340-020 (4)(b) contains additional guidance clarifying that "at some sites, restrictions on the use of the land and resources (institutional controls) will be required to insure continued protection of human health and the environment," and a notation of where additional overview discussion of these requirements is located. These additions provide potentially liable parties with clearer guidance.

WAC 173-340-200, "Applicable state and federal laws" was revised to clarify that the department will utilize the criteria in WAC 173-340-710(3) when evaluating whether a particular requirement is relevant and appropriate. This change was made in order to make the definition consistent with the provisions of WAC 173-340-710 and to reduce uncertainty during rule implementation; "carcinogenic potency factor" was revised to clarify that this value may be based on epidemiological data and may be expressed as a maximum likelihood estimate. This change was made in response to public comment urging ecology to clarify this distinction; "cleanup action" was revised to clarify that cleanup actions shall comply with WAC 173-340-360. The specific requirements were substituted for the cross reference to improve rule readability; "cleanup level" was revised "means the concentration of a hazardous substance in soil, water, air, or sediment that is determined to be protective of human health and the environment under specified exposure conditions." This change was made to provide a clearer definition and relate the term to the statutory directive to protect human health and the environment. "Cleanup standards" was expanded by clarifying that cleanup standards include cleanup levels, points of compliance, and additional regulatory requirements. This change was made in response [to] comments requesting clarification on the relationship between cleanup levels, cleanup standards, and cleanup actions; "containment" was revised to incorporate the phrase "within a defined boundary." This change was in response to public comment requesting that ecology clarify this portion of the definition; "direct contact" was added

to clarify what is meant by the use of this term; "exposure" was expanded to incorporate the sentence "Exposure is quantified as the amount of the agent available at the exchange boundaries (e.g. skin, lungs, gut) and available for absorption." This change was made in response to public comment and is intended to provide a clearer definition by incorporating some of the concepts contained in federal guidance documents; "exposure pathway" was expanded to capture the concept of source, transport, human contact, and absorption. This change was made in response to public comment requesting that ecology clarify this definition by incorporating some of the basic concepts found in federal guidance documents; "ground water" was revised by incorporating the phrase "below a surface." This change was made in order to clarify that the term "water" in the proposed amendments was referring to "surface water"; "indicator hazardous substances" was expanded to indicate they can also be used during any phase of remedial action to characterize a site. This change was made to provide a clearer definition; "inhalation reference dose" was deleted in response to public comment that this term was covered under the term "reference dose"; "institutional controls" was revised to ensure consistency with the revisions in WAC 173-340-440; "maximum contaminant level" or "MCL" was expanded to clarify that the Washington State Board of Health can also establish an MCL. This change was made to provide a clearer definition; "maximum contaminant level goal" was expanded to clarify that the Washington State Board of Health can also establish an MCLG. This change was made to provide a clearer definition; "null hypothesis" was expanded for rule clarification to explain that the null hypothesis "shall not apply to cleanup levels based on background concentrations." This change was made in response to public comments and in order to ensure consistency with federal guidance documents; "permanent solution" was revised by replacing the phrase "such as an off-site landfill" with "other than the approved disposal of any residue from preferred treatment technologies under subsections (4)(a)(i) through (iii) of this section". This change was made in response to public comment recommending that ecology expand the definition to reflect current use of the term and in order to reduce confusion during rule implementation; "polychlorinated biphenyls" or "PCB mixtures" was revised by replacing the phrase "appropriate Test Methods for Evaluating Solid Wastes, U.S. EPA, SW-846 and any revisions of amendments thereto, or other test methods approved by the department" with the phrase "appropriate analytical methods as specified in WAC 173-340-830." This change was made in order to ensure consistency with WAC 173-340-830; "polycyclic aromatic hydrocarbons" or "PAH" was revised by replacing the phrase "appropriate Test Methods for Evaluating Solid Wastes, U.S. EPA, SW-846 and any revisions of amendments thereto, or other test methods approved by the department" with the phrase "appropriate analytical methods as specified in WAC 173-340-830." This change was made in order to ensure consistency with WAC 173-340-830; "radionuclide" was expanded to

clarify that radionuclides are considered hazardous substances under this rule; "state remedial investigation/feasibility study" was revised by replacing the word "plan" with the phrase "under WAC 173-340-360." This change was made to clarify that the RI/FS must address the factors in WAC 173-340-360; "technically feasible" was changed to "technically possible" in response to public comment. This change was made to improve the readability of the rule by using words or phrases consistent with common usage; "technically practicable" was changed to "practicable". This change was made in order to improve the readability of the rule. In addition, the definition was expanded to define the role of cleanup costs in evaluating what is practicable. The definition was also expanded to clarify that an evaluation of "permanent to the maximum extent practicable" would be based on the factors in WAC 173-340-360(5); "total excess cancer risk" was added for clarification; "upper bound on the estimated cancer risk of one in 100,000" was added for clarification; "upper bound on the estimated cancer risk of one in 1,000,000" was added for clarification; and "volatile organic compound" was revised for clarification.

WAC 173-340-350 (6)(c)(iii) was revised from "aquifers" to "ground waters" in order to be consistent with other sections in the rule; and WAC 173-340-350 (6)(e) was revised to assure consistency with WAC 173-340-360 by replacing (i) through (ix) with "be evaluated for compliance with the requirements in WAC 173-340-360."

WAC 173-340-360, subsection (1) was amended to incorporate the following sentence: "This section is intended to be used in conjunction with the cleanup standards defined in WAC 173-340-700 through 173-340-760 and the administrative principles for the overall cleanup process (WAC 173-340-130)." This was added to clarify the relationships between these sections; subsection (1) was amended to incorporate the following sentence: "Because cleanup actions will often involve the use of several cleanup technologies or methods at a single site, the overall cleanup action shall meet the requirements of this section." This was added to emphasize that most cleanup actions will involve several technologies or methods; subsection (2) was retitled "threshold requirements." Paragraph (b) was moved to subsection (3). This change was made in response to public comment and is intended to provide a clearer separation between those requirements that relate to the level of protection and those related to the mix of technologies used at a site; subsection (3) of the proposed amendments was moved to WAC 173-340-700. Subsection (3) was retitled "other requirements" and paragraph (2)(b) of the proposed amendments incorporated into this subsection. In addition, the requirement that cleanup actions be technically practicable was deleted because it duplicates other requirements in this subsection and, consequently, would increase the potential for inconsistent interpretation and implementation of this section; subsection (4) and (5) of the proposed amendments were moved to other portions of the regulation in order to improve the readability of the rule; subsection (4) was retitled "cleanup technologies" and (6)(b) and

(c) of the proposed amendments incorporated into this subsection; subsection (5) was retitled "permanent solutions" and several parts of the proposed amendments were incorporated into this subsection. The following provides a summary of the modification made to this subsection: Subsection (5)(a) was added to provide an overall focus for this subsection. The language in subsection (5)(b) was in subsection (6)(a) of the proposed amendments. The phrase "such as an off-site landfill" was replaced with "other than the approved disposal of any residue from preferred treatment technologies under subsections (4)(a)(i) through (iii) of this section." This change was made in response to public comment recommending that ecology expand the definition to reflect current use of the term and in order to reduce the potential for inconsistent rule interpretation. Subsection (5)(c) was added to clarify what types of technologies result in permanent solutions. This change was made in order to reduce uncertainty in rule implementation. Subsection (5)(d) is a combination of (6)(d), (7)(c), and WAC 173-340-350 (6)(e) of the proposed amendments. This change was made to clarify that the list of factors considered during the remedial investigation/feasibility study were the same factors used to determine whether a cleanup action represents a permanent solution to the maximum extent practicable. In addition, the phrase "the degree the cleanup action may perform to a higher level than specific standards in WAC 173-340-700 through 173-340-760, and improvement of the overall environmental quality" was added to (5)(d)(i). This change was made in response to a public comment and is intended to clarify that a number of factors are considered when evaluating the overall protectiveness of human health and the environment. The following language was incorporated into subsection (5)(e): "A cleanup action or a portion of the cleanup action shall not be selected unless it can be demonstrated that representative higher preference technologies were considered and found to be impracticable based upon the factors in subsection (d)." This was based on language in (9)(a)(vi) of the proposed amendments and was added here to emphasize the need to consider higher preference technologies during the remedial investigation/feasibility study. The word "representative" was added to clarify that a person was not required to identify and evaluate every technology in a particular technology category. The language in (5)(f) was in (6)(e) of the proposed amendments; subsection (6) was retitled "restoration time frame" and the provisions from subsection (8) of the proposed amendments were incorporated into this subsection. In addition, (ix) was revised to state "Natural processes which reduce concentrations of hazardous substances and have been documented to occur at the site or under similar site conditions." This change was made to clarify that several natural processes may result in a reduction in the levels of hazardous substances. This change was also made to clarify that such processes and resulting reductions must be documented to occur. Such documentation may include site-specific data or information gathered under similar site conditions; the provisions of proposed subsection (7) were incorporated into

subsection (5). Subsection (7) was retitled "ground water restoration" and the language relating to ground water remediation included in (4)(b)(ii) of the proposed amendments was incorporated into this subsection. The reference to RCW 90.48.010 and 90.54.020 was deleted because those provisions generally apply to preventative actions; subsection (8) was retitled "containment actions" and language from (6)(e)(iv) and (v) of the proposed amendments incorporated into this section. These changes were made in order to consolidate requirements pertaining to containment actions into one subsection. In addition, the following language was incorporated into this section: "If the proposed cleanup action involves on-site containment, the draft cleanup action plan shall specify the types, levels, and amounts of hazardous substances remaining on-site and the measures that will be utilized to prevent migration and contact with those substances." This language was added to address concerns that nearby residents might be unaware that hazardous substances remain on-site; subsection (9) was retitled "expectations" and new language added which provides guidance on ecology's expectations with respect to the use of various cleanup technologies. This change was made in response to public comment and is similar to provisions in the federal cleanup regulations; subsections (9) through (12) in the proposed amendments were renumbered. Subsection (10), draft cleanup action plan, was amended to incorporate the following item: (ix) Where the cleanup action involves on-site containment, specifications of the types, levels, and amounts of hazardous substances remaining on-site and the measures that will be utilized to prevent migration and contact with those substances." This language was added to ensure that the list of items enumerated in this subsection include all of the items listed elsewhere in WAC 173-340-360; subsection (12) was revised to clarify that ecology will provide public notice when cleanup levels specified in the cleanup action plan cannot be achieved. This provision was added in order to ensure compliance with federal requirements; and subsection (13) was amended to incorporate "or order or decree" after "record of decision" and to delete the reference to record of decision in (a) and (b). This change was made to address situations where federal cleanup actions are performed as a result of an order or consent decree and do not involve preparation of a record of decision.

WAC 173-340-420, subsection (2) was added to clarify which factors will be considered during the periodic review. This section consolidates factors specified elsewhere in the rule; and subsection (3) clarifies where the periodic review will be published, and subsection (4) clarifies when additional public review and comment on a cleanup action plan will be required. This subsection was added to address concerns that interested citizens would not be aware of ongoing reviews and/or changes in the cleanup action plan.

WAC 173-340-440, subsection (1) was amended to include the sentence "Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of an interim action or cleanup action or result in exposure to hazardous substances at a site." This sentence was added in order to clarify that

institutional controls include a wide range of measures; subsection (3) was added to clarify that the term "institutional controls" refers to both the physical actions undertaken to restrict the use of a site and the legal and administrative mechanisms used to ensure that those restrictions are maintained over time; subsection (4)(a) was amended to clarify restrictive covenants were required for properties owned by the potentially liable parties. Subsection (4)(b) was added to provide the flexibility to utilize measures other than restrictive covenants in areas of the site that are outside the property where the release of hazardous substances occurred. This change was made in recognition of the practical difficulties associated [with] implementing and overseeing restrictive covenants for properties owned by persons not considered potentially liable persons under this chapter; subsection (5)(a) contains additional language providing a clearer statement that site activities that assure the integrity of a cleanup action must also continue to protect human health and the environment; subsection (6) has been amended to incorporate the sentence "It is the department's expectation that such assurances will be required whenever the cleanup action includes containment and in other appropriate situations." This language was added to address public concerns that the potentially liable party might not have sufficient financial resources to perform operation and maintenance measures associated with the containment of hazardous substances; and subsection (7) was revised to reflect the change in use of the terms "method A and B cleanup levels" instead of "compliance levels established under WAC 173-340-700 through 173-340-760."

WAC 173-340-450, subsection (2)(b) has been amended to clarify that during an initial response, the UST owner or UST operator is required to remove as much of the hazardous substance as is possible from an underground storage tank. Subsection (8)(b) has been expanded to clarify that additional requirements imposed by ecology will be directed towards assuring adequate protection of human health and the environment.

WAC 173-340-700, this section has been reorganized in order to provide a more concise overview of the cleanup standards portions of the rule. This change was made in response to public comment and is intended to improve the readability of the rule. The original language is now located in WAC 173-340-700, 173-340-704, 173-340-705, 173-340-706, 173-340-707, and 173-340-708. This section now provides a more concise summary of the procedures and requirements for establishing cleanup standards and describes the relationship between cleanup standards and selection of cleanup actions; the phrase "the goal is to establish cleanup levels as close as possible to natural background levels" has been deleted from the final rule. This change was made in response to concerns that it reflected an approach that is different than one based upon protecting human health and the environment and, consequently, would complicate interpretation and implementation of this rule; subsection (1) has been modified to reflect the purpose of this section and clarifies the relationship between this section and referenced sections. The second sentence was originally located in WAC 173-340-700 (6)(c) and

(8)(c) of the proposed amendments; subsection (2) was retitled to "Cleanup standards versus selection of cleanup actions" and includes language which explains that establishing cleanup standards requires establishing cleanup levels, points of compliance, and additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. This subsection also summarizes the procedures for evaluating and selecting cleanup actions. This subsection was included to provide clearer guidance on the relationship between cleanup levels, cleanup standards, and cleanup actions; subsection (3) describes the three basic methods for establishing cleanup levels. This represents a summary of provisions contained in WAC 173-340-700 (5) through (9) of the proposed amendments. The three methods have been renamed Method A, Method B, and Method C. This change was made in response to public comment and is designed to improve the readability of the rule; subsection (4) summarizes additional requirements for setting cleanup levels. These provisions are located elsewhere in the regulation and have been reiterated here for clarity; subsection (5) summarizes the linkages between cleanup standards and cleanup actions; subsection (6) introduces the basic concepts associated with establishing points of compliance, restoration time frame, and compliance monitoring. These provisions are located elsewhere in the regulation and have been reiterated here for clarity; and subsection (7) has been added in order to identify some of the principles underlying cleanup standards. The following additions were made: The language in subsection (7)(a) was added to clarify the relationship between this subsection and other portions of the rule. The following language was added to subsection (7)(b): "Establishing cleanup standards and selecting an appropriate cleanup action involves both technical and public policy decisions. This chapter is intended to constrain the range of decisions needed to be made on individual sites to promote expeditious cleanups." This language was added to highlight the dual nature of many of the decisions under this chapter. The language in subsection (7)(c) was added in order to describe ecology's interpretation of the statutory policy that "each person has a fundamental and inalienable right to a healthful environment". This was added to clarify the public policy underlying the technical procedures in the rule. The language in subsection (7)(d) was added to restate a provision already included in WAC 173-340-720 through 173-340-750. This change was made in order to facilitate consistent rule interpretation and implementation. The language in subsection (7)(e) was originally located in WAC 173-340-360 of the proposed rule. It was moved into this section to improve rule readability and facilitate consistent rule interpretation and implementation. The language in subsection (7)(f) was added to clarify when it is appropriate to consider cleanup costs under this chapter. It summarizes requirements in other portions of the rule. The language in subsection (7)(g) was added to restate several provisions from WAC 173-340-360. This change was made to improve rule readability and facilitate consistent rule interpretation and implementation. The language in subsection (7)(h) was added to restate provisions already

included in WAC 173-340-720 through 173-340-750. This change was made in order to facilitate consistent rule interpretation and implementation. The language in subsection (7)(i) was added to restate provisions already included in WAC 173-340-360, 173-340-740, and 173-340-745. This change was made in order to facilitate consistent rule interpretation and implementation.

WAC 173-340-702, the language in this section was originally located in WAC 173-340-705 (1) through (6) of the proposed amendments.

WAC 173-340-704, subsection (1) contains language originally located in WAC 173-340-700 (5)(b) of the proposed amendments; subsection (2) contains language originally located in WAC 173-340-700(6) of the proposed amendments. The phrase "For individual hazardous substances not addressed under (a) and (b) of this subsection, concentrations that do not exceed natural background levels or the practical quantification limit for the substance in question." This change was made in order to increase the number of sites where Method A could be used; subsection (3) contains language originally located in WAC 173-340-700 (6)(a)(iii) of the proposed amendments. This subsection was revised to clarify that a decision by ecology to require more stringent cleanup levels than those required under subsection (2) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; the following language was added to subsection (4): "Caution on misusing Method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter." This addition was made in response to public comment. It was made in order to provide a concise summary of the purpose for the tables and a cautionary note on their use for other purposes; and subsection (5) contains language originally located in WAC 173-340-700 (6)(b) of the proposed amendments.

WAC 173-340-705, subsection (1) contains language originally located in WAC 173-340-700 (5)(c) of the proposed amendments; subsection (2) contains language originally located in WAC 173-340-700 (7)(a)(i) through (iii) of the proposed amendments. The following changes were made: In subsection (2)(c), the phrase "sufficiently protective" has been added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule. In subsection (2)(c)(ii), the phrase "excess cancer risk" has been replaced with the phrase

"the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; subsection (3) contains language originally located in WAC 173-340-700 (7)(a)(iv) of the proposed amendments. This subsection was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (2) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) contains language originally located in WAC 173-340-700 (7)(b) of the proposed amendments. The phrase "including cleanup levels based on applicable state and federal laws" was added to this subsection in order to clarify that when evaluating the hazard index and total excess cancer risk, cleanup levels based on applicable state and federal laws would also be reviewed; and subsection (5) contains language originally located in WAC 173-340-700 (7)(c) of the proposed amendments.

WAC 173-340-706, subsection (1) contains language originally located in WAC 173-340-700 (5)(d) of the proposed amendments. Items (iv) and (v) were deleted. This change was made in response to public comment that it was inappropriate to consider the cost of cleanup when establishing cleanup levels. In addition, the following language was added to this subsection "The site is defined as an industrial site and meets the criteria for establishing soil cleanup levels under WAC 173-340-745." This was added to clarify the relationship between Method C cleanup levels and cleanup levels established under WAC 173-340-745; subsection (2) contains language originally located in WAC 173-340-700(8) of the proposed amendments. The following changes have been made: In subsection (2)(c), the phrase "sufficiently protective" has been added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule. In subsection (2)(c)(ii), the phrase "excess cancer risk" has been replaced with the phrase "the upper bound on the estimated excess cancer risk". This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; subsection (3) contains language originally located in WAC 173-340-700 (8)(a)(iv) of the proposed amendments. This subsection was revised to clarify that a decision by ecology to require more stringent cleanup levels than those required under subsection (2) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) contains language originally located in WAC 173-340-700 (8)(b) of the proposed amendments. The phrase "including cleanup levels based on applicable state and federal laws" was

added to this subsection in order to clarify that when evaluating the hazard index and total excess cancer risk, cleanup levels based on applicable state and federal laws would also be reviewed; and subsection (5) contains language originally located in WAC 173-340-700 (8)(c) of the proposed amendments.

WAC 173-340-707, the language in this section was included in WAC 173-340-705(12) of the proposed amendments and was reordered as a separate section to help make the final rule easier to read.

WAC 173-340-708, subsections (2), (3), (5), (6), (7), (8), (9), (10), and (11) were included in WAC 173-340-700 or 173-340-705 of the proposed amendments and were incorporated into a single section to help make the rule easier to read; in subsection (11)(c)(ii), the word "lower" was substituted for "upper" in order to minimize the number of false positives; in subsection (11)(d), the sentence "The number of samples for other media shall be sufficient to provide a representative measure of background concentrations and shall be determined on a case-by-case basis." was added in order to clarify that minimum sample size requirements only apply to soil sampling; and the following language was added to this section: "(12) Significant figures. Risk assessment results shall be presented using one significant figure." This was added in response to public comments that the degree of detail in risk assessment results should be commensurate to the precision of available methods.

WAC 173-340-710, subsection (1)(a) was revised to incorporate the phrase "those requirements that the department determines, based on consideration of the criteria in subsection (3) of this section". This was added to clarify that site-specific flexibility exists with respect to a determination that a requirement is relevant and appropriate; a new sentence, "WAC 173-340-710 through 173-340-760 identifies several requirements the department shall consider relevant and appropriate for establishing cleanup standards.", was added to subsection (3). This sentence will clarify that certain specified requirements which are considered relevant and appropriate on a statewide basis are identified in the regulation; subsection (6) was added to this section in order to provide clearer guidance to potentially liable parties. This subsection includes a list of selected applications of applicable state and federal laws formerly located in WAC 173-340-360 of the proposed amendments; subsection (6)(b) was revised to clarify that best available control technology will be required for releases of hazardous substances into the air resulting from cleanup actions. This revision was made to ensure that cleanup actions will be performed in a manner that minimizes air impacts; subsection (6)(c) was revised to clarify that the solid waste closure requirements in chapter 173-304 WAC are minimum requirements for cleanup actions at solid waste landfills conducted under this chapter. This change was made to address the concerns associated with the long-term leaching of hazardous substances and to reduce regulatory uncertainty as to whether cleanup actions must comply with these requirements; subsection (6)(d) was added to clarify the relationship between the sediment management rules (chapter 173-

204 WAC) and this chapter. This subsection was prepared in response to public comment and specifies the following: "Sediment cleanup actions conducted under this chapter shall comply with sediment cleanup standards in chapter 173-204 WAC. In addition, a state remedial investigation/feasibility study conducted under WAC 173-340-350 shall also comply with the cleanup study plan requirements under chapter 173-204 WAC. The process for selecting sediment cleanup actions under this chapter shall comply with the requirements in WAC 173-340-360"; and a new subsection (7) has been added to clarify that interim actions must comply with applicable requirements and that the department may determine that other requirements are relevant and appropriate. This change was made in response to public comment and is intended to reduce regulatory uncertainty.

WAC 173-340-720, in subsection (1)(a)(ii)(C), the term "technically infeasible" was replaced with the term "technically impossible" in order to clarify that cost is not a factor in making this determination; subsection (1)(c) was added to clarify the approach ecology will utilize where there is an extremely low probability that ground water classified as a potential future source of drinking will actually be used for that purpose. The new language was made in response to public comment and provides the flexibility to establish ground water cleanup levels based on protecting adjacent surface waters; subsection (2) has been retitled "Method A cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; subsection (2)(b) has been revised to clarify that a decision to establish more stringent Method A cleanup levels than those specified under (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; the Method A cleanup level for ethylbenzene was revised to 30 ug/liter in order to correct a typographical error; the Method A cleanup level for pentachlorophenol was deleted from Table 1 because of recent toxicological information received after the proposed amendments were issued that indicated a lower level may be more appropriate than the proposed value. Ecology is evaluating that information and intends to amend Table 1 at a later date; the rule was revised to incorporate footnotes to Table 1 which provide a short rationale for individual cleanup levels and incorporate the cautionary footnote found in WAC 173-340-704. This revision was made in response to public comment. It was made in order to provide a concise summary of the purpose for the tables and a cautionary note on their use for other purposes. The information contained in the footnotes will also facilitate site investigations and evaluations of cleanup action alternatives; subsection (2)(b) was revised to clarify that a decision by ecology to require Method A cleanup levels more stringent than those required under subsection (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (3) has been retitled "Method B cleanup levels" consistent with changes in WAC 173-340-

700 to improve rule readability; in subsection (3)(a)(ii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (3)(a)(ii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; in subsection (3)(a)(ii)(B), the assumption for average lifetime was changed to 75 years in order to maintain consistency with current federal procedures; subsection (3)(b) was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (3)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) has been retitled "Method C cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (4)(b)(ii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (4)(b)(ii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; subsection (4)(c) was revised to clarify that a decision by ecology to require Method C cleanup levels more stringent than those required under subsection (4)(b) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (5)(a) has been revised to clarify that adjustments to take into account multiple hazardous substances and multiple pathways of exposures are "downward." This subsection has also been expanded to clarify that in making these adjustments the hazard index shall not exceed one and the total excess cancer risk shall not exceed 1 in 100,000. This change was made to assure protection of human health and the environment, to provide a more explicit statement on ecology's intent, and to improve the readability of the regulation by restating cross-referenced language; subsection (5)(b) has been added to clarify that the limits on the hazard index and total excess cancer risk also apply to those sites where there is exposure to only one hazardous substance by one pathway of exposure, including cleanup levels based on applicable state and federal laws; subsection (6)(d) has been added to state that where the affected

ground water flows into nearby surface water, the cleanup level may be based on protection of the surface water. The new subsection specifies that in these situations, the department may approve a conditional point of compliance that is located within the surface water as close as technically possible to the point or points where ground water flows into the surface water and includes criteria for making this determination. This change was made in response to public comment and is intended to provide greater consistency with other ecology programs; subsection (7)(c) was added to clarify that where separate toxicity values are available for inhalation and ingestion, health risks associated with the inhalation of volatilized hazardous substances should be evaluated separately from the risks associated with ingestion of drinking water; this change was made in response in [to] public comment and will allow the differences in toxicity to be taken into account when establishing cleanup levels; subsection (8)(a) was expanded to provide criteria for evaluating when it is appropriate to base compliance with ground water cleanup levels on filtered samples. This change was made to clarify that there are situations where filtering is appropriate; in subsection (8)(d)(ii), the phrase "parametric test for percentiles based on tolerance intervals" was added in order to provide a better description of this alternate statistical method; in subsection (8)(f), the evaluation criteria were modified in order to reduce the potential for false positive results; and subsection (8)(g) was amended to provide more detail on alternate statistical methods for handling nondetected values or values below the practical quantitation limit. This change was made in response to public comment urging ecology to identify alternate methods in the rule.

WAC 173-340-730, subsection (1)(b) has been revised to clarify that ecology does not expect that cleanup standards will be applied to stormwater runoff that is in the process of being conveyed to a treatment system. This change was made to clarify what types of surface water the standards would apply to. It also was intended to address concerns that ecology would impose regulatory requirements that were unnecessarily burdensome at cleanup sites; subsection (1)(c) has been amended to include the phrase "applicable state and federal laws." This additional language reflects the fact that applicable state and federal laws may include requirements related to location, use, or actions; subsection (2) has been retitled "Method A cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; subsection (2)(b) has been revised to clarify that a decision to establish more stringent Method A cleanup levels than those specified under subsection (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (3) has been retitled "Method B cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; subsection (3)(a)(i) has been amended to provide the flexibility for a person to demonstrate that water quality criteria established under section 304 of the Clean Water Act are not relevant and appropriate

for a specific water body or hazardous substance. This change was made in order to provide the flexibility to consider site-specific factors and/or new scientific information and maintain consistency with federal guidance; in subsection (3)(a)(iii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (3)(a)(iii)(A) and (B), the fish consumption rate has been changed to 54 grams/day. This change was made in order to maintain consistency with federal guidance; in subsection (3)(a)(iii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; in subsection (3)(a)(iii)(B), the assumption for average lifetime has been changed to 75 years in order to maintain consistency with current federal procedures; subsection (3)(b) was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (3)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) has been retitled "Method C cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (4)(b)(iii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; subsection (4)(c) was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (4)(b) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (5)(a) has been revised to clarify that adjustments to take into account multiple hazardous substances and multiple pathways of exposures are downward and that in making these adjustments the hazard index shall not exceed one and the total excess cancer risk shall not exceed 1 in 100,000. This change was made to assure protection of human health and the environment, to provide a more explicit statement on ecology's intent, and to improve the readability of the regulation by restating cross-referenced language; subsection (5)(b) has been added to clarify that the limits on the hazard index and total excess cancer risk also apply to those sites where there is exposure to only one hazardous substance by one pathway of exposure, including cleanup levels based on applicable state and federal laws; and subsections (7)(a) and (b) have been added to the regulation in order to clarify that compliance monitoring procedures

must be specified in a compliance monitoring plan prepared in accordance with the requirements in WAC 173-340-410. This change was made to avoid inconsistencies within the rule.

WAC 173-340-740, subsection (1)(c) was to provide additional flexibility to establish soil cleanup levels for commercial sites and industrial sites not meeting the criteria in WAC 173-340-745. This change was made in conjunction with the decision to limit the use of WAC 173-340-745 to industrial sites. This new subsection states that soil cleanup levels will be established based on residential site use unless specified conditions are met. For those sites meeting those conditions, soil cleanup levels will be established as close as practicable to Method B soil cleanup levels and at least as stringent as Method C soil cleanup levels. The new subsection also states that the overall limits on the hazard index and total excess cancer risk apply to these sites. This addition is designed to improve rule readability and reduce regulatory uncertainty during rule implementation. It is also intended to provide additional flexibility to address potential differences in exposure arising from differences in site use; subsection (1)(e) has been amended to include the phrase "applicable state and federal laws." This additional language reflects the fact that applicable state and federal laws may include requirements related to location, use, or actions; subsection (2) has been retitled "Method A cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; the Method A cleanup level for pentachlorophenol was deleted from Table 2 because of recent toxicological information received after the proposed amendments were issued that indicates a lower level may be more appropriate than the proposed value. Ecology is evaluating that information and intends to amend Table 1 at a later date; the rule was revised to incorporate footnotes to Table 1 which provide a short rationale for individual cleanup levels and incorporate the cautionary footnote found in WAC 173-340-704. This revision was made in response to public comment. It was made in order to provide a concise summary of the purpose for the tables and a cautionary note on their use for other purposes. The information contained in the footnotes will also facilitate site investigations and evaluations of cleanup action alternatives; subsection (2)(b) has been revised to clarify that a decision to establish more stringent Method A cleanup levels than those specified under subsection (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (3) has been retitled "Method B cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (3)(a)(iii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (3)(a)(iii)(B), the phrase "excess cancer risk" was replaced with the phrase

"the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; in subsection (3)(a)(iii)(B), the assumption for average lifetime was changed to 75 years in order to maintain consistency with current federal procedures; a new subsection (3)(a)(iv) was added to the rule. This specifies that Method B soil cleanup levels shall be set at concentrations which prevent violations of Method B ambient air cleanup levels established under WAC 173-340-750. This change was made in response to public comments which expressed concerns that the regulation did not address potential risks associated with wind-blown soils or vapors; subsection (3)(b) was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (3)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) has been retitled "Method C cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (4)(b)(iii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (4)(b)(iii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; a new subsection (4)(b)(iv) was added to the rule. This specifies that Method C soil cleanup levels shall be set at concentrations which prevent violations of Method C ambient air cleanup levels established under WAC 173-340-750. This change was made in response to public comments which expressed concerns that the regulation did not address potential risks associated with windblown soils or vapors; subsection (4)(c) was revised to clarify that a decision by ecology to require Method C cleanup levels more stringent than those required under subsection (4)(b) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (5)(a) has been revised to clarify that adjustments to take into account multiple hazardous substances and multiple pathways of exposures are "downward." This subsection has also been expanded to clarify that in making these adjustments the hazard index shall not exceed one and the total excess cancer risk shall not exceed 1 in 100,000. This change was made to assure protection of human health and the environment, to provide a more explicit statement on ecology's intent, and to improve the readability of the regulation by restating cross-reference language;

subsection (5)(b) has been added to clarify that the limits on the hazard index and total excess cancer risk also apply to those sites where there is exposure to only one hazardous substance by one pathway of exposure, including cleanup levels based on applicable state and federal laws; subsection (6) was modified. Modifications include the deletion of (6)(e) of the proposed amendments and the addition of a new (6)(d) which clarifies that containment of contaminated soils may represent an acceptable cleanup action under WAC 173-340-360. This change was made in response to public comment and is intended to improve rule interpretation; subsection (7)(a) has been amended to state that the department may approve the use of alternate procedures for stabilized soils. This addition was made in response addresses the concern that the use of routine testing procedures would discourage the use of stabilization technologies; in subsection (7)(d)(ii), the phrase "parametric test for percentiles based on tolerance intervals" was added in order to provide a better description of this alternate statistical method; in subsection (7)(f), the evaluation criteria were modified in order to reduce the potential for false positive results; and subsection (7)(g) was amended to provide more detail on alternate statistical methods for handling nondetected values or values below the practical quantitation limit. This change was made in response to public comment urging ecology to identify alternate methods in the rule.

WAC 173-340-745, subsection (1)(b) was revised to provide more specific criteria for judging whether a site qualifies as an industrial site. These changes were made in response to public concerns that the industrial site use category was too broad under the proposed amendments; subsection (1)(b) was revised to clarify that this section does not apply to commercial sites. This change addresses public concerns that many commercial sites were located near or within residential areas and should not be handled in a manner similar to industrial sites; a new subsection (1)(c) was added to clarify that the department's expectation that only sites within a limited number of large industrial areas will qualify for industrial soil cleanup levels. This was added to address public concerns that the industrial site use category was too broad under the proposed amendments; subsection (2) has been retitled "Method A cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; the rule was revised to incorporate footnotes to Table 1 which provide a short rationale for individual cleanup levels and incorporate the cautionary footnote found in WAC 173-340-704. This revision was made in response to public comment. It was made in order to provide a concise summary of the purpose for the tables and a cautionary note on their use for other purposes. The information contained in the footnotes will also facilitate site investigations and evaluations of cleanup action alternatives; the Method A cleanup level for pentachlorophenol was deleted from Table 3 because of recent toxicological information received after the proposed amendments were issued that indicates a lower level may be more appropriate than the proposed value. Ecology is evaluating that information and intends to amend Table 1 at a later date; subsection (2)(b) has been revised to

clarify that a decision to establish more stringent Method A cleanup levels than those specified under subsection (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; a new subsection (3), "Method B cleanup levels", has been added to this section. This subsection specifies that the rule does not provide procedures for establishing Method B soil cleanup levels at industrial sites. This clarification is designed to reduce regulatory uncertainty during rule implementation; subsection (4) has been retitled "Method C cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (4)(a)(iii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (4)(a)(iii)(A) and (B), the frequency of contact has been revised to 0.4. This change was made in response to public comment which recommended that the proposed values be modified in order to maintain consistency with current federal guidance; in subsection (4)(a)(iii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; in subsection (4)(a)(iii)(B), the assumption for average lifetime was changed to 75 years in order to maintain consistency with current federal procedures; subsection (4)(b) was revised to clarify that a decision by ecology to require Method C cleanup levels more stringent than those required under subsection (4)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (5)(a) has been revised to clarify that adjustments to take into account multiple hazardous substances and multiple pathways of exposures are "downward". This subsection has also been expanded to clarify that in making these adjustments the hazard index shall not exceed one and the total excess cancer risk shall not exceed 1 in 100,000. This change was made to assure protection of human health and the environment, to provide a more explicit statement on ecology's intent, and to improve the readability of the regulation by restating cross-referenced language; subsection (5)(b) has been added to clarify that the limits on the hazard index and total excess cancer risk also apply to those sites where there is exposure to only one hazardous substance by one pathway of exposure, including cleanup levels based on applicable state and federal laws; and in subsection (6), a cross reference to WAC 173-340-740 was substituted for existing language in order to minimize duplication of provisions.

WAC 173-340-750, subsection (1)(b) was revised to clarify that the overall limits on the hazard index and

total excess cancer risk apply to nonresidential site uses. This revision was made to clarify ecology's intent and maintain consistency with other sections of the rule; subsection (1)(c) was revised to clarify that ambient air cleanup levels shall be set at levels which do not directly or indirectly cause violations of standards established under other applicable laws, as well as those established under this chapter. This change was made to ensure consistency with other ecology programs; subsection (2) has been retitled "Method A cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; subsection (2)(b) has been revised to clarify that a decision to establish more stringent Method A cleanup levels than those specified under subsection (2)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (3) has been retitled "Method B cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (3)(a)(ii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (3)(a)(ii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; in subsection (3)(a)(ii)(B), the assumption for average lifetime was changed to 75 years in order to maintain consistency with current federal procedures; subsection (3)(b) was revised to clarify that a decision by ecology to require Method B cleanup levels more stringent than those required under subsection (3)(a) would be based upon a site-specific evaluation. This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (4) has been retitled "Method C cleanup levels" consistent with changes in WAC 173-340-700 to improve rule readability; in subsection (4)(b)(ii), the phrase "sufficiently protective" was added to address concerns that ecology would utilize applicable state and federal laws to establish cleanup levels when those requirements, while applicable, were not based on protecting human health and the environment or would result in estimated risks greater than the acceptable risk levels specified in the rule; in subsection (4)(b)(ii)(B), the phrase "excess cancer risk" was replaced with the phrase "the upper bound on the estimated excess cancer risk." This change was made in response to public comment and the amended language is intended to clarify that current risk assessment procedures provide upper bound estimates; subsection (4)(c) was revised to clarify that a decision by ecology to require Method C cleanup levels more stringent than those required under subsection (4)(b) would be based upon a site-specific evaluation.

This change was made in response to public concerns that the proposed language was too broad and may result in cleanup levels unrelated to site-specific conditions; subsection (5)(a) has been revised to clarify that adjustments to take into account multiple hazardous substances and multiple pathways of exposures are "downward." This subsection has also been expanded to clarify that in making these adjustments the hazard index shall not exceed one and the total excess cancer risk shall not exceed 1 in 100,000. This change was made to assure protection of human health and the environment, to provide a more explicit statement on ecology's intent, and to improve the readability of the regulation by restating cross-referenced language; subsection (5)(b) was added to clarify that the limits on the hazard index and total excess cancer risk also apply to those sites where there is exposure to only one hazardous substance by one pathway of exposure, including cleanup levels based on applicable state and federal laws; subsections (7)(a) and (b) were added to the regulation in order to clarify that compliance monitoring procedures must be specified in a compliance monitoring plan prepared in accordance with the requirements in WAC 173-340-410. This change was made to ensure consistency with other sections of the rule; subsection (7) was revised to state that averaging times in applicable state and federal laws shall be used to demonstrate compliance with those requirements. This change was made to ensure the integrity of existing programs and minimize interprogram inconsistencies in rule implementation; and subsection (7) was revised to provide the flexibility to use alternate averaging times for noncarcinogens when the cleanup level is based on an inhalation reference dose which specifies an averaging time other than a 24-hour averaging time. This change was made in response to public comment and ensures that compliance monitoring procedures are consistent with the toxicological bases for individual reference doses.

Effective Date of Rule: Thirty-one days after filing.
 January 25, 1991
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-120 OVERVIEW. (1) Purpose. This section provides an overview of the cleanup process that typically will occur at a site where a release of a hazardous substance has been discovered. If there are any inconsistencies between this section and any specifically referenced sections, the referenced section shall govern.

(2) Site discovery. Site discovery includes:

(a) Release reporting. A reporting program is established to help identify potential hazardous waste sites. Owners and operators who know of or discover a release of a hazardous substance due to past activities must report the release to the department within ninety days of discovery, under WAC 173-340-300. Most current releases of hazardous substances must be reported to the department under the state's hazardous waste ((and)),

underground storage tank, or water quality laws. The term "hazardous substance" includes a broad range of substances as defined by chapter 70.105D RCW.

(b) Initial investigation. Within ninety days of learning of a hazardous substance release, the department will conduct an initial investigation of the site under WAC 173-340-310. For sites that may need further remedial action, an early notice letter will be sent to the owner and operator informing them of the department's decision.

(3) Site priorities. Priorities for further remedial action are set by the following process:

(a) Site hazard assessment. Based on the results of the initial investigation, a site hazard assessment will be performed if necessary, under WAC 173-340-320. The purpose of the site hazard assessment is to gather information to confirm whether a release has occurred and to enable the department to evaluate the relative potential hazard posed by the release. If the department decides that no further action is required, it will notify the public of that decision through the site register.

(b) Hazardous sites list. The department will maintain a list of sites that require further remedial action. Sites will be listed after the completion of a site hazard assessment. Sites placed on the list will be ranked using the department's hazard ranking method. The department may remove a site from the hazardous sites list if the cleanup action at the site has achieved the cleanup standards and all remedial actions except confirmational monitoring have been completed. See WAC 173-340-330.

(c) Biennial program report. Every even-numbered year, the department will prepare a biennial program report for the legislature. The hazard ranking, along with other factors, will be used in this report to identify the projects and expenditures recommended for appropriation. See WAC 173-340-340.

(4) Detailed site investigations and cleanup decisions. The following steps will be taken to ensure that the proper method of cleanup is chosen for the site.

(a) Remedial investigation and feasibility study. A state remedial investigation/feasibility study will be performed at ranked sites under WAC 173-340-350. The state remedial investigation/feasibility study defines the extent of the problems at the site and evaluates alternative cleanup actions.

(b) Selection of cleanup action. The department will evaluate the remedial investigation/feasibility study, establish cleanup levels and the point or points at which they must be complied with in accordance with the procedures provided for in WAC 173-340-700 through 173-340-760 and select a cleanup action that will protect human health and the environment ((consistent with)) and meet the other requirements of WAC 173-340-360. At some sites, restrictions on the use of the land and resources (institutional controls) will be required to insure continued protection of human health and the environment. See WAC 173-340-440. The cleanup action will be set forth in a draft cleanup action plan that addresses cleanup requirements for hazardous substances at the site. After public comment on the draft plan, a final cleanup action plan will be issued by the

department. (See WAC 173-340-700 for additional overview discussion of these requirements.)

(5) Site cleanup. Once the appropriate cleanup action has been selected for the site, the actual cleanup will be performed.

(a) Cleanup actions. WAC 173-340-400 describes the design and construction requirements for implementing the cleanup action plan.

(b) Compliance monitoring and review. The cleanup action must include compliance monitoring under WAC 173-340-410 and in some cases periodic review under WAC 173-340-420 to ensure the long-term effectiveness of the cleanup action.

(6) Interim actions. Under certain conditions it may be appropriate to take early actions at a site prior to completing the process described in subsections (2) through (5) of this section. WAC 173-340-430 describes when it is appropriate to take these early or interim actions and the requirements for such actions.

(7) Leaking underground storage tanks. Underground storage tank (UST) owners and underground storage tank operators regulated under chapter 90.76 RCW are required to perform specific actions in addition to what other site owners and operators would do under this chapter. Such additional actions include reporting of a confirmed release within twenty-four hours, follow-up investigation, free product removal and immediate assessment of the threat to human health and the environment at the site. A written report describing the site and the actions taken must be submitted within ninety days of release confirmation. Depending on the results of these actions, additional remedial actions may be required. WAC 173-340-450 describes these and other requirements for leaking underground storage tanks.

(8) Procedures for conducting remedial actions.

(a) Remedial action agreements. The department has authority to take remedial actions or to order persons to conduct remedial actions under WAC 173-340-510 and 173-340-540. However, the department encourages agreements for investigations and cleanups in appropriate cases. These agreements can be agreed orders or consent degrees reached under the procedures of WAC 173-340-520 and 173-340-530.

(b) Independent remedial actions. Persons may decide to perform investigations and cleanups without department approval under this chapter. The department will use the appropriate requirements contained herein in its evaluation of the adequacy of any independent remedial actions performed. Nothing in this chapter prohibits persons from performing such actions before the department is ready to act at the site; however, all interim and cleanup actions must be reported to the department under WAC 173-340-300. Furthermore, independent remedial actions are done at the potentially liable person's own risk and the department may take or require additional remedial actions at these sites at any time. (See WAC 173-340-510.)

(c) Public participation. The public will receive notice and an opportunity to comment on most of the steps in the cleanup process. At many sites, a public participation plan will be prepared to provide opportunities for

more extensive public involvement in the cleanup process.

These requirements are described in WAC 173-340-600.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-200 DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:
 ((+)) "Act" means the same as the "Model Toxics Control Act" and "chapter 70.105D RCW."

((2)) "Acute toxicity" means the ability of a hazardous substance to cause injury or death to an organism as a result of a short-term exposure to a hazardous substance.

"Agreed order" means an order issued under WAC 173-340-530.

((3)) "All practicable methods of treatment" means all technologies and/or methods currently available and demonstrated to work under similar site circumstances or through pilot studies, and applicable to the site at reasonable cost. These include "all known available and reasonable methods of treatment" (AKART) for discharges or potential discharges to waters of the state, and "best available control technologies" for releases of hazardous substances into the air resulting from cleanup actions.

"Applicable state and federal laws" means all legally applicable requirements and those requirements that the department determines, based on the criteria in WAC 173-340-710(3), are relevant and appropriate requirements.

"Area background" means the concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

"Bioconcentration factor" means the ratio of the concentration of a hazardous substance in the tissue of an aquatic organism divided by the hazardous substance concentration in the ambient water in which the organism resides.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogen Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Carcinogenic potency factor" or "CPF" means the upper 95th percentile confidence limit of the slope of the dose-response curve and is expressed in units of (mg/kg-day)⁻¹. When derived from human epidemiological data, the carcinogenic potency factor may be a maximum likelihood estimate.

"Chronic reference dose" means an estimate (with an uncertainty spanning an order of magnitude or more) of

a daily exposure level for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of adverse effects during a lifetime.

"Chronic toxicity" means the ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

"Cleanup" means the implementation of a cleanup action or interim action.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with ~~(cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action)~~ WAC 173-340-360.

((f4)) "Cleanup action plan" means the document prepared by the department under WAC 173-340-360 which selects the cleanup action and specifies cleanup standards and other requirements for the cleanup action.

((f5)) "Cleanup level" means the concentration of a hazardous substance in soil, water, air, or sediment that is determined to be protective of human health and the environment under specified exposure conditions.

"Cleanup process" means the process for identifying, investigating, and cleaning up hazardous waste sites under chapter 70.105D RCW.

((f6)) "Cleanup standards" means the standards promulgated under RCW 70.105D.030 (2)(d). Establishing cleanup standards requires specification of the following:

Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

The location on the site where those cleanup levels must be attained ("points of compliance"); and

Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established following the selection of a specific cleanup action.

((f7)) "Closure site assessment" means a site assessment required for closure of an underground storage tank pursuant to rules adopted under chapter 90.76 RCW.

"Compliance monitoring" means a remedial action that consists of monitoring as described in WAC 173-340-410.

((f8)) "Containment" means a container, vessel, barrier, or structure, whether natural or constructed, ~~((by))~~ which confines a hazardous substance ~~((is prevented or hindered from))~~ within a defined boundary and prevents or minimizes its release ~~((to or migration))~~ into the environment.

((f9)) "Contaminant" means any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

"Curie" means the measure of radioactivity defined as that quantity of radioactive material which decays at the

rate of 3.70×10^{10} transformations per second. This decay rate is nearly equivalent to that exhibited by 1 gram of radium in equilibrium with its disintegration products.

"Day" means calendar day; however, any document due on the weekend or a holiday may be submitted on the first working day after the weekend or holiday.

~~((f10))~~ "Decree" means consent decree under WAC 173-340-520. "Consent decree" is synonymous with decree.

~~((f11))~~ "Department" means the department of ecology.

~~((f12))~~ "Developmental reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of an exposure level for the human population, including sensitive subgroups, that is likely to be without an appreciable risk of developmental effects.

"Direct contact" means exposure to hazardous substances through ingestion or dermal contact.

"Director" means the director of ecology or the director's designee.

~~((f13))~~ "Environment" means any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air within the state of Washington or under the jurisdiction of the state of Washington.

~~((f14))~~ "Exposure" means subjection of an organism to the action, influence, or effect~~((s))~~ of a hazardous substance (chemical agent) or ~~((condition))~~ physical agent. Exposure is quantified as the amount of the agent available at the exchange boundaries (e.g., skin, lungs, gut) and available for absorption.

~~((f15))~~ "Exposure parameters" means those parameters used to derive an estimate of the exposure to a hazardous substance.

"Exposure pathway" means the path a hazardous substance takes or could take from a source to an exposed organism. An exposure pathway describes the mechanism by which an individual or population is exposed or has the potential to be exposed to hazardous substances at or originating from a site. Each exposure pathway includes an actual or potential source or release from a source, an exposure point, and an exposure route. If the exposure point differs from the source of the hazardous substance, the exposure pathway also includes a transport/exposure medium.

"Facility" means~~((a))~~ any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or ~~((b))~~ any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

~~((f16))~~ "Federal cleanup law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., as presently promulgated or as subsequently amended or repromulgated.

"Fish diet fraction" means the percentage of the total fish or shellfish in an individual's diet that is obtained or has the potential to be obtained from the site.

"Food crop" means any domestic plant which is produced for the purpose of, or may be used in whole or in part for, consumption by people or livestock. This shall include nursery, root, or seedstock to be used for the production of food crops.

((+7)) "Free product" means a hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

"Ground water" means water in a saturated zone or stratum beneath the surface of land or below a surface water.

((+8)) "Hazard index" means the sum of two or more hazard quotients for multiple hazardous substances and/or multiple exposure pathways.

"Hazardous sites list" means the list of hazardous waste sites maintained under WAC 173-340-330.

((+9)) "Hazardous substance" means((+a)) any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste as designated by rule under chapter 70.105 RCW; ((+b)) any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under chapter 70.105 RCW; ((+c)) any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C., Sec. 9601(14); ((+d)) petroleum or petroleum products; and ((+e)) any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

((+20)) "Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

((+21)) "Hazard quotient" or "HQ" means the ratio of the dose of a single hazardous substance over a specified time period to a reference dose for that hazardous substance derived for a similar exposure period.

"Highest beneficial use" means the beneficial use of a resource generally requiring the highest quality in the resource. For example, for many hazardous substances, providing protection for the beneficial use of drinking water will generally also provide protection for a great variety of other existing and future beneficial uses of ground water.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or decree.

((+22)) "Indicator hazardous substances" means the subset of hazardous substances present at a site selected under WAC 173-340-708 for monitoring and analysis during any phase of remedial action for the purpose of

characterizing the site or establishing cleanup requirements for that site.

"Inhalation correction factor" means a multiplier that is used to adjust exposure estimates based on ingestion of drinking water to take into account exposure to hazardous substances which are volatilized and inhaled during use of the water.

"Initial investigation" means a remedial action that consists of an investigation under WAC 173-340-310 to determine that a release or threatened release may have occurred that warrants further action under this chapter.

((+23)) "Institutional control" means a measure undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at the site.

"Integrated risk information system" or "IRIS" means a data base developed by the United States Environmental Protection Agency which provides a summary of information on hazard identification and dose-response assessment for specific hazardous substances.

"Interim action" means a remedial action conducted under WAC 173-340-430 that partially addresses the cleanup of a site.

((+24)) "Interspecies scaling factor" means the conversion factor used to take into account differences between animals and humans.

"Legally applicable requirements" means those clean-up standards, standards of control, and other human health and environmental protection requirements, criteria, or limitations promulgated under state or federal law that specifically address a hazardous substance, cleanup action, location, or other circumstances at the site.

"Lowest observed adverse effect level" or "LOAEL" means the lowest concentration of a hazardous substance at which there is a statistically or biologically significant increase in the frequency or severity of an adverse effect between a population and a control group.

"Mail" means delivery through the United States Postal Service or an equivalent method of delivery or transmittal, including private mail carriers, or personal delivery.

((+25)) "Maximum contaminant level" or "MCL" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated.

"Maximum contaminant level goal" or "MCLG" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated, for which no known or anticipated adverse effects on human health occur, including an adequate margin of safety.

"Method detection limit" or "MDL" means the minimum concentration of a compound that can be measured

and reported with 99% confidence that the value is greater than zero.

"Millirem" or "mrem" means the measure of the dose of any radiation to body tissue in terms of its estimated biological effect relative to a dose received from an exposure to one roentgen (R) of x-rays. One millirem equals 0.001 rem.

"Mixed funding" means any funding provided to potentially liable persons from the state toxics control account under WAC 173-340-560.

((26)) "Model Toxics Control Act" or "act" means the act approved by the voters at the November 1988 general election, also known as Initiative 97 (chapter 70.105D RCW).

((27)) "Natural background" means the concentration of hazardous substance consistently present in the environment which has not been influenced by localized human activities. For example, several metals naturally occur in the bedrock and soils of Washington state due solely to the geologic processes that formed these materials and the concentration of these metals would be considered natural background. Also, low concentrations of some particularly persistent organic compounds such as polychlorinated biphenyls (PCBs) can be found in surficial soils and sediment throughout much of the state due to global use of these hazardous substances. These low concentrations would be considered natural background. Similarly, concentrations of various radionuclides which are present at low concentrations throughout the state due to global distribution of fallout from bomb testing and nuclear accidents would be considered natural background.

"Natural person" means any unincorporated individual or group of individuals. The term "individual" is synonymous with "natural person."

((28)) "No observed adverse effect level" or "NOAEL" means the exposure level at which there are no statistically or biologically significant increases in frequency or severity of adverse effects between the exposed population and its appropriate control; some effects may be produced at this level, but they are not considered to be adverse, nor precursors to specific adverse effects.

"Null hypothesis" means an assumption about hazardous substance concentrations at a site when evaluating compliance with cleanup levels established under this chapter. The null hypothesis is that the site is contaminated at concentrations which exceed cleanup levels. This shall not apply to cleanup levels based on background concentrations.

"Order" means an enforcement order issued under WAC 173-340-540 or an agreed order issued under WAC 173-340-530.

((29)) "Owner or operator" means((a)) any person with any ownership interest in the facility or who exercises any control over the facility; or ((b)) in the case of an abandoned facility, any person who had owned, or operated, or exercised control over the facility any time before its abandonment. The term does not include:

((i)) An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; or

((ii)) A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility.

((30)) "PAHs (carcinogenic)" means those PAHs substances identified as A (known human) or B (probable human) carcinogens by the United States Environmental Protection Agency. These include benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene.

"Permanent solution" means a cleanup action in which cleanup standards of WAC 173-340-700 through 173-340-760 can be met without further action being required at the site being cleaned up or any other site involved with the cleanup action, other than the approved disposal of any residue from the treatment of hazardous substances.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

((31)) "Picocurie" or "pCi" means 10^{-12} curie.

"Point of compliance" means the point or points where cleanup levels established in accordance with WAC 173-340-720 through 173-340-760 shall be attained.

"Polychlorinated biphenyls" or "PCB mixtures" means those aromatic compounds containing two benzene nuclei with two or more substituted chlorine atoms. For the purposes of this chapter, PCB includes those congeners which are identified using the appropriate analytical methods as specified in WAC 173-340-830.

"Polycyclic aromatic hydrocarbons" or "PAH" means those hydrocarbon molecules composed of two or more fused benzene rings. For the purpose of this chapter, PAH includes those compounds which are identified and quantified using the appropriate analytical methods as specified in WAC 173-340-830. The specific compounds generally included are acenaphthene, acenaphthylene, fluorene, naphthalene, anthracene, fluoranthene, phenanthrene, benzo[a]anthracene, benzo[b]fluoranthene, benzo[k]fluoranthene, pyrene, chrysene, benzo[a]pyrene, dibenzo[a,h]anthracene, indeno[1,2,3-cd]pyrene, and benzo[ghi]perylene.

"Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

((32)) "Practicable" means (except when used in the phrase "permanent to the maximum extent practicable" which is defined in WAC 173-340-360(5)) capable of being designed, constructed and implemented in a reliable and effective manner including consideration of

cost. When considering cost under this analysis, an alternative shall not be considered practicable if the incremental cost of the alternative is substantial and disproportionate to the incremental degree of protection provided by the alternative over other lower cost alternatives.

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions, using department approved methods.

"Public notice" means, at a minimum, adequate notice mailed to all persons who have made a timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

((33)) "Public participation plan" means a plan prepared under WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular ((facility)) site.

((34)) "Rad" means that quantity of ionizing radiation that results in the absorption of 100 ergs of energy per gram of irradiated material, regardless of the source of radiation.

"Radionuclide" means a type of atom which spontaneously undergoes radioactive decay. Radionuclides are hazardous substances under the act.

"Recovery by-products" means any hazardous substance, water, sludge or other materials collected in the free product removal process in response to a release from an underground storage tank.

"Reasonable maximum exposure" means the highest exposure that can be reasonably expected to occur for a human or other living organisms at a site under current and potential future site use.

"Reference dose" or "RFD" means a benchmark dose, derived from the NOAEL or LOAEL for a hazardous substance by consistent application of uncertainty factors used to estimate acceptable daily intake doses and an additional modifying factor, which is based on professional judgment when considering all available data about a substance, expressed in units of milligrams per kilogram body weight per day. This includes chronic reference doses, subchronic reference doses, and developmental reference doses.

"Regional office" means one of the regional offices of the department of ecology.

((35)) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

((36)) "Relevant and appropriate requirements" means those cleanup standards, standards of control, and other human health and environmental requirements, criteria, or limitations established under state and federal law that, while not legally applicable to the hazardous substance, cleanup action, location, or other circumstance at a site, the department determines address

problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site. The criteria specified in WAC 173-340-710(3) shall be used to determine if a requirement is relevant and appropriate.

"Rem" means the unit of radiation dose equivalent that is the dosage in rads multiplied by a factor representing the different biological effects of various types of radiation.

"Remedy" or "remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

((37)) "Restoration time frame" means the period of time needed to achieve the required cleanup levels at the points of compliance established for the site.

"Risk" means the probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

"Routine cleanup action" means a remedial action that consists of a cleanup action meeting the requirements in WAC 173-340-130(7).

((38)) "Safety and health plan" means a plan prepared under WAC 173-340-810.

((39)) "Sample mean" means the arithmetic mean or the average of a set of measurements. The arithmetic mean is defined as the sum of all measurements divided by the number of measurements.

"Sampling and analysis plan" means a plan prepared under WAC 173-340-820.

((40)) "Saturated zone" means the area below the water table in which all interstices are filled with water.

"Science advisory board" means the advisory board established by the department under RCW 70.105D.030(4).

((41)) "Secondary maximum contaminant level" means the maximum concentration of a secondary contaminant in water established by the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in 40 C.F.R. 143 as presently promulgated or as subsequently amended or repromulgated.

"Sensitive environment" means an area of particular environmental value, where a release could pose a greater threat than in other areas including: Wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

((42)) "Site" means the same as facility.

((43)) "Site characterization report" means a written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450 (4)(b).

"Site check" means the investigation conducted pursuant to rules adopted under chapter 90.76 RCW in order to confirm a release from an underground storage tank.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

~~((44))~~ "Site register" means the public information document described in WAC 173-340-600.

~~((45))~~ "Soil" means a mixture of organic and inorganic solids, air, water, and biota which exists on the earth's surface above bedrock, including materials of anthropogenic sources such as slag, sludge, etc.

"State remedial investigation/feasibility study" means a remedial action that consists of activities performed under WAC 173-340-350 to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup plan under WAC 173-340-360.

~~((46))~~ "Status report" means a written or verbal report on the status of the interim actions taken in response to a release from an underground storage tank, as described in WAC 173-340-450 (4)(b).

"Subchronic reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of a daily exposure level for the human population, including sensitive subgroups, that is likely to be without appreciable risk of adverse effects during a portion of a lifetime.

"Surface water" means lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the state of Washington or under the jurisdiction of the state of Washington.

~~((47))~~ "Technically possible" means capable of being designed, constructed and implemented in a reliable and effective manner, regardless of cost.

"Total excess cancer risk" means the upper bound on the estimated excess cancer risk associated with exposure to multiple hazardous substances and multiple exposure pathways.

"Total petroleum hydrocarbons" or "TPH" means any fraction of crude oil that is contained in plant condensate, crankcase motor oil, gasoline, aviation fuels, kerosene, diesel motor fuel, benzol, fuel oil, and other products derived from the refining of crude oil. For the purposes of this chapter, TPH will generally mean those fractions of the above products that are quantified by EPA Methods 8015 or 418.1 as appropriate or other test methods approved by the department.

"Type I error" means the error made when it is concluded that an area of a site is below cleanup levels when it actually exceeds cleanup levels. This is the rejection of a true null hypothesis.

"Underground storage tank" or "UST" means an underground storage tank and connected underground piping as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank operator" means any underground storage tank operator as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank owner" means any underground storage tank owner as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank release" means a confirmed release from an underground storage tank pursuant to the rules adopted under chapter 90.76 RCW.

"Unrestricted site use conditions" means restrictions on the use of the site or natural resources affected by releases of hazardous substances from the site are not required to ensure continued protection of human health and the environment.

"Upper bound on the estimated excess cancer risk of one in one hundred thousand" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one hundred thousand individuals.

"Upper bound on the estimated excess cancer risk of one in one million" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one million individuals.

"Volatile organic compound" means those carbon-based compounds listed in EPA methods 601, 602, 603, 624, 8010, 8015, 8020, 8030, 8240, 502.1, 502.2, 503.1, 524.1, 524.2, and those with similar vapor pressures or boiling points.

"Wastewater facility" means all structures and equipment required to collect, transport, treat, reclaim, or dispose of domestic, industrial, or combined domestic/industrial wastewaters.

~~((48))~~ "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this classification, wetlands must have one or more of the following attributes: ~~((a))~~ at least periodically, the land supports predominantly hydrophytes; ~~((b))~~ the substrate is predominately undrained hydric soil; and ~~((c))~~ the substrate is nonsoil and saturated with water or covered by shallow water at some time during the growing season each year.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-210 USAGE. For the purposes of this chapter, the following shall apply:

(1) Unless the context clearly requires otherwise the use of the singular shall include the plural and conversely.

(2) The terms "applicable," "appropriate," "relevant," "unless otherwise directed by the department" and similar terms implying discretion mean as determined by the department, with the burden of proof on other persons to demonstrate the requirements are or are not necessary.

(3) "Approved" means for department conducted or ordered remedial actions, or for potentially liable person conducted cleanups agreed to by the department in an agreed order or decree governing remedial actions at the site.

(4) "Conduct" means to perform or undertake whether directly or through an agent or contractor, unless this chapter expressly provides otherwise.

~~((4))~~ (5) "Include" means included but not limited to.

~~((5))~~ (6) "May" means the provision is optional and permissive, and does not impose a requirement.

~~((6))~~ (7) "Shall" means the provision is mandatory.

~~((7))~~ (8) "Threat" means threat or potential threat.

~~((8))~~ (9) "Under" means pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-300 SITE DISCOVERY AND REPORTING. (1) Purpose. As part of a program to identify hazardous waste sites, this section sets forth the requirements for reporting a release of a hazardous substance due to past activities, whether discovered before or after the effective date of this regulation. It also sets forth the requirements for reporting independent cleanup actions. The department may take any other actions it deems appropriate to identify potential hazardous waste sites consistent with chapter 70.105D RCW.

(2) Release report. Any owner or operator who has information that a hazardous substance has been released to the environment at the owner or operator's facility and may be a threat to human health or the environment shall report such information to the department by June 1, 1990, or for discovery of releases after this date, within ninety days of discovery. Releases from underground storage tanks as described in the rules adopted under chapter 90.76 RCW must be reported within twenty-four hours of release confirmation, in accordance with WAC 173-340-450. To the extent known, the report shall include: The identification and location of the hazardous substance, circumstances of the release and the discovery, and any remedial actions planned, completed, or underway. All other persons are encouraged to report such information to the department.

(3) Exemptions. The following releases are exempt from these notification requirements:

(a) Application of pesticides and fertilizers for their intended purposes and according to label instructions;

(b) Lawful and nonnegligent use of hazardous substances by a natural person for personal or domestic purposes;

(c) A release in accordance with a permit that authorizes the release;

(d) A release previously reported to the department in fulfillment of a reporting requirement in this chapter or in another law or regulation;

(e) A release previously reported to the United States Environmental Protection Agency under CERCLA, Section 103(c) (42 9603(c));

(f) A release to the air;

(g) Releases discovered in public water systems regulated by the department of health; or

(h) A release to a permitted wastewater facility.

An exemption from these notification requirements does not imply a release from liability in future actions by the department.

(4) Report of independent actions.

(a) Report. Any person who conducts an independent interim action or cleanup action shall submit a written

report to the department within ninety days of the completion of the action. For the purposes of this section, the department will consider an interim action or cleanup action complete if no remedial action other than compliance monitoring has occurred at the site for ninety days. This is not intended to preclude earlier reporting of such actions. See WAC 173-340-450 for additional requirements for reporting independent interim actions for releases from underground storage tanks.

(b) Contents. The report shall include the information in subsection (2) of this section if not already reported, and results of all site investigations, cleanup actions and compliance monitoring planned or underway. The department may require additional reports on the work performed.

(c) Combined reports. If the independent interim action or cleanup action is completed within ninety days of discovery, a single written report may be submitted on both the release and the action taken. The reports shall contain the information specified in subsections (2) and (4) of this section and shall be submitted within ninety days of completion of the interim action or cleanup action.

(d) Notification. The department shall publish a notice of all reports on independent interim actions and cleanup actions received under this section in the site register.

(5) Department response. Within ninety days of receipt of information under this section, the department shall respond in accordance with WAC 173-340-310. Receipt of information regarding an independent interim action or cleanup action under subsection (3) or (4) of this section shall not obligate the department to take any action beyond that prescribed in WAC 173-340-310 and subsection (4)(d) of this section. Neither submission of information on independent interim action and cleanup actions nor any response by the department shall release the person submitting the report or any other person from liability. The department reserves all rights to pursue any subsequent action it deems appropriate.

(6) Other obligations. Nothing in this section shall eliminate any obligations to comply with reporting requirements that may exist in a permit or under other laws.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-350 STATE REMEDIAL INVESTIGATION AND FEASIBILITY STUDY. (1) Purpose. The purpose of a state remedial investigation/feasibility study is to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action under WAC 173-340-360.

(2) Timing. Unless otherwise directed by the department, a state remedial investigation/feasibility study shall be completed before selecting a cleanup action under WAC 173-340-360, except for an emergency or interim action.

(3) Administrative options. A state remedial investigation/feasibility study may be conducted under any of the procedures described in WAC 173-340-510.

(4) Public participation will be accomplished in a manner consistent with WAC 173-340-600.

(5) Scope. The scope of a state remedial investigation/feasibility study will depend on the informational needs of the specific facility. This requires that the process remain flexible, with the scope of the state remedial investigation/feasibility study varying from site to site to avoid the collection of unnecessary information so that the cleanup can proceed in a timely manner. However, in all cases sufficient information must be collected, developed, and evaluated to enable the selection of a cleanup action under WAC 173-340-360. In addition, for facilities on the federal national priorities list, the state remedial investigation/feasibility study shall comply with federal requirements.

(6) Contents. A state remedial investigation/feasibility study shall include the following information as appropriate:

(a) General facility information. General information, including: Project title; name, address, and phone number of project coordinator; legal description of the facility location; dimensions of the facility; present owner and operator; chronological listing of past owners and operators and operational history; and other pertinent information.

(b) Site conditions map. An existing site conditions map which illustrates relevant current site features such as: Property boundaries; proposed facility boundaries; surface topography; surface and subsurface structures; utility lines; well locations; and other pertinent information.

(c) Field investigations. Sufficient investigations to characterize the distribution of hazardous substances present at the site, and threat to human health and the environment. Where applicable to the site, these investigations will need to address the following:

(i) Surface water and sediments. Investigations of surface water and sediments to characterize significant hydrologic features such as: Surface drainage patterns and quantities, areas of erosion and sediment deposition, surface waters, floodplains, and actual or potential hazardous substance migration routes towards and within these features. Sufficient surface water and sediment sampling shall be performed to adequately characterize the areal and vertical distribution and concentrations of hazardous substances. Properties of surface and subsurface sediments which are likely to influence the type and rate of hazardous substance migration, or are likely to affect the ability to implement alternative cleanup actions shall be characterized.

(ii) Soils. Investigations to adequately characterize the areal and vertical distribution and concentrations of hazardous substances in the soil due to the facility. Properties of surface and subsurface soils which are likely to influence the type and rate of hazardous substance migration, or which are likely to affect the ability to implement alternative cleanup actions shall be characterized.

(iii) Geology and ground water system characteristics. Investigations of site geology and hydrogeology to adequately characterize the areal and vertical distribution and concentrations of hazardous substances in the

ground water and those features which affect the fate and transport of these hazardous substances. This shall include, as appropriate, the description, physical properties and distribution of bedrock and unconsolidated materials; ground water flow rate and gradient for affected and potentially affected ((aquifers)) ground waters; ground water divides; areas of ground water recharge and discharge; location of public and private production wells; and ground water quality data.

(iv) Air. An evaluation of air quality impacts, including sampling, where appropriate, and information regarding local and regional climatological characteristics which are likely to affect the hazardous substance migration such as: Seasonal patterns of rainfall; the magnitude and frequency of significant storm events; temperature extremes; prevailing wind direction; and wind velocity.

(v) Land use. Information characterizing human populations exposed or potentially exposed to the hazardous substance released from the facility and present and proposed land uses and zoning for the site and potentially affected areas.

(vi) Natural resources and ecology. Information to determine the impact or potential impact of the hazardous substance from the facility on the natural resources and ecology of the area such as: Sensitive environment, plant and animal species, and other environmental receptors.

(vii) Hazardous substance sources. A description of and sufficient sampling to define the location, quantity, areal and vertical extent, concentration within and sources of waste disposal areas. Where relevant, information on the physical and chemical characteristics, and the biological effects of hazardous substances shall be provided.

(viii) Regulatory classifications. Regulatory designations classifying affected air, surface water and ground water, if any.

(d) Risk assessment. A risk assessment characterizing the current and potential threats to human health and the environment that may be posed by hazardous substances. This assessment may not be required when the department determines that proposed cleanup standards are obvious and undisputed and allow an ((ample)) adequate margin of safety for protection of human health and the environment.

(e) Cleanup action alternatives. An evaluation of alternative cleanup actions that protect human health and the environment by eliminating, reducing, or otherwise controlling risks posed through each exposure pathway and migration route, shall be required. The number and types of alternatives to be evaluated shall take into account the characteristics and complexity of the facility. A phased approach for evaluation of alternatives may be required for certain facilities, including an initial screening of alternatives to reduce the number of potential remedies for the final detailed evaluation. The final evaluation of cleanup action alternatives that pass the initial screening shall (~~consider the following factors:~~) be evaluated for compliance with the requirements in WAC 173-340-360.

~~((i) Overall protection of human health and the environment, including the degree to which existing risks are reduced, time required to reduce risk at the facility and attain cleanup standards, and on-site and off-site risks resulting from implementing the alternative;~~

~~(ii) Attainment of cleanup standards and compliance with applicable federal, state, and local laws;~~

~~(iii) Short-term effectiveness, including protection of human health and the environment during construction and implementation of the alternative, and degree of risk to human health and the environment prior to attainment of cleanup standards;~~

~~(iv) Long-term effectiveness, including degree of certainty that the alternative will be successful, long-term reliability, magnitude of residual risk, and effectiveness of controls required to manage treatment residues or remaining wastes;~~

~~(v) Permanent reduction of toxicity, mobility and volume through treatment, including adequacy of the alternative in treating or managing the hazardous materials; reduction or elimination of hazardous material releases and sources of releases, degree of irreversibility of waste treatment process, and the characteristics and quantity of treatment residuals generated;~~

~~(vi) Ability to be implemented. The ability to be implemented including consideration of technical feasibility, availability of needed off-site facilities, services and materials, administrative and regulatory requirements, scheduling, monitoring requirements, access for construction, operations and monitoring, and integration with existing facility operations and other current or potential remedial actions;~~

~~(vii) Cost, including consideration of present and future direct and indirect capital, operation and maintenance costs;~~

~~(viii) The degree to which community concerns are addressed; and~~

~~(ix) The degree to which recycling, reuse, and waste minimization are employed;))~~

(f) Work plans. A sampling and analysis plan, and a safety and health plan shall be prepared as part of state remedial investigation/feasibility study activities. These plans shall conform to the requirements specified in this chapter.

(g) Treatability studies. The department may require treatability studies as necessary to provide sufficient information to develop and evaluate cleanup action alternatives for a site.

(h) Any information needed to fulfill the applicable requirements of the State Environmental Policy Act.

(i) Other information as required by the department.

(7) In appropriate cases the department may allow departure from the requirements of subsection ~~((5))~~ (6) of this section and will allow information to be incorporated by reference to avoid unnecessary duplication.

(8) Report. A report shall be prepared at the completion of the remedial investigation/feasibility study. Additionally, the department may require reports to be submitted following discrete elements of the remedial

investigation/feasibility study. Reports prepared under this section and under an order or decree shall be submitted to the department for review and approval.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-360 SELECTION OF CLEANUP ACTIONS. ~~((1) General requirements. All cleanup action plans approved and cleanup actions conducted under this chapter shall meet the following requirements:~~

~~(a) Achieves a degree of cleanup that is protective of human health and the environment;~~

~~(b) Addresses the requirements of applicable state, federal, and local laws;~~

~~(c) Uses permanent solutions to the maximum extent practicable;~~

~~(d) Provides adequate monitoring to ensure the effectiveness of the cleanup action;~~

~~(e) Is appropriate for conditions and circumstances at the facility; and~~

~~(f) Achieves compliance with cleanup standards.~~

~~(2) General considerations:~~

~~(a) Cleanup actions involving treatment which permanently and significantly reduces the volume, toxicity, or mobility of the hazardous substances shall be preferred over cleanup actions not involving such treatment.~~

~~(b) The off-site transport and disposal of hazardous substances or contaminated materials without treatment is the least favored alternative cleanup action where practicable treatment technologies are available.~~

~~(3) Draft cleanup action plan. The department shall issue a draft cleanup action plan for cleanup actions conducted under the provisions of this chapter. The cleanup action plan shall include the following:~~

~~(a) A description of the cleanup action to be implemented, including an explanation of how that action will meet the requirements of RCW 70.105D.030 (1)(b) and (2)(d);~~

~~(b) A brief summary of other cleanup alternatives evaluated in the remedial investigation/feasibility study or comparable documents;~~

~~(c) A brief summary of how the proposed cleanup alternative addresses the factors in WAC 173-340-350 (6)(c);~~

~~(d) A schedule for implementation of the cleanup action plan; and~~

~~(e) Identification of applicable federal, state, and local requirements to be met to complete the cleanup action.~~

~~(4) Public participation. The department will provide public notice and opportunity for comment on the draft cleanup plan as described in WAC 173-340-600.~~

~~(5) Final plan. After completion of the public comment period the department shall issue a final cleanup action plan and publish its availability in the site register and by other appropriate methods.~~

~~(6) For routine actions, the department may use an order or decree to fulfill the requirements of this section; provided that the information of subsection (3) of this section is included therein.))~~

(1) Purpose. (a) This section describes the requirements for selecting cleanup actions. It specifies the criteria for approving cleanup actions, the order of preference for cleanup technologies, policies for permanent solutions, the application of these criteria to particular situations, and the process for making these decisions. This section is intended to be used in conjunction with the cleanup standards defined in WAC 173-340-700 through 173-340-760 and the administrative principles for the overall cleanup process (WAC 173-340-130).

(b) Because cleanup actions will often involve the use of several cleanup technologies or methods at a single site, the overall cleanup action shall meet the requirements of this section.

(2) Threshold requirements.

All cleanup actions conducted under this chapter shall protect human health and the environment; shall comply with cleanup standards (see WAC 173-340-700 through 173-340-760); shall comply with applicable state and federal laws (see WAC 173-340-710); and shall provide for compliance monitoring (see WAC 173-340-410).

(3) Other requirements. In addition, the cleanup action conducted shall:

(a) Use permanent solutions to the maximum extent practicable (see WAC 173-340-360 (4), (5), (7), and (8));

(b) Provide for a reasonable restoration time frame (see WAC 173-340-360(6)); and

(c) Consider public concerns raised during public comment on the draft cleanup action plan (see WAC 173-340-360 (10) through (13)).

(4) Cleanup technologies.

(a) Cleanup of hazardous waste sites shall be conducted using technologies which minimize the amount of untreated hazardous substances remaining at a site. Toward that end, the following technologies for addressing specific hazardous substances or pathways shall be considered in order of descending preference:

(i) Reuse or recycling;

(ii) Destruction or detoxification;

(iii) Separation or volume reduction followed by reuse, recycling, destruction, or detoxification of the residual hazardous substance;

(iv) Immobilization of hazardous substances;

(v) On-site or off-site disposal at an engineered facility designed to minimize the future release of hazardous substances and in accordance with applicable state and federal laws;

(vi) Isolation or containment with attendant engineering controls; and

(vii) Institutional controls and monitoring.

(b) A combination of technologies from more than one of the categories under (a) of this subsection may be used at a specific site. For example, the source of the hazardous substance may be recovered and recycled or destroyed, while containment is used to stop the migration of hazardous substances that have reached the ground water.

(c) Since cleanup actions will often involve a combination of technologies, cleanup action alternatives shall maximize the use of higher preference technologies.

(d) Ecology does not expect that one type of technology will be used for all sites. The adoption of the technology preferences in this subsection is designed to make it more difficult to select a cleanup action with a low preference without careful explanation of why technologies above it have not been used. As noted in subsection (9) of this section, ecology expects that lower options will be appropriate for some sites.

(5) Permanent solutions.

(a) When selecting a cleanup action, preference shall be given to permanent solutions to the maximum extent practicable.

(b) A permanent solution is one in which cleanup standards can be met without further action being required at the original site or any other site involved with the cleanup action, other than the approved disposal of any residue from preferred treatment technologies under subsection (4)(a)(i) through (iii) of this section.

(c) In general, technologies which reuse, recycle, destroy, or detoxify hazardous substances will result in permanent solutions if residual hazardous substance concentrations are below cleanup levels established under WAC 173-340-700 through 173-340-760. Containment of hazardous substances and/or institutional controls alone are not permanent solutions. Other technologies, such as immobilization of hazardous substances, may provide permanent solutions under some conditions.

(d) Ecology recognizes that permanent solutions may not be practicable for all sites. A determination that a cleanup action satisfies the requirement to use permanent solutions to the maximum extent practicable is based upon consideration of a number of factors. The following criteria shall be used to determine whether a cleanup action is "permanent to the maximum extent practicable":

(i) Overall protectiveness of human health and the environment including the degree to which existing risks are reduced, time required to reduce risk at the facility and attain cleanup standards, on-site and off-site risks resulting from implementing the alternative, the degree the cleanup action may perform to a higher level than specific standards in WAC 173-340-700 through 173-340-760, and improvement of the overall environmental quality;

(ii) Long-term effectiveness including degree of certainty that the alternative will be successful, long-term reliability, magnitude of residual risk, and effectiveness of controls required to manage treatment residues or remaining wastes;

(iii) Short-term effectiveness including protection of human health and the environment during construction and implementation of the alternative, and the degree of risk to human health and the environment prior to attainment of cleanup standards;

(iv) Permanent reduction of toxicity, mobility and volume of the hazardous substance including adequacy of the alternative in destroying the hazardous substances, reduction or elimination of hazardous substance releases and sources of releases, degree of irreversibility of waste treatment process, and the characteristics and quantity of treatment residuals generated;

(v) Ability to be implemented including consideration of whether the alternative is technically possible, availability of necessary off-site facilities, services and materials, administrative and regulatory requirements, scheduling, size, complexity, monitoring requirements, access for construction, operations and monitoring, and integration with existing facility operations and other current or potential remedial actions;

(vi) Cleanup costs. A cleanup action shall not be considered practicable if the incremental cost of the cleanup action is substantial and disproportionate to the incremental degree of protection it would achieve over a lower preference cleanup action. When selecting from among two or more cleanup action alternatives which have an equivalent level of preference under subsection (4) of this section, preference may be given to the least cost alternative. In performing this evaluation, the top three preferences in subsection (4) of this section shall be considered equivalent unless there are overriding public concerns or technical uncertainties;

(vii) The degree to which community concerns are addressed.

(e) To ensure a bias toward permanent solutions, cleanup actions conducted under this chapter including consideration of prior actions at the site shall comply with the following requirements:

(i) The cleanup action shall prevent or minimize present and future releases and migration of hazardous substances in the environment;

(ii) The cleanup action shall provide for a net reduction in the amount of a hazardous substance being released from the source area;

(iii) The cleanup action shall not rely primarily on dilution and dispersion of the hazardous substance if active remedial measures are technically possible;

(iv) A cleanup action relying primarily on institutional controls and monitoring shall not be used where it is technically possible to implement a cleanup action alternative that utilizes a higher preference cleanup technology for all or a portion of the site; and

(v) A cleanup action involving off-site transport and disposal of hazardous substances without treatment shall not be used if a treatment technology or method exists which will attain cleanup standards and is practicable.

(6) Restoration time frame.

(a) The cleanup action selected shall provide for a reasonable restoration time frame. The factors to be considered when establishing a reasonable restoration time frame shall include:

(i) Potential risks posed by the site to human health and the environment;

(ii) Practicability of achieving a shorter restoration time frame;

(iii) Current use of the site, surrounding areas, and associated resources that are, or may be, affected by releases from the site;

(iv) Potential future use of the site, surrounding areas, and associated resources that are, or may be, affected by releases from the site;

(v) Availability of alternative water supplies;

(vi) Likely effectiveness and reliability of institutional controls;

(vii) Ability to control and monitor migration of hazardous substances from the site;

(viii) Toxicity of the hazardous substances at the site; and

(ix) Natural processes which reduce concentrations of hazardous substances and have been documented to occur at the site or under similar site conditions.

(b) A longer period of time may be used for the restoration time frame for a site to achieve cleanup levels at the point of compliance if higher preference cleanup technologies in accordance with subsections (4) and (5) of this section are selected instead of on-site or off-site disposal, isolation, or containment options.

(c) When area background concentrations would result in recontamination of the site to levels which exceed cleanup levels, that portion of the cleanup action which addresses cleanup below area background concentrations may be delayed until the off-site sources of hazardous substances are controlled. In these cases the remedial action shall be considered an interim action until cleanup levels are attained.

(d) Where cleanup levels determined under method C in WAC 173-340-707 are below technically possible concentrations, concentrations that are technically possible to achieve shall be met within a reasonable time frame considering the factors in (a) of this subsection. In these cases the remedial action shall be considered an interim action until cleanup levels are attained.

(e) Extending the restoration time frame shall not be used as a substitute for active cleanup actions, when such actions are practicable.

(7) Ground water restoration.

(a) Ground water treatment to achieve the levels in WAC 173-340-720 throughout the ground water at and beyond the point of compliance shall be required where such treatment is practicable or where such treatment is not practicable, but deemed by the department to be in the public interest.

(b) When ground water treatment to achieve the cleanup levels at or beyond the point of compliance within an existing ground water plume is not practicable the following measures shall be taken:

(i) Treatment shall be used to reduce the levels to the maximum extent practicable;

(ii) Ground water containment, including barriers or hydraulic control through ground water pumping or both, shall be implemented to the maximum extent practicable to avoid lateral and vertical expansion of the ground water volume affected by the hazardous substance;

(iii) Source control measures shall be implemented to prevent or minimize additional releases to the ground water;

(iv) Adequate ground water monitoring to demonstrate control and containment of the hazardous substance shall be conducted;

(v) The potentially liable person shall provide an alternative water supply or treatment for persons with water supplies rendered unusable by the release; and

(vi) The practicability of achieving ground water cleanup levels by treating the ground water affected by

the release shall be reevaluated during the periodic review under WAC 173-340-420.

(c) Appropriate restrictions on the use of ground water shall be placed under WAC 173-340-440 until cleanup levels established under WAC 173-340-720 are achieved.

(d) The integrity and continued operation of any treatment or containment system shall be assured in accordance with WAC 173-340-440.

(8) Containment actions.

(a) A cleanup action which relies primarily on on-site disposal, isolation, or containment of hazardous substances shall not be conducted if it is practicable to reuse, destroy, or detoxify those substances in a manner that remaining concentrations are below cleanup levels established under WAC 173-340-700 through 173-340-760.

(b) Long-term monitoring (WAC 173-340-410) and institutional controls (WAC 173-340-440) shall be required if on-site disposal, isolation, or containment is the selected cleanup action for a site or a portion of a site. Such measures shall be required until residual hazardous substance concentrations no longer exceed site cleanup levels established under WAC 173-340-700 through 173-340-760.

(c) If the proposed cleanup action involves on-site containment, the draft cleanup action plan shall specify the types, levels, and amounts of hazardous substances remaining on-site and the measures that will be utilized to prevent migration and contact with those substances.

(9) Expectations. Ecology has the following expectations for cleanup actions conducted under this chapter. The department recognizes that there may be sites where these expectations are not appropriate:

(a) Ecology expects that treatment technologies will be used wherever practicable. Use of treatment technologies should be emphasized at sites containing liquid wastes, areas contaminated with high concentrations of hazardous substances, highly mobile materials, and/or discrete areas of hazardous substances which lend themselves to treatment;

(b) To minimize the need for long-term management of contaminated materials, ecology expects that hazardous substances will be totally destroyed, detoxified, and/or removed to concentrations below cleanup levels throughout sites containing small volumes of hazardous substances;

(c) Ecology recognizes the need to use engineering controls, such as containment, for sites or portions of sites that contain large volumes of materials with relatively low levels of hazardous substances where treatment is impracticable;

(d) Ecology expects institutional controls, such as water use restrictions and deed restrictions, will be used to supplement engineering controls in order to prevent or limit exposure to hazardous substances and protect the integrity of the cleanup action;

(e) Ecology expects that cleanup actions will return useable ground waters to their beneficial uses wherever practicable, within a reasonable time frame. When restoration of ground water to beneficial uses is not practicable, ecology expects to require measures to minimize/

prevent further migration, minimize ongoing releases, prevent exposure to contaminated water, and other appropriate measures (see WAC 173-340-360(7));

(f) In order to minimize the potential for migration of hazardous substances, ecology expects that active measures will be taken to prevent precipitation and subsequent runoff from coming into contact with contaminated soils and waste materials. When such measures are impracticable, such as during active cleanup, ecology expects that site runoff will be contained and treated prior to release from the site;

(g) Ecology expects that when hazardous substances remain on-site at concentrations which exceed cleanup levels, those hazardous substances will be consolidated to the maximum extent practicable where needed to minimize the potential for direct contact and migration of hazardous substances;

(h) Ecology expects that, for facilities adjacent to a surface water body, active measures will be taken to prevent/minimize releases to surface water via surface runoff and ground water discharges. Ecology expects that dilution will not be the sole method for demonstrating compliance with cleanup standards; and

(i) Ecology expects that cleanup actions conducted under this chapter will not result in a significantly greater overall threat to human health and the environment than other alternatives.

(10) Draft cleanup action plan. The department shall issue a draft cleanup action plan for cleanup actions conducted by the department or conducted by a potentially liable person under an order or decree. The level of detail in the draft cleanup action plan shall be commensurate with the complexity of the site and proposed cleanup action.

(a) The draft cleanup action plan shall include the following:

(i) A general description of the proposed cleanup action including compliance monitoring;

(ii) A brief summary of other alternative cleanup actions evaluated in the state remedial investigation/feasibility study or comparable documents;

(iii) Site cleanup levels and points of compliance for each hazardous substance and for each media of concern;

(iv) The schedule for implementation of the cleanup action plan including, if known, restoration time frame;

(v) Required institutional controls and site use restrictions, if any, for the proposed cleanup action;

(vi) Justification for selecting a cleanup action that uses cleanup technologies that have a lower preference than higher representative cleanup technologies listed in subsection (4)(a) of this section;

(vii) Applicable state and federal laws for the proposed cleanup action, when these are known at this step in the cleanup process (this does not preclude subsequent identification of applicable state and federal laws);

(viii) A preliminary determination by the department that the proposed cleanup action will comply with subsections (2) and (3) of this section; and

(ix) Where the cleanup action involves on-site containment, specification of the types, levels, and amounts

of hazardous substances remaining on site and the measures that will be utilized to prevent migration and contact with those substances.

(b) For routine actions the department may use an order or decree to fulfill the requirements of a cleanup action plan, provided that the information in (a) of this subsection is included therein. The scope of detail for the required information shall be commensurate with the complexity of the site and proposed cleanup action.

(11) Public participation. The department will provide public notice and opportunity for comment on the draft cleanup plan as described in WAC 173-340-600.

(12) Final plan. Upon completion of the public comment period the department, after review and consideration of the comments received, shall issue a final cleanup action plan and publish its availability in the site register and by other appropriate methods. If the department determines, following the implementation of the preferred alternative, that the cleanup levels established in the cleanup action plan cannot be achieved, the department shall issue public notice of this determination.

(13) Federal cleanup sites. A record of decision or order or consent decree prepared under the Federal Cleanup Law that provides for a cleanup action may be used by the department to meet the requirements of this section provided:

(a) The cleanup action meets the requirements in subsections (2) and (3) of this section;

(b) The state has concurred with the cleanup action; and

(c) An opportunity was provided for the public to comment on the cleanup action.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-420 PERIODIC REVIEW. (1) If the department selects or approves a cleanup action that results in hazardous substances remaining at a site at concentrations which exceed method A or method B cleanup levels established under WAC 173-340-700 through 173-340-760 or if conditional points of compliance have been established, the department shall review ((such)) the cleanup action no less frequently than every five years after the initiation of such cleanup action to assure that human health and the environment are being protected.

(2) When evaluating whether human health and the environment are being protected, the factors the department shall consider shall include:

(a) The effectiveness of ongoing or completed cleanup actions;

(b) New scientific information for individual hazardous substances or mixtures present at the site;

(c) New applicable state and federal laws for hazardous substances present at the site;

(d) Current and projected site uses;

(e) The availability and practicability of higher preference technologies as defined in WAC 173-340-360(4); and

(f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

(3) The department shall publish a notice of all periodic reviews in the site register and provide an opportunity for public comment.

(4) When the department determines that substantial changes in the cleanup action are necessary to protect human health and the environment at the site, a revised cleanup action plan shall be prepared. The department shall provide opportunities for public review and comment on the draft cleanup action plan consistent with the requirements in WAC 173-340-360 and 173-340-600.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-430 INTERIM ACTIONS. (1) Purpose. The purpose of this section is to describe how certain interim actions can occur prior to the selection and completion of a cleanup action. An interim action is:

(a) An action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a facility; or

(b) An action that corrects a problem that may become substantially worse or cost substantially more to address if the action is delayed; or

(c) An action needed to provide for completion of a site hazard assessment, state remedial investigation/feasibility study or design of a cleanup action.

Example. A site is identified where oil-based wood preservative has leaked from a tank and is puddled on the ground and is floating on the water table. Run-off from adjacent properties passes through the site. Neighborhood children have been seen on the site. In this case, several interim actions would be appropriate prior to fully defining the extent of the distribution of hazardous substances at the site and selecting a cleanup action. These interim actions might consist of removing the tank, fencing the site, rerouting run-off, and removing the product puddled on the ground and floating on the water table. Further studies would then determine what additional soil and ground water cleanup would be needed.

(2) General requirements.

(a) Interim actions may:

(i) Achieve cleanup standards for a portion of the site; or

(ii) Provide a partial cleanup, that is, cleanup hazardous substances from all or part of the site, but not achieve cleanup standards; or

(iii) Provide a partial cleanup of hazardous substances and not achieve cleanup standards, but provide information on how to achieve cleanup standards for a cleanup. For example, demonstration of an unproven cleanup method.

(b) Relationship to the cleanup action:

(i) If the cleanup action is known, the interim action shall be consistent with the cleanup action.

(ii) If the cleanup action is not known, the interim action shall not foreclose reasonable alternatives for the cleanup action. This is not meant to preclude the destruction or removal of hazardous substances.

(3) Timing.

(a) Interim actions may occur anytime during the cleanup process. Interim actions shall not be used to delay or supplant the cleanup process. An interim action may be done prior to or in conjunction with a site hazard assessment and hazard ranking. However, sufficient technical information must be available regarding the facility to ensure the interim action is appropriate and warranted.

(b) Interim actions shall be followed by additional remedial actions unless compliance with cleanup standards has been confirmed at the site.

(c) The department shall set appropriate deadlines commensurate with the actions taken for completion of the interim action.

(4) Administrative options. Except as provided in WAC 173-340-530, interim cleanup actions may be conducted under any of the procedures described in WAC 173-340-510.

(5) Public participation will be accomplished in a manner consistent with WAC 173-340-600.

(6) Submittal requirements. Unless otherwise directed by the department and except for underground storage tank releases being addressed under WAC 173-340-450 and emergencies, a report shall be prepared prior to conducting an interim action. Reports prepared under an order or decree shall be submitted to the department for review and approval. Reports shall be of a scope and detail commensurate with the work performed and site-specific characteristics, and shall include, as appropriate:

(a) A description of the interim action and how it will meet the criteria identified in subsections (1) and (2) of this section;

(b) Information from the applicable subsections of the remedial investigation/feasibility study of WAC 173-340-350, including at a minimum;

(i) A description of existing site conditions and a summary of all available data related to the interim action;

(ii) Alternative interim actions considered and an explanation why the proposed alternative was selected;

(c) Information from the applicable subsections of the design and construction requirements of WAC 173-340-400;

(d) A compliance monitoring plan meeting the applicable requirements of WAC 173-340-410;

(e) A safety and health plan meeting the requirements of WAC 173-340-810; and

(f) A sampling and analysis plan meeting the requirements of WAC 173-340-820.

(7) Construction. Construction of the interim action shall be in conformance with WAC 173-340-400~~((5))~~
(7).

NEW SECTION

WAC 173-340-440 INSTITUTIONAL CONTROLS. (1) Purpose. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of an interim action or cleanup action or result in exposure to hazardous substances at a site. Such measures shall be required to assure both the

continued protection of human health and the environment and the integrity of an interim action or cleanup action in the following circumstances:

(a) Where a cleanup action results in residual concentrations of hazardous substances which exceed method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760; or

(b) If conditional points of compliance have been established; or

(c) When the department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action.

(2) Institutional controls shall not be used as a substitute for cleanup actions that would otherwise be technically possible.

(3) Institutional controls include:

(a) Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and

(b) Legal and administrative mechanisms used to ensure that such measures are maintained over time.

(4) Format.

(a) For properties owned by the potentially liable parties, appropriate institutional controls shall be described in a restrictive covenant on the property executed by the property owner and recorded with the register of deeds for the county in which the site is located. This restrictive covenant shall run with the land, and be binding on the owner's successors and assigns.

(b) For other properties containing hazardous substances, the department may approve cleanup actions which include restrictive covenants or other legal and/or administrative mechanisms.

(5) Where required, the restrictive covenant shall:

(a) Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment;

(b) Prohibit activities that may result in the release of a hazardous substance which was contained as a part of the cleanup action;

(c) Require notice to the department of the owner's intent to convey any interest in the site. No conveyance of title, easement, lease, or other interest in the property shall be consummated by the property owner without adequate and complete provision for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection;

(d) Require notice and approval by the department of any proposal to use the site in a manner which is inconsistent with the restrictive covenant. If the department, after public notice and comment approves the proposed change, the restrictive covenant shall be amended to reflect the change.

(e) Grant the department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the cleanup action plan and other required plans, including

the right to take samples, inspect any remedial actions taken at the site, and to inspect records.

(6) Financial assurances. The department may require the potentially liable person to provide financial assurances, through a trust fund or equivalent financial mechanism approved by the department, sufficient to cover all costs of operation and maintenance including compliance monitoring and undertaking appropriate corrective measures. It is the department's expectation that such assurances will be required wherever the cleanup action includes containment and in other appropriate circumstances.

(7) Removal of restrictions. If the residual hazardous substances remaining at the site are subsequently reduced in concentration such that the method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760 are met without a conditional point of compliance, then the owner may request that the restrictive covenant or other restrictions be eliminated. The restrictive covenant or other restrictions shall be removed, if the department, after public notice and opportunity for comment, concurs.

NEW SECTION

WAC 173-340-450 RELEASES FROM UNDERGROUND STORAGE TANKS. (1) Purpose. The purpose of this section is to set forth the requirements for addressing releases which may pose a threat to human health or the environment from USTs defined under chapter 90.76 RCW and rules adopted therein, including heating oil USTs of greater than 1,100 gallons capacity.

(a) Releases from USTs exempted under chapter 90.76 RCW and rules adopted therein are still subject to all other requirements of this chapter.

(b) Unless the department requires otherwise, UST owners and UST operators shall comply with the requirements in this section after confirmation of an UST release which may pose a threat to human health or the environment.

(2) Initial response. Within twenty-four hours of the UST release, the UST owner or the UST operator shall perform the following actions:

(a) Report the UST release to the department and other authorities with jurisdiction, in accordance with rules adopted under chapter 90.76 RCW and any other applicable law;

(b) Remove as much of the hazardous substance from the UST as is possible and necessary to prevent further release to the environment;

(c) Eliminate or reduce any fire, explosion or vapor hazards in such a way as to minimize any release of hazardous substances to surface water and ground water; and

(d) Visually inspect any aboveground releases or exposed belowground releases and prevent the hazardous substance from spreading into surrounding soils, ground water and surface water.

(3) Interim actions.

(a) As soon as possible but no later than twenty days following confirmation of an UST release, the UST

owner or the UST operator shall perform the following interim actions:

(i) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product which may have migrated from the UST into structures in the vicinity of the site, such as sewers or basements;

(ii) Reduce the threat to human health and the environment posed by contaminated soils that are excavated or discovered as a result of investigation or cleanup activities. Treatment, storage and disposal of soils must be carried out in compliance with all applicable federal, state and local requirements;

(iii) Test for hazardous substances in the environment where they are most likely to be present. Such testing shall be done in accordance with a sampling and analysis plan prepared under WAC 173-340-820. The sample types, sample locations, and measurement methods shall be based on the nature of the stored substance, type of subsurface soils, depth to ground water and other factors as appropriate for identifying the presence and source of the release. If contaminated soil is found in contact with the ground water or soil contamination appears to extend below the lowest soil sampling depth, then testing shall include the installation of ground water monitoring wells to test for the presence of possible ground water contamination. Information gathered for the site check or closure site assessment conducted pursuant to rules adopted under chapter 90.76 RCW, which sufficiently characterizes the releases at the site, may be substituted for the testing required under this paragraph;

(iv) The testing performed under (a)(iii) of this subsection shall include, at a minimum, the following:

(A) Benzene, toluene, ethylbenzene, xylene, lead, and total petroleum hydrocarbons where leaded gasoline may be present;

(B) Benzene, toluene, ethylbenzene, xylene and total petroleum hydrocarbons where unleaded gasoline may be present;

(C) Total petroleum hydrocarbons and other appropriate indicator hazardous substances where any petroleum product other than gasoline may be present;

(D) The hazardous substance stored and any likely decomposition by-products where a hazardous substance other than petroleum may be present; and

(E) Any other tests required by the department; and

(v) Investigate for the presence of free product.

(b) Free product removal. At sites where investigations indicate free product is present, the UST owner or the UST operator shall conduct, as soon as possible after discovery, an interim action to remove the free product while continuing, as necessary, any other actions required under this section. To accomplish this the UST owner or UST operator shall:

(i) Conduct free product removal to the maximum extent practicable and in a manner which minimizes the spread of hazardous substances, by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site. The objective of free product removal system must be, at a minimum, to stop the free product migration;

(ii) Properly treat, discharge, or dispose of recovery by-products in compliance with all applicable local, state, and federal regulations and permits; and

(iii) Handle all flammable products safely to prevent fires and explosions.

(4) Reporting requirements. The following reports are required to be submitted to the department:

(a) Status report. Within twenty days after an UST release, the UST owner or UST operator shall submit a status report to the department. The status report shall identify if known, the types, amounts, and locations of hazardous substances released, how the release occurred, evidence confirming the release, actions taken under subsections (2) and (3) of this section, any planned remedial actions, and any results of work done up to the time of the report. This report may be provided verbally to the department.

(b) Site characterization reports. Within ninety days after release confirmation, unless directed to do otherwise by the department, the UST owner or UST operator shall submit a report to the department about the site and nature of the release. This report shall be submitted to the department in writing and may be combined with the twenty-day status report, if the information required is available at that time. The site characterization report shall include, at a minimum, the following information:

(i) The information required for the status report under (a) of this subsection;

(ii) A site conditions map indicating approximate boundaries of the property, all areas where hazardous substances are known or suspected to be located, and sampling locations. This map may consist of a sketch of the site at a scale sufficient to illustrate this information;

(iii) Available data regarding surrounding populations, surface and ground water quality, use and approximate location of wells potentially affected by the release, subsurface soil conditions, depth to ground water, direction of ground water flow, proximity to and potential for affecting surface water, locations of sewers and other potential conduits for vapor or free product migration, surrounding land use, and proximity to sensitive environments;

(iv) Results of tests for hazardous substances performed under subsection (3)(a)(iii) and (iv) of this section;

(v) Results of the free product investigation required under subsection (3)(a)(v) of this section;

(vi) Results of all completed site investigations, interim actions and cleanup actions and a description of any remaining investigations, cleanup actions and compliance monitoring which are planned or underway; and

(vii) Information on the free product removal efforts at sites where investigations indicate free product is present. This shall include, at a minimum, the following information:

(A) Name of the person responsible for implementing the free product removal measures;

(B) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes and excavations;

(C) The type of free product recovery system used;

(D) The location of any on-site or off-site discharge during the recovery operation;

(E) The type of treatment applied to, and the effluent quality expected from, any discharge;

(F) The steps taken and planned to obtain necessary permits for any discharge;

(G) Disposition of recovered free product; and

(viii) Any other information required by the department.

(5) State remedial investigation and feasibility study.

(a) The scope of a state remedial investigation and feasibility study under this chapter will depend on the informational needs at a specific site and will vary from site to site to avoid the collection of unnecessary information. For sites with UST releases, a state remedial investigation and feasibility study must at a minimum address the elements in WAC 173-340-350 (6)(a), (b), (c)(ii), (c)(iii), (c)(v) through (c)(vii) and (e). The department may require additional information when needed to select a cleanup action. UST owners and operators shall conduct a state remedial investigation and feasibility study for sites where the following conditions exist:

(i) There is evidence that the release has caused hazardous substances to be present in the ground water in excess of the ground water standards promulgated under chapter 90.48 RCW or cleanup levels in WAC 173-340-720 (Table 1);

(ii) Free product is found; or

(iii) Where otherwise required by the department.

(b) UST owners and UST operators shall submit the information collected for the state remedial investigation/feasibility study to the department as soon as practicable. The information may be included with other reports submitted under this section.

(6) If the department determines, based on the results of the remedial investigation/feasibility study or other information, that additional remedial action is required, the department may require the UST owner or the UST operator to submit engineering documents as described in WAC 173-340-400.

(7) Unless directed to do otherwise by the department, cleanup actions performed by UST owners or UST operators shall comply with cleanup standards, WAC 173-340-700 through 173-340-750 and the requirements for the selection of cleanup actions, WAC 173-340-360.

(8) Independent cleanup actions. In addition to work performed under subsections (2) through (5), and (7) of this section, UST owners or UST operators performing independent cleanup actions shall:

(a) Notify the department of their intention to begin cleanup. This can be included with other reports under this section;

(b) Comply with any conditions imposed by the department to assure adequate protection of human health and the environment; and

(c) Within ninety days of completion of the cleanup action, submit the results of all investigations, interim and cleanup actions and compliance monitoring not previously submitted to the department.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-700 ((RESERVED)) OVERVIEW OF CLEANUP STANDARDS. (1) Purpose. This section provides an overview of the methods for establishing cleanup standards that apply to a release or threatened release of a hazardous substance at a site. If there are any inconsistencies between this section and any specifically referenced section, the referenced section shall govern.

(2) Cleanup standards versus selection of cleanup actions.

(a) Cleanup standards are identified for the particular hazardous substances at a site and the specific areas or pathways, such as land or water, where humans and the environment can become exposed to these substances. This part provides uniform methods state-wide for identifying cleanup standards and requires that all cleanups under the act meet these standards. The actual degree of cleanup may vary from site to site and will be determined by the cleanup action alternative selected under WAC 173-340-360. Establishing cleanup standards for individual sites requires the specification of the following:

(i) Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

(ii) The location on the site where those cleanup levels must be attained ("points of compliance"); and

(iii) Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established in conjunction with the selection of a specific cleanup action.

(b) For most sites, there are several cleanup technologies or combinations of cleanup technologies ("cleanup action alternatives") that may be used to comply with cleanup standards at individual sites. Other parts of this rule govern the process for planning and deciding on the cleanup action to be taken at a site. For example, WAC 173-340-350 (State remedial investigation and feasibility study) (RI/FS) specifies the studies that are prepared to define the nature and extent of contamination ("RI") and to identify and evaluate cleanup action alternatives ("FS"). WAC 173-340-360 (Selection of cleanup actions) specifies the criteria for selecting the preferred alternative. WAC 173-340-410 specifies the monitoring required to assure that the remedy is effective.

(c) The department recognizes that cleanup actions selected under WAC 173-340-360 may involve containment of hazardous substances. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(3) Three basic methods for establishing cleanup levels. These rules provide three approaches for establishing cleanup levels:

(a) Method A: Tables. On some sites, the cleanup action may be routine (WAC 173-340-130) or may involve relatively few hazardous substances. Under Method A, cleanup levels for hazardous substances are established at concentrations at least as stringent as concentrations specified in applicable state and federal laws and Tables 1, 2, or 3 of this chapter. Method A cleanup levels for hazardous substances not addressed under applicable state and federal laws or Tables 1, 2, or 3 are established at concentrations which do not exceed the natural background concentration or the practical quantitation limit for the substance in question.

(b) Method B: Standard method. Method B is the standard method for determining cleanup levels for ground water, surface water, soil, and air. Cleanup levels for individual hazardous substances are established using applicable state and federal laws or the risk equations specified in WAC 173-340-720 through 173-340-750. For individual carcinogens, cleanup levels are based upon the upper bound of the estimated excess lifetime cancer risk of one in one million (1×10^{-6}). For individual noncarcinogenic substances, cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and the environment. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method B cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(c) Method C: Conditional method. Compliance with cleanup levels developed under the method A or B may be impossible to achieve or may cause greater environmental harm. In those situations, method C cleanup levels for individual hazardous substances may be established on the basis of applicable state and federal laws and a site-specific risk assessment. Method C cleanup levels may also be established at industrial sites which meet the criteria in WAC 173-340-745. For individual carcinogens, method C cleanup levels are based upon the upper bound of the estimated lifetime cancer risk of one in one hundred thousand (1×10^{-5}). For individual noncarcinogenic substances, method C cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and no significant adverse effects on the protection and propagation of aquatic and terrestrial organisms. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method C cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(4) Additional requirements for setting cleanup levels. Several requirements apply to cleanups under any of the three basic methods. Some of these requirements, such

as the identification of applicable state and federal laws, describe analyses used along with methods A, B or C in order to set cleanup levels for particular substances at a site. Others describe the technical procedures to be used.

(a) Applicable state and federal laws. RCW 70-.105D.030 (2)(d) requires the cleanup standards in these rules to be "at least as stringent as all applicable state and federal laws." In addition to establishing minimum requirements for cleanup standards, applicable state and federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710 and are similar to the "ARAR" (applicable, relevant and appropriate requirements) approach of the federal superfund law.

(b) Cross-media contamination. In some situations, migration of hazardous substances from one medium may cause contamination in a second media. For example, the release of hazardous substances in soil may cause ground water contamination. Under methods A, B, and C, cleanup levels must be established at concentrations which prevent violations of cleanup levels for other media following implementation of the cleanup action.

(c) Risk assessment procedures. The analyses performed under methods B and C use several factors for defining cleanup levels for carcinogens and noncarcinogens. The individual factors and procedures for modifying these factors based on new scientific information are specified in WAC 173-340-708 and 173-340-720 through 173-340-750. WAC 173-340-708 also provides rules for use of indicator hazardous substances.

(d) Natural background. Cleanup levels shall not exceed concentrations established under methods A, B, or C except where the natural background concentration is greater than the cleanup level established under those methods. In such situations, the cleanup level shall be established at a concentration equal to the natural background concentration.

(5) Threshold criteria for all cleanup actions. WAC 173-340-360 specifies that all cleanup actions conducted under this chapter shall protect human health and the environment, comply with cleanup standards and applicable state and federal laws, and provide for compliance monitoring. These are the threshold criteria and all cleanup actions must meet these criteria regardless of other factors such as cost or technical limitations.

(6) Measuring compliance. Setting cleanup standards also involves being able to demonstrate that they have been met. This involves specifying where on the site the cleanup levels must be met ("points of compliance"), how long it takes for a site to meet cleanup levels ("restoration time frame"), and conducting sufficient monitoring to demonstrate that the cleanup standards have been met and will continue to be met in the future. The provisions for establishing points of compliance are in WAC 173-340-720 through 173-340-750. The provisions for establishing restoration time frames are in WAC 173-340-360. The compliance monitoring plan prepared under WAC 173-340-410 specifies precisely how these are measured for each site. Where cleanup

levels are below the practical quantitation limit, compliance with cleanup standards will be based upon the practical quantitation limit.

(7) Administrative principles for cleanup standards.

(a) Remedial actions under this chapter shall be conducted in a manner that is consistent with this section. This section shall be used in combination with WAC 173-340-130, the more specific sections in Part VII of this chapter and WAC 173-340-360.

(b) Establishing cleanup standards and selecting an appropriate cleanup action involves many technical and public policy decisions. This chapter is intended to constrain the range of decisions needed to be made on individual sites to promote expeditious cleanups.

(c) The act contains policies which state, in part, each person has a fundamental and inalienable right to a healthful environment and it is essential that sites be cleaned up well. Consistent with these policies, cleanup standards under this chapter shall be established which provide conservative estimates of human health and environmental risks which protect susceptible individuals as well as the general population.

(d) Cleanup standards under this chapter shall be established which protect human health and the environment for current and potential future site and resource uses.

(e) Cleanup actions that achieve cleanup levels under methods A, B or C (as applicable) and comply with applicable state and federal laws shall be presumed to be protective of human health and the environment.

(f) Except as provided for in applicable state and federal laws, cost shall not be a factor in determining what cleanup level is protective of human health and the environment. In addition, where specifically provided for in this chapter, cost may be appropriate for certain other determinations related to cleanup standards such as point of compliance. Cost shall, however, be considered when selecting an appropriate cleanup action.

(g) At most sites, there is more than one hazardous substance and more than one pathway for hazardous substances to get into the environment. For many sites there is more than one technology that could address each of these. When evaluating cleanup action alternatives it is appropriate to consider a representative range of technologies that could address each of these as well as different combinations of these technologies to accomplish the overall site cleanup.

(h) The cleanup of a particular media of a site will often affect other media at the site. These cross-media impacts shall be considered when establishing cleanup standards and selecting a cleanup action. Cleanup actions conducted under this chapter shall use appropriate engineering controls or other measures to minimize these cross-media impacts.

(i) In general, cleanup levels must be met throughout a site before the site will be considered to be clean. A remedy that leaves hazardous substances on a site in excess of cleanup levels may qualify as a cleanup action as long as the remedy is protective of human health and the environment, meets cleanup levels at specified points of compliance, complies with applicable state and federal laws, provides for adequate monitoring, and incorporates

appropriate institutional controls. However, these rules are intended to promote thorough cleanups rather than long-term partial cleanups or containment measures.

NEW SECTION

WAC 173-340-702 GENERAL POLICIES. (1) Purpose. This section defines the policies and principles that the department shall utilize to ensure that cleanup standards under this chapter are established and implemented in a scientifically and technically sound manner.

(2) Relationship to federal cleanup law. When evaluating cleanup actions performed under the federal cleanup law, the department shall consider WAC 173-340-360 and 173-340-700 through 173-340-760 to be a legally applicable requirement under Section 121(d) of the Federal Cleanup Law.

(3) Regulation update. The department shall review and, as appropriate, update WAC 173-340-700 through 173-340-760 no less frequently than once every five years.

(4) Institutional controls. Institutional controls under WAC 173-340-440 shall be required whenever a cleanup action results in residual concentrations of hazardous substances which exceed method A or method B cleanup levels, as applicable, or conditional points of compliance are approved by the department under WAC 173-340-720 through 173-340-760. Institutional controls shall also be required when cleanup levels are established under WAC 173-340-745.

(5) Burden of proof. Any person responsible for undertaking a cleanup action under this chapter who proposes to establish a cleanup level under method C or a conditional point of compliance shall have the burden of demonstrating to the department that requirements in this part have been met to assure protection of human health and the environment. The department shall only approve cleanup levels under method C or conditional points of compliance when it determines that that the person undertaking the cleanup actions met this burden of proof.

(6) New scientific information. The department shall consider new scientific information when establishing cleanup levels for individual sites. In making a determination on how to use this new information, the department shall, as appropriate, consult with the science advisory board, the department of health, and the United States Environmental Protection Agency.

NEW SECTION

WAC 173-340-704 USE OF METHOD A. (1) Method A may be used to establish cleanup levels at the following types of sites:

(a) Sites undergoing routine cleanup actions as defined in WAC 173-340-130; or

(b) Sites where numerical standards are available in this chapter or applicable state and federal laws for all indicator hazardous substances in all media of concern.

(2) Method A cleanup levels shall be established in accordance with the procedures in WAC 173-340-720 through 173-340-760. Method A cleanup levels shall be at least as stringent as all of the following:

(a) Concentrations of individual hazardous substances listed in the tables in WAC 173-340-720, 173-340-740, or 173-340-745;

(b) Concentrations of individual hazardous substances established under applicable state and federal laws; and

(c) For individual hazardous substances not addressed under (a) and (b) of this subsection, concentrations that do not exceed natural background levels or the practical quantitation limit for the substance in question.

(3) The department may establish method A cleanup levels more stringent than those required by subsection (2) of this section, when based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter.

(5) If there are any inconsistencies between this section and any specifically referenced sections, the referenced section shall govern.

NEW SECTION

WAC 173-340-705 USE OF METHOD B. (1) Method B is applicable to all sites. It shall be used to develop cleanup levels unless one or more of the conditions for using method A or method C are demonstrated to exist and the person conducting the cleanup action elects to utilize that method.

(2) Method B cleanup levels shall be established in accordance with the procedures in WAC 173-340-720 through 173-340-760. Method B cleanup levels shall be at least as stringent as all of the following:

(a) Concentrations of individual hazardous substances established under applicable state and federal laws;

(b) Concentrations which are estimated to result in no adverse effects on the protection and propagation of aquatic and terrestrial life;

(c) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(i) Concentrations which are estimated to result in no acute or chronic toxic effects on human health as determined using a hazard quotient of one (1) and the procedures specified in WAC 173-340-720 through 173-340-760;

(ii) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to one in one million as

determined using the procedures specified in WAC 173-340-720 through 173-340-760; and

(iii) Concentrations which eliminate or minimize the potential for food chain contamination; and

(3) The department may establish method B cleanup levels that are more stringent than those required by subsection (2) of this section, when based upon a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Concentrations of individual hazardous substances established under subsections (2) and (3) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures in WAC 173-340-708. In making these adjustments, the hazard index shall not exceed one (1) and the total excess cancer risk shall not exceed one in one hundred thousand. These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(5) If there are any inconsistencies between this section and any specifically referenced sections, the referenced section shall govern.

NEW SECTION

WAC 173-340-706 USE OF METHOD C. (1) Method C cleanup levels represent concentrations which are protective of human health and the environment for specified site uses. Method C cleanup levels may be established where the person undertaking the cleanup action can demonstrate that such levels comply with applicable state and federal laws, that all practicable methods of treatment are utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the following conditions exist:

(a) Where method A or B cleanup levels are below area background concentrations, method C cleanup levels may be established at concentrations that are equal to area background concentrations, but in no case greater than concentrations specified in subsection (2) of this section;

(b) Where attainment of method A or B cleanup levels has the potential for creating a significantly greater overall threat to human health or the environment than attainment of method C cleanup levels established under this chapter, method C cleanup levels may be established at concentrations which minimize those overall threats, but in no case greater than concentrations specified in subsection (2) of this section. Factors that shall be considered in making this determination include:

- (i) Results of a site-specific risk assessment;
- (ii) Duration of threats;
- (iii) Reversibility of threats;
- (iv) Magnitude of threats; and
- (v) Nature of affected population.

(c) Where method A or B cleanup levels are below technically possible concentrations, method C cleanup

levels may be established at the technically possible concentrations, but in no case greater than levels specified in subsection (2) of this section; or

(d) The site is defined as an industrial site and meets the criteria for establishing soil cleanup levels under WAC 173-340-745.

(2) Method C cleanup levels shall be established in accordance with the procedures in WAC 173-340-720 through 173-340-760. Method C cleanup levels shall be at least as stringent as all of the following:

(a) Concentrations established under applicable state and federal laws;

(b) Concentrations which are estimated to result in no significant adverse effects on the protection and propagation of aquatic and terrestrial life;

(c) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which are protective of human health and the environment as determined by the following methods:

(i) Concentrations which are estimated to result in no significant adverse acute or chronic toxic effects on human health as estimated using a hazard quotient of one (1) and the procedures defined in WAC 173-340-720 through 173-340-760;

(ii) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to one in one hundred thousand as determined using the procedures defined in WAC 173-340-720 through 173-340-760; and

(iii) Concentrations which eliminate or minimize the potential for food chain contamination.

(3) The department may establish method C cleanup levels that are more stringent than those required by subsection (2) of this section when based upon a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Concentrations of individual hazardous substances established under subsections (2) and (3) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with WAC 173-340-708. In making these adjustments, the hazard index shall not exceed one (1) and the total excess cancer risk shall not exceed one in one hundred thousand. These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(5) If there are any inconsistencies between this subsection and any specifically referenced sections, the referenced section shall govern.

NEW SECTION

WAC 173-340-707 ANALYTICAL CONSIDERATIONS. (1) Analytical methods used to evaluate the

effectiveness of a cleanup action shall comply with the requirements in WAC 173-340-830.

(2) The department recognizes that there may be situations where a hazardous substance is not detected or is detected at a concentration below the practical quantitation limit utilizing sampling and analytical procedures which comply with the requirements of WAC 173-340-830. If those situations arise and the practical quantitation limit is higher than the cleanup level for that substance, the cleanup level shall be considered to have been attained, subject to subsection (4) of this section, only when the more stringent of the following conditions are met:

(a) The practical quantitation limit is no greater than ten times the method detection limit; or

(b) The practical quantitation limit for the particular hazardous substance, medium, and analytical procedure is no greater than the practical quantitation limit established by the United States Environmental Protection Agency and used to establish requirements in 40 CFR 136, 40 CFR 141 through 143, or 40 CFR 260 through 270.

(3) In cases where a cleanup level required by this chapter is less than the practical quantitation limit using an approved analytical procedure, the department may also require one or more of the following:

(a) Use of surrogate measures of hazardous substance contamination;

(b) Use or development of specialized sample collection or analysis techniques to improve the method detection limit or practical quantitation limit for the hazardous substances at the site; or

(c) Monitoring to assure that the concentration of a hazardous substance does not exceed detectable levels.

(4) When the practical quantitation limit is above the cleanup level, the department shall consider the availability of improved analytical techniques when performing periodic reviews under WAC 173-340-420. Subsequent to those reviews, the department may require the use of improved analytical techniques with lower practical quantitation limits and other appropriate actions.

NEW SECTION

WAC 173-340-708 HUMAN HEALTH RISK ASSESSMENT PROCEDURES. (1) Purpose. This section defines the risk assessment framework that the department will utilize to establish cleanup levels.

(2) Selection of indicator hazardous substances.

(a) When defining cleanup requirements at a site that is contaminated with a large number of hazardous substances, the department may eliminate from consideration those hazardous substances that contribute a small percentage of the overall threat to human health and the environment. The remaining hazardous substances shall serve as indicator hazardous substances for purposes of defining site cleanup requirements.

(b) If the department considers this approach appropriate for a particular site, the factors evaluated when eliminating individual hazardous substances from further consideration shall include:

(i) The toxicological characteristics of the hazardous substance that influence its ability to adversely affect

human health or the environment relative to the concentration of the hazardous substance at the site;

(ii) The chemical and physical characteristics of the hazardous substance which govern its tendency to persist in the environment;

(iii) The chemical and physical characteristics of the hazardous substance which govern its tendency to move into and through environmental media;

(iv) The natural background concentrations of the hazardous substance;

(v) The thoroughness of testing for the hazardous substance at the site;

(vi) The frequency that the hazardous substance has been detected at the site; and

(vii) Degradation by-products of the hazardous substance.

(c) When the department determines that the use of indicator hazardous substances is appropriate for a particular site, it may also require biological testing to address potential toxic effects associated with hazardous substances eliminated from consideration under this subsection.

(3) Reasonable maximum exposure.

(a) Cleanup levels shall be based on estimates of current and future resource uses and reasonable maximum exposures expected to occur under both current and potential future site use conditions.

(b) The reasonable maximum exposure is defined as the highest exposure that is reasonably expected to occur at a site under current and potential future site use. WAC 173-340-720 through 173-340-760 define the reasonable maximum exposures for ground water, surface water, soil, and air. These reasonable maximum exposures will apply to most sites where individuals or groups of individuals are or could be exposed to hazardous substances. For example, the reasonable maximum exposure for most ground water is defined as exposure to hazardous substances in drinking water and other domestic uses.

(c) Persons performing cleanup actions under this chapter may utilize the evaluation criteria in WAC 173-340-720 through 173-340-760 to demonstrate that the reasonable maximum exposure scenarios specified in those sections are not appropriate for a particular site. The use of an alternate exposure scenario shall be documented by the person performing the cleanup action. Documentation for the use of alternate exposure scenarios shall be based on the results of investigations performed in accordance with WAC 173-340-350.

(d) Individuals or groups of individuals may be exposed to hazardous substances through more than one exposure pathway. For example, a person may be exposed to hazardous substances from a site by drinking contaminated ground water, eating contaminated fish, and breathing contaminated air. At sites where the same individuals or groups of individuals are or could be consistently exposed through more than one pathway, the reasonable maximum exposure shall represent the total exposure through all of those pathways. At such sites, the cleanup levels derived for individual pathways under

WAC 173-340-720 through 173-340-760 shall be adjusted downward to take into account multiple exposure pathways.

(4) Cleanup levels for individual hazardous substances. Cleanup levels for individual hazardous substances will generally be based on a combination of requirements in applicable state and federal laws and risk assessment.

(5) Multiple hazardous substances.

(a) Cleanup levels for individual hazardous substances established under methods B and C shall be adjusted downward to take into account exposure to multiple hazardous substances. Adverse effects resulting from exposure to two or more hazardous substances with similar types of toxic response are assumed to be additive unless scientific evidence is available to demonstrate otherwise.

(b) Cancer risks resulting from exposure to two or more carcinogens are assumed to be additive unless scientific evidence is available to demonstrate otherwise.

(c) For purposes of establishing cleanup levels for noncarcinogens under methods B and C, the health threats resulting from exposure to two or more hazardous substances with similar types of toxic response may be apportioned between those hazardous substances in any combination as long as the hazard index does not exceed one (1).

(d) For purposes of establishing cleanup levels for carcinogens under methods B and C, the cancer risks resulting from exposure to multiple hazardous substances may be apportioned between hazardous substances in any combination as long as the total excess cancer risk does not exceed one in one hundred thousand.

(e) The department may require biological testing to assess the potential interactive effects associated with chemical mixtures.

(6) Multiple pathways of exposure.

(a) Estimated doses of individual hazardous substances resulting from more than one pathway of exposure are assumed to be additive unless scientific evidence is available to demonstrate otherwise.

(b) Cleanup levels based on one pathway of exposure shall be adjusted downward to take into account exposures from more than one exposure pathway. The number of exposure pathways considered at a given site shall be based on the reasonable maximum exposure scenario as defined in WAC 173-340-708(3).

(c) For purposes of establishing cleanup levels for noncarcinogens under methods B and C, the health threats associated with exposure via multiple pathways may be apportioned between exposure pathways in any combination as long as the hazard index does not exceed one (1).

(d) For purposes of establishing cleanup levels for carcinogens under methods B and C, the cancer risks associated with exposure via multiple pathways may be apportioned between exposure pathways in any combination as long as the total excess cancer risk does not exceed one in one hundred thousand.

(7) Reference doses.

(a) The chronic reference dose and the developmental reference dose shall be used to establish cleanup levels under this chapter. Cleanup levels shall be established

using the value which results in the most protective concentration.

(b) Inhalation reference doses shall be used in WAC 173-340-750. Where the inhalation reference dose is reported as a concentration in air, that value shall be converted to a corresponding inhaled intake (mg/kg-day) using a human body weight of 70 kg and an inhalation rate of 20 m³/day.

(c) A subchronic reference dose may be utilized to evaluate potential noncarcinogenic effects resulting from exposure to hazardous substances over short periods of time. This value may be used in place of the chronic reference dose where it can be demonstrated that a particular hazardous substance will degrade to negligible concentrations during the exposure period.

(d) For purposes of establishing cleanup levels for hazardous substances under this chapter, a reference dose established by the United States Environmental Protection Agency and available through the "integrated risk information system" data base shall be used unless the department determines that there is clear and convincing scientific data which demonstrates that the use of this value is inappropriate.

(e) If a reference dose is not available through the "integrated risk information system" or is demonstrated to be inappropriate under (d) of this subsection, a reference dose shall be established utilizing the methods described in Risk Assessment Guidance for Superfund. Human Health Evaluation Manual, Part A. (October 1989.)

(f) In estimating a reference dose for a hazardous substance under (e) of this subsection, the department shall consult with the science advisory board, the department of health, and the United States Environmental Protection Agency.

(g) Where a reference dose other than those established under (d) of this subsection is used to establish a cleanup level at individual sites, the department shall summarize the scientific rationale for the use of those values in the cleanup action plan. The department shall provide the opportunity for public review and comment on this value in accordance with the requirements of WAC 173-340-360 and 173-340-600.

(8) Carcinogenic potency factor.

(a) For purposes of establishing cleanup levels for hazardous substances under this chapter, a carcinogenic potency factor established by the United States Environmental Protection Agency and available through the "integrated risk information system" data base shall be used unless the department determines that there is clear and convincing scientific data which demonstrates that the use of this value is inappropriate.

(b) If a carcinogenic potency factor is not available through the "integrated risk information system" or is demonstrated to be inappropriate under (a) of this subsection, one of the following methods shall be utilized to establish a carcinogenic potency factor:

(i) The carcinogenic potency factor may be derived from appropriate human epidemiology data on a case-by-case basis; or

(ii) The carcinogenic potency factor may be derived from animal bioassay data using the following procedures:

(A) All carcinogenesis bioassays shall be reviewed and data of appropriate quality shall be used for establishing the carcinogenic potency factor.

(B) The linearized multistage extrapolation model shall be utilized to estimate the slope of the dose-response curve unless the department determines that there is clear and convincing scientific data which demonstrates that the use of an alternate extrapolation model is more appropriate;

(C) All doses shall be adjusted to give an average daily dose over the study duration; and

(D) An interspecies scaling factor shall be used to take into account differences between animals and humans. This scaling factor shall be based on the assumption that milligrams per surface area is an equivalent dose between species unless the department determines there is clear and convincing scientific data which demonstrates that an alternate procedure is more appropriate. The slope of the dose response curve for the test species shall be multiplied by this scaling factor in order to obtain the carcinogenic potency factor, except where such scaling factors are incorporated into the extrapolation model under (B) of this subsection. Where adequate pharmacokinetic and metabolism studies are available, data from these studies may be utilized to adjust the interspecies scaling factor.

(c) In estimating a carcinogenic potency factor for a hazardous substance under (b) of this subsection, the department shall consult with the science advisory board, the department of health, and the United States Environmental Protection Agency.

(d) Where a carcinogenic potency factor other than that established under (a) of this subsection is used to establish cleanup levels at individual sites, the department shall summarize the scientific rationale for the use of that value in the cleanup action plan. The department shall provide the opportunity for public review and comment on this value in accordance with the requirements of WAC 173-340-360 and 173-340-600.

(9) Bioconcentration factors.

(a) For purposes of establishing cleanup levels for a hazardous substance under WAC 173-340-730, a bioconcentration factor established by the United States Environmental Protection Agency and utilized to establish the ambient water quality criterion for that substance under section 304 of the Clean Water Act shall be used unless the department determines that there is clear and convincing scientific data which demonstrates that the use of an alternate value is more appropriate.

(b) When utilizing a bioconcentration factor other than that utilized to establish the ambient water quality criterion, the department shall consult with the science advisory board, the department of health, and the United States Environmental Protection Agency.

(c) Where a bioconcentration factor other than that established under (a) of this subsection is used to establish cleanup levels at individual sites, the department shall summarize the scientific rationale for the use of

that factor in the draft cleanup action plan. The department shall provide the opportunity for public review and comment on the value in accordance with the requirements of WAC 173-340-360 and 173-340-600.

(10) Exposure parameters.

(a) As a matter of policy, the department has defined the exposure parameters to be used when establishing cleanup levels under this chapter. With the exception of the parameters identified in (b) of this subsection, these parameters shall not be modified for individual hazardous substances or sites in a manner which results in a less stringent cleanup level. The scientific and technical basis for these parameters shall be reviewed when updating this chapter under WAC 173-340-704(3).

(b) The department may approve the use of values other than those specified in WAC 173-340-720 through 173-340-760 where there is clear and convincing scientific data which demonstrates that one or more of the following parameters should be modified for an individual hazardous substance or site:

(i) Gastrointestinal absorption rate;

(ii) Inhalation correction factor;

(iii) Bioconcentration factor; or

(iv) Inhalation absorption rate.

(c) Where exposure parameters other than those established under WAC 173-340-720 through 173-340-760 are used to establish cleanup levels at individual sites, the department shall summarize the scientific rationale for the use of those parameters in the cleanup action plan. The department shall provide the opportunity for public review and comment on those values in accordance with the requirements of WAC 173-340-360 and 173-340-600.

(11) Methods for defining background concentrations.

(a) Sampling of hazardous substances in background areas may be conducted to distinguish site-related concentration from nonsite related concentrations of hazardous substances or to support the development of a method C cleanup level under the provisions of WAC 173-340-706. For purposes of this chapter, two types of background may be determined, natural background and area background concentrations.

(b) For purposes of defining background concentrations, samples shall be collected from areas that have the same basic characteristics as the medium of concern at the site, have not been influenced by releases from the site and, in the case of natural background concentrations, have not been influenced by releases from other localized human activities.

(c) The statistical method used to evaluate available data shall be appropriate for the distribution of each hazardous substance. If the distribution of the hazardous substance data is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions of individual hazardous substances differ, more than one statistical method may be required at a site. In general, appropriate statistical methods include the following:

(i) A tolerance interval procedure in which an interval for each hazardous substance is established from the distribution of background data and the cleanup level of

each hazardous substance is compared to the lower tolerance limit; and

(ii) Other statistical methods proposed by the person undertaking the cleanup action and approved by the department.

(d) If a tolerance interval approach is used to evaluate natural background data, the tolerance interval shall have a coverage of ninety-five percent and a tolerance coefficient of ninety-five percent. When determining natural background concentrations, sample size of ten or more background soil samples shall be required. When determining area background concentrations, a sample size of twenty or more soil samples shall be required. The number of samples for other media shall be sufficient to provide a representative measure of background concentrations and shall be determined on a case-by-case basis.

(e) For purposes of estimating background concentrations, values below the method detection limit shall be assigned a value equal to one-half of the method detection limit. Measurements above the method detection limit, but below the practical quantitation limit shall be assigned a value equal to the method detection limit. The department may approve the use of alternate statistical procedures for handling data below the method detection limit or practical quantitation limit. Alternate statistical procedures may include probit analysis and regression analysis.

(12) Significant figures. Risk assessment results shall be presented using one significant figure.

NEW SECTION

WAC 173-340-710 APPLICABLE STATE AND FEDERAL LAWS. (1) Applicable state and federal laws.

(a) All cleanup actions conducted under this chapter shall comply with applicable state and federal laws. For purposes of this chapter, the term "applicable state and federal laws" shall include legally applicable requirements and those requirements that the department determines, based on consideration of the criteria in subsection (3) of this section, are relevant and appropriate requirements.

(b) The person conducting a cleanup action shall identify all applicable state and federal laws. The department shall make the final interpretation on whether these requirements have been correctly identified and are legally applicable or relevant and appropriate.

(2) Legally applicable requirements. Legally applicable requirements include those cleanup standards, standards of control, and other environmental protection requirements, criteria, or limitations promulgated under state or federal law that specifically address a hazardous substance, cleanup action, location or other circumstances at the site.

(3) Relevant and appropriate requirements. Relevant and appropriate requirements include those cleanup standards, standards of control, and other environmental requirements, criteria, or limitations established under state or federal law that, while not legally applicable to the hazardous substance, cleanup action, location, or

other circumstance at a site, address problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site. WAC 173-340-710 through 173-340-760 identifies several requirements the department shall consider relevant and appropriate for establishing cleanup standards. For other regulatory requirements, the following criteria shall be evaluated, where pertinent, to determine whether such requirements are relevant and appropriate for a particular hazardous substance, remedial action, or site:

(a) Whether the purpose for which the statute or regulations under which the requirement was created is similar to the purpose of the cleanup action;

(b) Whether the media regulated or affected by the requirement is similar to the media contaminated or affected at the site;

(c) Whether the hazardous substance regulated by the requirement is similar to the hazardous substance found at the site;

(d) Whether the entities or interests affected or protected by the requirement are similar to the entities or interests affected by the site;

(e) Whether the actions or activities regulated by the requirement are similar to the cleanup action contemplated at the site;

(f) Whether any variance, waiver, or exemption to the requirements are available for the circumstances of the site;

(g) Whether the type of place regulated is similar to the site;

(h) Whether the type and size of structure or site regulated is similar to the type and size of structure or site affected by the release or contemplated by the cleanup action; and

(i) Whether any consideration of use or potential use of affected resources in the requirement is similar to the use or potential use of the resources affected by the site or contemplated cleanup action.

(4) Variances. For purposes of this chapter, a regulatory variance or waiver provision included in an applicable state and federal law shall be considered potentially applicable to interim actions and cleanup actions and the department may determine that a particular regulatory variance or waiver is appropriate if the substantive conditions for such a regulatory variance or waiver are met. In all such cases, interim actions and cleanup actions shall be protective of human health and the environment.

(5) New requirements. The department shall consider new applicable state and federal laws as part of the periodic review under WAC 173-340-420. Cleanup actions shall be evaluated in light of these new requirements to determine whether the cleanup action is still protective of human health and the environment.

(6) Selection of cleanup actions. To demonstrate compliance with WAC 173-340-360, cleanup actions shall comply with all applicable state and federal laws in addition to the other requirements of this chapter. The following, which is not a complete list, are selected applications of specific applicable state and federal laws to cleanup actions.

(a) Water discharge requirements. Hazardous substances which are directly or indirectly released or proposed to be released to waters of the state shall be provided with all known, available and reasonable methods of treatment consistent with the requirements of chapters 90.48 and 90.54 RCW and the regulations that implement those statutes.

(b) Air emission requirements. Best available control technologies consistent with the requirements of chapter 70.94 RCW and the regulations that implement this statute shall be applied to releases of hazardous substances to the air resulting from cleanup actions at a site.

(c) Solid waste landfill closure requirements. For solid waste landfills, the solid waste closure requirements in chapter 173-304 WAC shall be minimum requirements for cleanup actions conducted under this chapter. In addition, when the department determines that the closure requirements in chapter 173-303 WAC are applicable requirements, the more stringent closure requirements under that law shall also apply to cleanup actions conducted under this chapter.

(d) Sediment management requirements. Sediment cleanup actions conducted under this chapter shall comply with the sediment cleanup standards in chapter 173-204 WAC. In addition, a state remedial investigation/feasibility study conducted under WAC 173-340-350 shall also comply with the cleanup study plan requirements under chapter 173-204 WAC. The process for selecting sediment cleanup actions under this chapter shall comply with the requirements in WAC 173-340-360.

(7) Interim actions. Interim actions conducted under this chapter shall comply with legally applicable requirements. The department may also determine, based on the criteria in subsection (3) of this section, that other requirements, criteria, or limitations are relevant and appropriate for interim actions.

NEW SECTION

WAC 173-340-720 GROUND WATER CLEANUP STANDARDS. (1) General considerations.

(a) Ground water cleanup levels shall be based on estimates of the highest beneficial use and the reasonable maximum exposure expected to occur under both current and potential future site use conditions. The department has determined that for most sites drinking water is the beneficial use requiring the highest quality of ground water and that exposure to hazardous substances via ingestion of drinking water and other domestic uses represents the reasonable maximum exposure. In the event of a release of a hazardous substance, treatment, removal, or containment measures shall be conducted to reduce the concentration of the hazardous substance in ground water to a concentration consistent with this use unless the following can be demonstrated:

(i) The ground water does not serve as a current source of drinking water;

(ii) The ground water is not a potential future source of drinking water for any of the following reasons:

(A) The ground water is present in insufficient quantity to yield greater than 0.5 gallon per minute on a sustainable basis to a well constructed in compliance with

chapter 173-160 WAC and in accordance with normal domestic water well construction practices for the area in which the site is located;

(B) The ground water contains natural background concentrations of organic or inorganic constituents which make use of the water for drinking not practicable. Ground water containing total dissolved solids at concentrations greater than 10,000 mg/l shall normally be considered to have fulfilled this requirement; or

(C) The ground water is situated at a great depth or location which makes recovery of water for drinking water purposes technically impossible; and

(iii) The department determines it is unlikely that hazardous substances will be transported from the contaminated ground water to ground water that is a current or potential future source of drinking water, as defined in (a)(ii) of this subsection, at concentrations which exceed ground water quality criteria published in chapter 173-200 WAC; or

(iv) More stringent concentrations are necessary to protect human health or the environment.

(b) In making a determination under (a)(iii) of this subsection, the department shall consider site-specific factors including:

(i) The extent of affected ground water;

(ii) The distance to existing water supply wells;

(iii) The likelihood of interconnection due to well construction practices in the area of the state where the site is located;

(iv) The physical and chemical characteristics of the hazardous substance;

(v) The hydrogeologic characteristics of the site;

(vi) The presence of discontinuities in the affected geologic stratum; and

(vii) The degree of confidence in any predictive modeling performed.

(c) The department recognizes that there may be sites where there is an extremely low probability that ground water classified as potential future source of drinking water under (b) of this subsection will actually be used for that purpose (i.e., the shallow ground waters on Harbor Island). At such sites, the department may approve ground water cleanup levels that are based on protecting beneficial uses of adjacent surface water if the person undertaking the cleanup action can demonstrate all of the following:

(i) There are known or projected points of entry of the ground water into the surface water;

(ii) The surface water is not classified as a suitable domestic water supply source under chapter 173-201 WAC;

(iii) Ground water flows into surface waters will result in no exceedances of surface water cleanup levels at the point of entry or at any downstream location where it is reasonable to believe that hazardous substances may accumulate;

(iv) The cleanup action includes institutional controls that will prevent the use of contaminated ground water at any point between the source of hazardous substances and the point(s) of entry of the ground water into the surface water; and

(v) The department determines it is unlikely that hazardous substances will be transported from the contaminated ground water to ground water that is a current or potential future source of drinking water, as defined in (b) of this subsection, at concentrations which exceed ground water quality criteria published in chapter 173-200 WAC.

(d) Where more stringent cleanup levels are necessary to protect beneficial uses of ground water other than drinking water, the cleanup level shall be established by the department under methods B or C as appropriate.

(e) Releases of hazardous substances to ground waters of the state shall not directly or indirectly cause violations of surface water, sediments, soil, or air cleanup standards established under this chapter or other applicable state and federal laws.

(2) Method A cleanup levels.

(a) Where the ground water is a current or potential future source of drinking water, method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations listed in Table 1:

Table 1
Method A Cleanup Levels – Ground Water^a

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	5.0 ug/liter ^b
Benzene	71-43-2	5.0 ug/liter ^c
Cadmium	7440-43-9	5.0 ug/liter ^d
Chromium (Total)	7440-47-3	50.0 ug/liter ^e
DDT	50-29-3	0.1 ug/liter ^f
1,2 Dichloroethane	107-06-2	5.0 ug/liter ^g
Ethylbenzene	100-41-4	30.0 ug/liter ^h
Ethylene dibromide	106-93-4	0.01 ug/liter ⁱ
Gross Alpha Particle Activity		15.0 pCi/liter ^j
Gross Beta Particle Activity		4.0 mrem/yr ^k
Lead	7439-92-1	5.0 ug/liter ^l
Lindane	58-89-9	0.2 ug/liter ^m
Methylene chloride	75-09-2	5.0 ug/liter ⁿ
Mercury	7439-97-6	2.0 ug/liter ^o
PAHs (carcinogenic)		0.1 ug/liter ^p
PCB mixtures		0.1 ug/liter ^q
Radium 226 and 228		5.0 pCi/liter ^r
Radium 226		3.0 pCi/liter ^s
Tetrachloroethylene	127-18-4	5.0 ug/liter ^t
Toluene	108-88-3	40.0 ug/liter ^u
Total Petroleum Hydrocarbons		1000.0 ug/liter ^v
1,1,1 Trichloroethane	71-55-6	200.0 ug/liter ^w
Trichloroethylene	79-01-5	5.0 ug/liter ^x
Vinyl chloride	75-01-4	0.2 ug/liter ^y
Xylenes	1330-20-7	20.0 ug/liter ^z

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter.

^b Arsenic. Cleanup level based on background concentrations for state of Washington.

^c Benzene. Cleanup level based on applicable state and federal law.

^d Cadmium. Cleanup level based on applicable state and federal law and concentration derived using procedures in subsection (3)(a)(ii)(A) of this section and a hazard quotient of 0.2.

^e Chromium (Total). Cleanup level based on applicable state and federal law.

- ^f DDT. Cleanup levels based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section.
- ^g 1,2 Dichloroethane. Cleanup level based on applicable state and federal law.
- ^h Ethylbenzene. Cleanup level based on applicable state and federal law and prevention of adverse aesthetic characteristics.
- ⁱ Ethylene dibromide. Cleanup level based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section and modified based on analytical considerations.
- ^j Gross Alpha Particle Activity, excluding uranium. Cleanup level based on applicable state and federal law.
- ^k Gross Beta Particle Activity, including gamma activity. Cleanup level based on applicable state and federal law.
- ^l Lead. Cleanup level based on applicable state and federal law and prevention of unacceptable blood lead levels.
- ^m Lindane. Cleanup level based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section.
- ⁿ Methylene chloride. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(ii)(B) of this section.
- ^o Mercury. Cleanup level based on applicable state and federal law.
- ^p PAHs (carcinogenic). Cleanup level based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section and modified based on analytical considerations.
- ^q PCB mixtures. Cleanup level based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section and modified based on analytical considerations.
- ^r Radium 226 and 228. Cleanup level based on applicable state and federal law.
- ^s Radium 226. Cleanup level based on applicable state and federal law.
- ^t Tetrachloroethylene. Cleanup level based on applicable state and federal law.
- ^u Toluene. Cleanup level based on applicable state and federal law and prevention of adverse aesthetic characteristics.
- ^v Total Petroleum Hydrocarbons. Cleanup level based on prevention of adverse aesthetic characteristics.
- ^w 1,1,1 Trichloroethane. Cleanup level based on applicable state and federal law.
- ^x Trichloroethylene. Cleanup level based on applicable state and federal law.
- ^y Vinyl chloride. Cleanup level based on concentration derived using procedures in subsection (3)(a)(ii)(B) of this section and modified based on analytical considerations.
- ^z Xylenes. Cleanup level based on applicable state and federal law and prevention of adverse aesthetic characteristics; and

(ii) Concentrations established under applicable state and federal laws, including the following requirements:

(A) Maximum contaminant levels established under the Safe Drinking Water Act and published in 40 C.F.R. 141, as amended;

(B) Maximum contaminant level goals for noncarcinogens established under the Safe Drinking Water Act and published in 40 C.F.R. 141, as amended;

(C) Secondary maximum contaminant levels established under the Safe Drinking Water Act and published in 40 C.F.R. 143, as amended; and

(D) Maximum contaminant levels established by the state board of health and published in chapter 248-54 WAC, as amended.

(b) The department may establish method A cleanup levels more stringent than those required by (a) of this subsection when, based upon site-specific evaluations, the department determines that such levels are necessary to protect human health and the environment.

(c) Cleanup levels to protect beneficial uses of ground water other than drinking water shall be established by the department under methods B or C, as appropriate.

(3) Method B cleanup levels.

(a) Where the ground water is a current or potential future source of drinking water, method B cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws, including the requirements in subsection (2)(a)(ii) of this section;

(ii) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health as determined by the following methods:

(A) Concentrations which are estimated to result in no acute or chronic toxic effects on human health as determined using the following equation and standard exposure assumptions:

$$\text{Ground water cleanup level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF} \times \text{HQ}}{\text{DWIR} \times \text{INH}} \quad (\text{ug/l})$$

Where:

RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)

ABW = Average body weight during the period of exposure (16 kg)

UCF = Unit conversion factor (1,000 ug/mg)

HQ = Hazard quotient (1)

DWIR = Drinking water ingestion rate (1.0 liter/day)

INH = Inhalation correction factor as defined in WAC 173-340-720(7);

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 1,000,000 as determined using the following equation and standard exposure assumptions:

$$\text{Ground water cleanup level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF}}{\text{CPF} \times \text{DWIR} \times \text{DUR} \times \text{INH}} \quad (\text{ug/l})$$

Where:

RISK = Acceptable cancer risk level (1 in 1,000,000)

ABW = Average body weight during the period of exposure (70 kg)

LIFE = Lifetime (75 years)

UCF = Unit conversion factor (1,000 ug/mg)

CPF = Carcinogenic potency factor as specified in WAC 173-340-708(8) (kg-day/mg)

DWIR = Drinking water ingestion rate (2.0 liters/day)

DUR = Duration of exposure (30 years)

INH = Inhalation correction factor as defined in WAC 173-340-720(7);

(b) The department may establish method B cleanup levels that are more stringent than those required by subsection (3)(a) of this section, when, based on site-specific evaluations, the department determines such levels are necessary to protect human health and the environment. This may include the following:

(i) Concentrations which are necessary to protect sensitive sub-groups;

(ii) Concentrations which eliminate or minimize the potential for food chain contamination;

(iii) Concentrations which eliminate or minimize the potential for damage to soils or biota in the soils which could impair the use of the soil for agricultural or silvicultural purposes;

(iv) Concentrations which eliminate or minimize the potential for the accumulation of vapors in buildings or

other structures to concentrations which pose a threat to human health or the environment; and

(v) Concentrations which protect nearby surface waters. In general, these will be based on attaining surface water cleanup levels in the surface water as close as technically possible to the point or points where the ground water flows into the surface water.

(c) Method B cleanup levels to protect beneficial uses of ground water other than drinking water shall be established by the department on a case-by-case basis.

(4) Method C cleanup levels.

(a) Method C cleanup levels may be approved by the department if the person undertaking the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that all practicable methods of treatment have been utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the conditions in WAC 173-340-706(1) exist.

(b) Where the ground water is a current or potential future source of drinking water as defined in subsection (1)(a) of this section, method C cleanup levels for ground water shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws, including the requirements in subsection (2)(a)(ii) of this section;

(ii) For hazardous substances for which sufficiently protective, health-based standards or criteria have not been established under applicable state and federal laws, those concentrations that protect human health as determined using the following methods:

(A) Concentrations which are estimated to result in no significant acute or chronic toxic effects on human health and are estimated in accordance with WAC 173-340-720 (3)(a)(ii)(A) except that the average body weight shall be 70 kg and the drinking water intake rate shall be 2 liters/day;

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are estimated in accordance with WAC 173-340-720 (3)(a)(ii)(B);

(c) The department may establish method C cleanup levels that are more stringent than those required by (b) of this subsection when, based on a site-specific evaluation, the department determines such levels are necessary to protect human health and the environment. This may include consideration of those factors listed in subsection (3)(b) of this section.

(d) Method C cleanup levels that protect beneficial uses of ground water other than drinking water shall be established by the department on a case-by-case basis.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Ground water cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures in

WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) The overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance.

(a) For ground water, the point of compliance is the point or points where the ground water cleanup levels established under subsections (2), (3), (4), and (5) of this section must be attained. Ground water cleanup levels shall be attained in all ground waters from the point of compliance to the outer boundary of the hazardous substance plume.

(b) The point of compliance shall be established throughout the site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the site.

(c) Where hazardous substances remain on-site as part of the cleanup action, the department may approve a conditional point of compliance which shall be as close as practicable to the source of hazardous substances, not to exceed the property boundary. Where a conditional point of compliance is proposed, the person responsible for undertaking the cleanup action shall demonstrate that all practicable methods of treatment are to be utilized in the site cleanup.

(d) At sites where the affected ground water flows into nearby surface water, the cleanup level may be based on protection of the surface water. At these sites, the department may approve a conditional point of compliance that is located within the surface water as close as technically possible to the point or points where ground water flows into the surface water. Conditional points of compliance may be approved only if the following requirements are met:

(i) Use of a dilution zone under WAC 173-201-035 to demonstrate compliance with surface water cleanup levels shall not be allowed;

(ii) Ground water discharges shall be provided with all known available and reasonable methods of treatment prior to release into surface waters;

(iii) Ground water discharges shall not result in violations of sediment quality values published in chapter 173-204 WAC; and

(iv) Ground water monitoring shall be performed to estimate contaminant flux rates and to address potential bioaccumulation problems resulting from surface water concentrations below method detection limits.

(7) Inhalation correction factors.

(a) The inhalation correction factor is an adjustment factor which takes into account exposure to hazardous substances which are volatilized and inhaled during showering and other domestic activities. When available, hazardous substance-specific information shall be used to estimate these values.

(b) Where hazardous substance-specific information is not available, inhalation correction factors shall be one of the following:

(i) For volatile organic hazardous substances, 2; or

(ii) Other hazardous substances, 1.

(c) Where separate toxicity factors (reference doses and carcinogenic potency factors) are available for inhalation and oral exposures, the health hazards associated with the inhalation of hazardous substances in ground water during showering and other domestic activities may be evaluated separately from the health hazards associated with ingestion of drinking water. In these cases, the ground water cleanup level based on ingestion of drinking water shall be modified to take into account multiple exposure pathways in accordance with WAC 173-340-708(6).

(8) Compliance monitoring.

(a) Compliance with ground water cleanup levels shall be determined by analyses of unfiltered ground water samples, unless it can be demonstrated that a filtered sample provides a more representative measure of ground water quality. Ecology expects that filtering will generally be acceptable for inorganic substances where:

(i) A properly constructed monitoring well cannot be sufficiently developed to provide low turbidity water samples;

(ii) Due to the natural background concentration of hazardous substances in the aquifer material, unfiltered samples would not provide a representative measure of ground water quality; and

(iii) Filtering is performed in the field with all practicable measures taken to avoid exposing the ground water sample to the ambient air prior to filtering.

(iv) Ecology expects that filtering will generally be allowed for hazardous substances such as iron and manganese.

(b) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the site.

(c) The data analysis and evaluation procedures used to evaluate compliance with ground water cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. These procedures shall meet the following general requirements:

(i) Methods of data analysis shall be consistent with the sampling design;

(ii) When cleanup levels are based on requirements specified in applicable state and federal laws, the procedures for evaluating compliance that are specified in those requirements shall be utilized to evaluate compliance with cleanup levels unless those procedures conflict with the intent of this section;

(iii) Where procedures for evaluating compliance are not specified in an applicable state and federal law, statistical methods used shall be appropriate for the distribution of sampling data for each hazardous substance. If the distribution of sampling data for a hazardous substance is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions for hazardous substances differ, more than one statistical method may be required;

(iv) Compliance with ground water cleanup levels shall be determined for each ground water monitoring well or other monitoring points such as a spring;

(v) The data analysis procedures identified in the compliance monitoring plan shall specify the statistical parameters to be used to determine compliance with ground water cleanup levels.

(A) For clean levels based on short-term or acute toxic effects on human health or the environment, an upper percentile concentration shall be used to evaluate compliance with ground water cleanup levels.

(B) For cleanup levels based on chronic or carcinogenic threats, the mean concentration shall be used to evaluate compliance with ground water cleanup levels unless there are large variations in concentrations relative to the mean concentration or a large percentage of concentrations below the detection limit;

(vi) When active ground water restoration is performed, or containment technologies are used that incorporate active pumping of ground water, compliance with ground water cleanup levels shall be determined when the ground water characteristics at the site are no longer influenced by the cleanup action.

(d) Appropriate statistical methods include the following:

(i) A procedure in which a confidence interval for each hazardous substance is established from ground water sampling data and the ground water cleanup level is compared to the upper confidence interval; and

(ii) A parametric test for percentiles based on tolerance intervals to test the proportion of ground water samples having concentrations less than the ground water cleanup level; or

(iii) Other statistical methods approved by the department.

(e) If a confidence interval approach is used to evaluate compliance with a ground water cleanup level, the decision rule is a one-tailed test of the null hypothesis that the true ground water concentration exceeds the ground water cleanup level. Compliance with a ground water cleanup level shall be determined using the following criteria:

(i) The upper confidence limit on the true ground water concentration shall be less than the ground water cleanup level. Statistical tests shall be performed at a Type I error level of 0.05;

(ii) No single sample concentration shall be greater than two times the ground water cleanup level; and

(iii) Less than ten percent of the sample concentrations shall exceed the ground water cleanup level during a representative sampling period.

(f) If a method to test the proportion of ground water samples is used to evaluate compliance with a ground water cleanup level, compliance shall be determined using the following criteria:

(i) The true proportion of samples that exceed the ground water cleanup level shall be less than fifty percent. Statistical tests shall be performed with a type I error level of 0.05; and

(ii) No single sample concentration shall be greater than two times the ground water cleanup level; and

(iii) Less than ten percent of the sample concentrations shall exceed the ground water cleanup level during a representative sampling period.

(g) For purposes of demonstrating compliance with ground water cleanup levels, measurements below the method detection limit shall be assigned a value equal to one-half the method detection limit. Measurement above the method detection limit but below the practical quantitation limit shall be assigned a value equal to the method detection limit. The department may approve alternate statistical procedures for handling nondetected values or values below the practical quantitation limit. Alternate procedures may include probit analysis and regression analysis.

NEW SECTION

WAC 173-340-730 SURFACE WATER CLEANUP STANDARDS. (1) General considerations.

(a) Surface water cleanup levels shall be based on estimates of the highest beneficial use and the reasonable maximum exposure expected to occur under both current and potential future site use conditions. The classification and the highest beneficial use of a surface water body shall be determined in accordance with chapter 173-201 WAC, as amended. In the event of a release of a hazardous substance, treatment, removal, or containment measures shall be conducted to reduce the level of hazardous substances in surface water to concentrations consistent with uses specified under this section and chapter 173-201 WAC, as amended.

(b) Surface water cleanup levels established under this section apply to those surface waters of the state affected or potentially affected by releases of hazardous substances from sites addressed under this chapter. Ecology does not expect that cleanup standards will be applied to storm water runoff that is in the process of being conveyed to a treatment system.

(c) Releases of hazardous substances to surface waters of the state shall not directly or indirectly cause violations of groundwater, soil, sediment, or air cleanup standards established under this chapter or other applicable state and federal laws.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as concentrations established under applicable state and federal laws, including the following requirements:

(i) All water quality criteria published in the water quality standards for surface waters of the state of Washington, chapter 173-201 WAC, as amended;

(ii) Water quality criteria based on the protection of aquatic organisms (acute and chronic criteria) and human health published pursuant to section 304 of the Clean Water Act.

(b) The department may establish method A cleanup levels that are more stringent than those required under subsection (2)(a) of this section, when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health and the environment.

(3) Method B cleanup levels.

(a) Method B cleanup levels for surface waters shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws, including the following requirements:

(A) All water quality criteria published in the water quality standards for surface waters of the state of Washington, chapter 173-201 WAC, as amended; and

(B) Water quality criteria based on the protection of aquatic organisms (acute and chronic criteria) and human health published pursuant to section 304 of the Clean Water Act unless it can be demonstrated that such criteria are not relevant and appropriate for a specific surface water body or hazardous substance.

(ii) Concentrations which are estimated to result in no adverse effects on the protection and propagation of wildlife, fish, and other aquatic life;

(iii) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health as determined by the following methods:

(A) For surface waters which support or have the potential to support fish or shellfish populations, concentrations which are anticipated to result in no acute or chronic toxic effects on human health as determined using the following equations and standard exposure assumptions:

$$\text{Surface water cleanup level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF1} \times \text{UCF2} \times \text{HQ}}{\text{BCF} \times \text{FCR} \times \text{FDF}} \text{ (ug/l)}$$

Where:

- RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight during the exposure period (70 kg)
- UCF1 = Unit conversion factor (1,000 ug/mg)
- UCF2 = Unit conversion factor (1,000 grams/liter)
- BCF = Fish bioconcentration factor as defined in WAC 173-340-708(9) (unitless)
- FCR = Fish consumption rate (54 grams/day)
- FDF = Diet fraction (0.5)
- HQ = Hazard Index (1)

(B) For surface waters which support fish or shellfish populations, concentrations which are anticipated to result in an excess cancer risk less than or equal to 1 in 1,000,000 as determined using the following equation and standard exposure assumptions:

$$\text{Surface water cleanup level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1} \times \text{UCF2}}{\text{CPF} \times \text{BCF} \times \text{FCR} \times \text{FDF} \times \text{DUR}} \text{ (ug/l)}$$

Where:

- CPF = Carcinogenic Potency Factor as specified in WAC 173-340-708(8) (kg-day/mg)
- RISK = Acceptable cancer risk level (1 in 1,000,000)
- ABW = Average body weight during the exposure period (70 kg)
- LIFE = Lifetime (75 years)
- UCF1 = Unit conversion factor (1,000 ug/mg)
- UCF2 = Unit conversion factor (1,000 grams/liter)
- BCF = Fish bioconcentration factor as defined in WAC 173-340-708(9) (unitless)
- FCR = Fish consumption rate (54 grams/day)
- FDF = Diet fraction (0.5)
- DUR = Duration of exposure (30 years);

(C) For surface waters which represent a source or potential future source of drinking water, concentrations which are anticipated to result in no adverse impacts on human health as established in accordance with WAC 173-340-720(3).

(b) The department may establish method B cleanup levels more stringent than those required by subsection (3)(a) of this section, when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health and the environment.

(4) Method C cleanup levels.

(a) Method C cleanup levels may be approved by the department if the person undertaking the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that all practicable methods of treatment have been utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the conditions in WAC 173-340-706(1) exist.

(b) Method C cleanup levels for surface waters shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws, including the requirements identified in subsection (3)(a)(i) of this section;

(ii) Concentrations which are estimated to result in no significant adverse effects on the protection and propagation of wildlife, fish and other aquatic life;

(iii) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) For surface waters which support or have the potential to support fish or shellfish populations, concentrations which are estimated to result in no significant acute or chronic toxic effects on human health or the environment and are estimated in accordance with WAC 173-340-730 (3)(a)(iii)(A) except that the fish diet fraction shall be twenty percent;

(B) For surface waters which support or have the potential to support fish or shellfish populations, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are estimated in accordance with WAC 173-340-730 (3)(a)(iii)(B) except that the fish diet fraction shall be twenty percent;

(C) For surface waters which represent a source or potential future source of drinking water, concentrations which are estimated to result in no adverse impacts on human health and are established in accordance with WAC 173-340-720(4); and

(c) The department may establish method C cleanup levels that are more stringent than those required by (b) of this subsection when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health and the environment.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Surface water cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments

shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance.

(a) The point of compliance shall be the point or points at which hazardous substances are released to surface waters of the state unless the department has authorized a dilution zone in accordance with WAC 173-201-035.

(b) Where hazardous substances are released to the surface water as a result of ground water flows, no dilution zone shall be allowed to demonstrate compliance with surface water cleanup levels. See WAC 173-340-720 (6)(d) for additional requirements.

(7) Compliance monitoring.

(a) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the site.

(b) The data analysis and evaluation procedures used to evaluate compliance with surface water cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410.

(c) Compliance with surface water cleanup standards shall be determined by analyses of unfiltered surface water samples, unless it can be demonstrated that a filtered sample provides a more representative measure of surface water quality.

(d) When surface water cleanup levels are based on requirements specified in applicable state and federal laws, the procedures for evaluating compliance that are specified in those requirements shall be utilized to evaluate compliance with surface water cleanup levels unless these procedures conflict with the intent of this section.

(e) Where procedures for evaluating compliance are not specified in an applicable state and federal law, the statistical methods used to evaluate compliance with surface water cleanup levels shall be appropriate for the distribution of the hazardous substance sampling data. If the distribution of the hazardous substance sampling data is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions of individual hazardous substances differ, more than one statistical method may be required.

(f) For purposes of demonstrating compliance, measurements below the method detection limit shall be assigned a value equal to one-half of the method detection limit. Measurements above the method detection limit but below the practical quantitation limit shall generally be assigned a value equal to the method detection limit. The department may approve alternate statistical procedures for handling nondetected values or values below the practical quantitation limit. Alternate statistical procedures may include probit analysis and regression analysis.

(g) Sampling and analysis of fish tissue or shellfish may be required to supplement water column sampling during compliance monitoring.

NEW SECTION

WAC 173-340-740 SOIL CLEANUP STANDARDS. (1) General considerations.

(a) Soil cleanup levels shall be based on estimates of the reasonable maximum exposure expected to occur under both current and future site use conditions. The department has determined that residential site use is generally the site use requiring the most protective cleanup levels and that exposure to hazardous substances under residential site use conditions represents the reasonable maximum exposure scenario. In the event of a release of a hazardous substance, treatment, removal, and/or containment measures shall be implemented for those soils with hazardous substance concentrations which exceed cleanup levels based on this use unless the following can be demonstrated:

(i) The site does not serve as a current residential area;

(ii) The site does not have the potential to serve as a future residential area based on the consideration of site zoning, statutory and regulatory restrictions, comprehensive plans, historical site use, adjacent land uses, and other relevant factors; and

(iii) Appropriate site use restrictions are implemented at the site; or

(iv) More stringent concentrations are necessary to protect human health and the environment.

(b) Soil cleanup levels for qualifying industrial sites may be established in accordance with the requirements in WAC 173-340-745.

(c) For industrial sites not qualifying under WAC 173-340-745 and commercial sites, the presumption is that soil cleanup levels will be established in accordance with residential areas unless it can be clearly demonstrated that this is inappropriate.

(i) For a site to qualify under this subsection, it must be clearly demonstrated that:

(A) The site is currently zoned for or otherwise officially designated for industrial/commercial use;

(B) The site is currently used for industrial/commercial purposes or has a history of use for industrial/commercial purposes;

(C) Properties adjacent to and in the general vicinity of the site are used or are designated for use for industrial/commercial purposes; and

(D) The site is expected to be used for industrial/commercial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors.

(ii) For industrial/commercial sites qualifying under this subsection, soil cleanup levels shall be established as close as practicable to the method B soil cleanup levels established under subsection (3) of this section and shall be at least as stringent as the method C soil cleanup levels established under subsection (4) of this section.

The overall limits on hazard index and total excess cancer risk specified in subsections (3) through (5) of this section shall apply to these sites.

(iii) Institutional controls under WAC 173-340-440 shall be required for industrial/commercial sites qualifying under this subsection where soil cleanup levels are less stringent than method B soil cleanup levels established under subsection (3) of this section.

(iv) The department expects that only industrial/commercial sites located in the interior portion of a large industrial/commercial area will qualify for other than method A or method B cleanup levels under this subsection.

(d) Soil cleanup levels for other nonresidential site uses such as recreational or agricultural uses shall be established on a case-by-case basis. The overall limits on the hazard index and cancer risk specified in subsections (3) through (5) of this section shall apply to these types of sites. Cleanup levels for these types of sites shall be at least as stringent as method C cleanup levels established under subsection (4) of this section.

(e) Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, sediment, or air cleanup standards established under this chapter or applicable state and federal laws.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table; and

Table 2
Method A Cleanup Levels - Soil^a

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	20.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	2.0 mg/kg ^d
Chromium	7440-47-3	100.0 mg/kg ^e
DDT	50-29-3	1.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	250.0 mg/kg ⁱ
Lindane	58-89-9	1.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		1.0 mg/kg ^m
PCB Mixtures		1.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s
1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter.

- ^b Arsenic. Cleanup level based on background concentrations in the state of Washington.
- ^c Benzene. Cleanup level based on protection of ground water.
- ^d Cadmium. Cleanup level based on plant protection.
- ^e Chromium. Cleanup level based on health risks associated with inhalation of resuspended dust.
- ^f DDT. Cleanup level based on concentrations derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- ^g Ethylbenzene. Cleanup level based on protection of ground water.
- ^h Ethylene dibromide. Cleanup level based on protection of ground water.
- ⁱ Lead. Cleanup level based on preventing unacceptable blood lead levels.
- ^j Lindane. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- ^k Methylene chloride. Cleanup level based on protection of ground water.
- ^l Mercury. Cleanup level based on protection of ground water.
- ^m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- ⁿ PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- ^o Tetrachloroethylene. Cleanup level based on protection of ground water.
- ^p Toluene. Cleanup level based on protection of ground water.
- ^q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- ^r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- ^s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- ^t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- ^u Trichloroethylene. Cleanup level based on protection of ground water.
- ^v Xylenes. Cleanup level based on protection of ground water.

(ii) Concentrations established under applicable state and federal laws;

(b) The department may establish method A cleanup levels that are more stringent than those required by subsection (2)(a) of this section, when based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment.

(3) Method B cleanup levels.

(a) Method B cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed method B ground water cleanup levels established under WAC 173-340-720 as determined using the following criteria:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons.

(iii) For those hazardous substances for which health-based criteria or standards have not been established

under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are estimated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{ABI} \times \text{FOC}} \quad (\text{mg/kg})$$

Where:

- RFD = Reference Dose as defined in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight over the period of exposure (16 kg)
- UCF2 = Units conversion factor (1,000,000 mg/kg)
- SIR = Soil ingestion rate (200 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- FOC = Frequency of contact (1.0)
- HQ = Hazard quotient (1);

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 1,000,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{ABI} \times \text{DUR} \times \text{FOC}} \quad (\text{mg/kg})$$

Where:

- RISK = Acceptable cancer risk level (1 in 1,000,000)
- ABW = Average body weight over the period of exposure (16 kg)
- LIFE = Lifetime (75 years)
- UCF1 = Unit conversion factor (1,000,000 mg/kg)
- CPF = Carcinogenic Potency Factor as defined in WAC 173-340-708(8) (kg-day/mg)
- SIR = Soil ingestion rate (200 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- DUR = Duration of exposure (6 years)
- FOC = Frequency of contact (1.0);

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method B cleanup levels established under WAC 173-340-750.

(b) The department may establish method B cleanup levels that are more stringent than those required under (a) of this subsection, when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment, including the following:

(i) Concentrations which eliminate or substantially reduce the potential for food chain contamination;

(ii) Concentrations which eliminate or substantially reduce the potential for damage to soils or biota in the soils which could impair the use of soils for agricultural or silvicultural purposes;

(iii) Concentrations which eliminate or substantially reduce the potential for adverse effects on vegetation or wildlife;

(iv) Concentrations more stringent than those in (b) of this subsection where the department determines that

such levels are necessary to protect the ground water at a particular site;

(v) Concentrations necessary to protect nearby surface waters from hazardous substances in runoff from the site; and

(vi) Concentrations which eliminate or minimize the potential for the accumulation of vapors in buildings or other structures to concentrations which pose a threat to human health or the environment.

(4) Method C cleanup levels.

(a) Method C cleanup levels may be approved by the department if the person undertaking the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that all practicable methods of treatment have been utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the conditions in WAC 173-340-706(1) exist.

(b) Method C cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no significant acute or chronic toxic effects on human health and estimated in accordance with WAC 173-340-740 (3)(a)(iii)(A) except that the frequency of contact shall be 0.5, the soil ingestion rate shall be 100 milligrams per day, and the average body weight shall be 16 kilograms;

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are estimated in accordance with WAC 173-340-740 (3)(a)(iii)(B) except that the frequency of contact shall be 0.5 and the soil ingestion rate shall be 100 milligrams per day; and

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method C cleanup levels established under WAC 173-340-750.

(b) The department may establish method C cleanup levels that are more stringent than those required by (a) through (c) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment, including consideration of those factors listed in subsection (3)(c) of this section.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including cleanup levels based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6).

In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance.

(a) The point of compliance is the point or points where the soil cleanup levels established under subsections (2), (3), (4), and (5) of this section shall be attained.

(b) For soil cleanup levels based on the protection of ground water, the point of compliance shall be established in the soils throughout the site.

(c) For soil cleanup levels based on human exposure via direct contact, the point of compliance shall be established in the soils throughout the site from the ground surface to fifteen feet below the ground surface. This represents a reasonable estimate of the depth of soil that could be excavated and distributed at the soil surface as a result of site development activities.

(d) The department recognizes that, for those cleanup actions selected under WAC 173-340-360 that involve containment of hazardous substances, the soil cleanup levels will typically not be met at the points of compliance specified in (b) and (c) of this subsection. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(7) Compliance monitoring.

(a) Compliance with soil cleanup levels shall be based on total analyses of the soil fraction less than two millimeters in size. When it is reasonable to expect that larger soil particles could be reduced to two millimeters or less during current or future site use and this reduction could cause an increase in the concentrations of hazardous substances in the soil, soil cleanup levels shall also apply to these larger soil particles. Compliance with

soil cleanup levels shall be based on dry weight concentrations. The department may approve the use of alternate procedures for stabilized soils.

(b) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the area where exposure to hazardous substances may occur.

(c) The data analysis and evaluation procedures used to evaluate compliance with soil cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. These procedures shall meet the following general requirements:

(i) Methods of data analysis shall be consistent with the sampling design. Separate methods may be specified for surface soils and deeper soils;

(ii) When cleanup levels are based on requirements specified in applicable state and federal laws, the procedures for evaluating compliance that are specified in those requirements shall be utilized to evaluate compliance with cleanup levels unless those procedures conflict with the intent of this section;

(iii) Where procedures for evaluating compliance are not specified in an applicable state and federal law, statistical methods shall be appropriate for the distribution of sampling data for each hazardous substance. If the distribution of sampling data for a hazardous substance is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions for hazardous substances differ, more than one statistical method may be required; and

(iv) The data analysis plan shall specify which parameters are to be used to determine compliance with soil cleanup levels.

(A) For cleanup levels based on short-term or acute toxic effects on human health or the environment, an upper percentile soil concentration shall be used to evaluate compliance with cleanup levels.

(B) For cleanup levels based on chronic or carcinogenic threats, the mean soil concentration shall be used to evaluate compliance with cleanup levels unless there are large variations in hazardous substance concentrations relative to the mean hazardous substance concentration or a large percentage of concentrations are below the detection limit.

(d) Appropriate statistical methods include the following:

(i) A procedure in which a confidence interval for each hazardous substance is established from site sampling data and the soil cleanup level is compared to the upper confidence interval;

(ii) A parametric test for percentiles based on tolerance intervals to test the proportion of soil samples having concentrations less than the soil cleanup level; or

(iii) Other statistical methods approved by the department.

(e) If a confidence interval approach is used to evaluate compliance with a soil cleanup level, the decision rule is a one-tailed test of the null hypothesis that the true soil concentration of a hazardous substance exceeds the soil cleanup level. Compliance with soil cleanup levels shall be determined using the following criteria:

(i) The upper confidence interval on the true soil concentration is less than the soil cleanup level. Statistical tests shall be performed at a Type I error level of 0.05;

(ii) No single sample concentration shall be greater than two times the soil cleanup level; and

(iii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level.

(f) If a method to test the proportion of soil samples is used to evaluate compliance with a soil cleanup level, compliance shall be determined using the following criteria:

(i) No single sample concentrations shall be greater than two times the soil cleanup level; and

(ii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level; and

(iii) The true proportion of samples that do not exceed the soil cleanup level shall not be less than ninety percent. Statistical tests shall be performed with a type I error level of 0.05.

(g) For purposes of demonstrating compliance with soil cleanup levels, measurements below the method detection limit shall be assigned a value equal to one-half the method detection limit. Detectable levels below the practical quantitation limit shall be assigned a value equal to the method detection limit. The department may approve alternate statistical procedures for handling nondetected values or values below the practical quantitation limit. Alternate statistical procedures may include probit analysis and regression analysis.

NEW SECTION

WAC 173-340-745 SOIL CLEANUP STANDARDS FOR INDUSTRIAL SITES. (1) General considerations.

(a) This section shall be used to establish soil cleanup levels where the department has determined that industrial site use represents the reasonable maximum exposure.

(b) Cleanup levels shall not be based on industrial site use unless the following can be demonstrated:

(i) The site is zoned or has been otherwise officially designated for industrial use;

(ii) The site is currently used for industrial purposes or has a history of use for industrial purposes;

(iii) Adjacent properties are currently used or designated for use for industrial purposes;

(iv) The site is expected to be used for industrial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors; and

(v) The cleanup action provides for institutional controls implemented in accordance with WAC 173-340-440.

(c) The department expects that only sites located within a limited number of large industrial areas will qualify for industrial soil cleanup levels under this section.

(d) Soil cleanup levels established under this section shall be as close as practicable to cleanup levels established in accordance with WAC 173-340-740, but in no case higher than the concentrations established under subsections (2) through (5) of this section.

(e) Soil cleanup levels for areas beyond the industrial property boundary shall be established in accordance with WAC 173-340-740.

(f) Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, or air cleanup standards established under this chapter or under applicable state and federal laws.

(g) See WAC 173-340-740 (1)(c) for establishing cleanup levels at industrial sites not qualifying under this section and at commercial sites.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table:

Table 3
Method A Cleanup Levels – Industrial Soil^a

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	200.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	10.0 mg/kg ^d
Chromium (Total)	7440-47-3	500.0 mg/kg ^e
DDT	50-29-3	5.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	1000.0 mg/kg ⁱ
Lindane	58-89-9	20.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		20.0 mg/kg ^m
PCB Mixtures		10.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s
1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup actions under this chapter.

^b Arsenic. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.

^c Benzene. Cleanup level based on protection of ground water.

^d Cadmium. Cleanup level based on protection of ground water.

^e Chromium. Cleanup level based on inhalation exposure.

^f DDT. Cleanup level based on protection of ground water.

^g Ethylbenzene. Cleanup level based on protection of ground water.

^h Ethylene dibromide. Cleanup level based on protection of ground water.

ⁱ Lead. Cleanup level based on direct contact.

^j Lindane. Cleanup level based on cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.

^k Methylene chloride. Cleanup level based on protection of ground water.

^l Mercury. Cleanup level based on protection of ground water.

^m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.

- ⁿ PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- ^o Tetrachloroethylene. Cleanup level based on protection of ground water.
- ^p Toluene. Cleanup level based on protection of ground water.
- ^q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- ^r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- ^s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- ^t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- ^u Trichloroethylene. Cleanup level based on protection of ground water.
- ^v Xylenes. Cleanup level based on protection of ground water; and

(ii) Concentrations established under applicable state and federal laws;

(b) The department may establish method A cleanup levels that are more stringent than those required by (a) of this subsection when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health or environment, including consideration of the factors in WAC 173-340-740 (3)(b).

(3) Method B cleanup levels. This section does not provide procedures for establishing method B cleanup levels. Method C is the standard method for establishing soil cleanup levels at industrial sites and its use is conditioned upon the continued use of the site for industrial purposes.

(4) Method C cleanup levels.

(a) Method C cleanup levels for industrial soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water to concentrations which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that higher soil concentrations are protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup action may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which sufficiently protective health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{ABI} \times \text{FOC}} \text{ (mg/kg)}$$

Where:

- RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight over the period of exposure (70 kg)
- UCF2 = Unit conversion factor (1,000,000 mg/kg)
- SIR = Soil ingestion rate (50 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- FOC = Frequency of contact (0.4)
- HQ = Hazard quotient (1);

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{ABI} \times \text{DUR} \times \text{FOC}} \text{ (mg/kg)}$$

Where:

- RISK = Acceptable cancer risk level (1 in 100,000)
- ABW = Average body weight over the period of exposure (70 kg)
- LIFE = Lifetime (75 years)
- UCF1 = Units conversion factor (1,000,000 mg/kg)
- CPF = Carcinogenic Potency Factor as specified in WAC 173-340-708(8) (kg-day/mg)
- SIR = Soil ingestion rate (50 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- DUR = Duration of exposure (20 years)
- FOC = Frequency of contact (0.4);

(b) The department may establish method C cleanup levels that are more stringent than those required by (a) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsection (4) of this section, including cleanup levels based on state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance. The point of compliance shall be established in accordance with WAC 173-340-740(6).

(7) Compliance monitoring. Compliance monitoring shall be performed in accordance with WAC 173-340-410 and 173-340-740(7).

NEW SECTION

WAC 173-340-750 CLEANUP STANDARDS TO PROTECT AIR QUALITY. (1) General considerations.

(a) Cleanup levels to protect air quality shall be based on estimates of the reasonable maximum exposure expected to occur under both current and future site use conditions. The department has determined that residential site use will generally require the most protective ambient air cleanup levels and that exposure to hazardous substances under these conditions represents the reasonable maximum exposure. In the event of a release or potential release of hazardous substances into the ambient air, treatment, removal, or containment measures shall be conducted to reduce the levels of hazardous substances in the ambient air to levels consistent with this use unless all of the following can be demonstrated:

(i) The site does not serve as a current residential area;

(ii) The site is not likely to become a residential area in the future based on a review of site zoning, statutory or regulatory restrictions, comprehensive plans, historic site use, adjacent land uses, and other relevant factors;

(iii) Appropriate institutional controls are implemented at the site to prohibit residential use; and

(iv) Air emissions from the site will not reduce the air quality in adjacent residential areas; or

(v) More stringent concentrations are necessary to protect human health and the environment.

(b) Ambient air cleanup levels for nonresidential site uses shall be established on a case-by-case basis. The overall limits on the hazard index and total excess cancer risk specified in subsections (3) through (5) of this section shall apply to these sites. Cleanup levels for these types of sites shall be at least as stringent as method C cleanup levels established under subsection (4) of this section.

(c) Ambient air cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, or soil cleanup standards established under this chapter or applicable state and federal laws.

(2) Method A cleanup levels.

(a) Method A cleanup levels for ambient air shall be at least as stringent as concentrations established under applicable state and federal laws;

(b) The department may establish method A cleanup levels that are more stringent than those required by (a) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(3) Method B cleanup levels.

(a) Method B cleanup levels for ambient air shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws; and

(ii) For hazardous substances for which sufficiently protective health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and

the environment as determined by the following methods:

(A) Concentrations which are estimated to result in no acute or chronic toxic effects on human health and are determined using the following equation and standard exposure assumptions:

$$\text{Ambient air cleanup level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF} \times \text{HQ}}{\text{BR} \times \text{ABS}}$$

(ug/m³)

Where:

RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)

BW = Body weight (16 kg)

UCF = Units conversion factor (1,000 ug/mg)

BR = Breathing rate (10 m³/day)

ABS = Absorption percentage (1.0)

HQ = Hazard Quotient (1);

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 1,000,000 and are determined using the following equation and standard exposure assumptions:

$$\text{Ambient air cleanup level} = \frac{\text{RISK} \times \text{BW} \times \text{LIFE} \times \text{UCF}}{\text{CPF} \times \text{BR} \times \text{ABS} \times \text{DUR}}$$

(ug/m³)

Where:

RISK = Acceptable cancer risk level (1 in 1,000,000)

BW = Body weight (70 kg)

LIFE = Lifetime (75 years)

UCF = Units conversion factor (1,000 ug/mg)

CPF = Carcinogenic potency factor as specified in WAC 173-340-708(8) (kg-day/mg)

BR = Breathing rate (20 m³/day)

ABS = Absorption percentage (1.0)

DUR = Duration of exposure (30 years);

(b) The department may establish method B cleanup levels that are more stringent than those required by (a) of this subsection, when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Method C cleanup levels.

(a) Method C cleanup levels may be approved by the department if the person undertaking the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that best available control technology has been utilized, and that one or more of the conditions in WAC 173-340-707(1) exist.

(b) Method C cleanup levels for ambient air shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws; and

(ii) For hazardous substances for which sufficiently protective health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no significant acute or chronic effects on human health and are estimated in accordance with WAC 173-340-750 (3)(a)(ii)(A) except that the average body weight shall be 70 kg and the estimated breathing rate shall be 20 m³/day; and

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are determined in accordance with WAC 173-340-750 (3)(a)(ii)(B).

(c) The department may establish method C cleanup levels that are more stringent than those required by (b) of this subsection, when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Air cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including cleanup levels based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures in WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including those cleanup levels based on applicable state and federal laws.

(6) Points of compliance. Cleanup levels established under subsections (2), (3), (4), and (5) of this section shall be attained in the ambient air throughout the site. For sites determined to be industrial sites under the criteria in WAC 173-340-745, the department may approve a conditional point of compliance not to exceed the property boundary.

(7) Compliance monitoring.

(a) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the site.

(b) Data analysis and evaluation procedures used to evaluate compliance with ambient air cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410.

(c) Averaging times specified in applicable state and federal laws shall be used to demonstrate compliance with those requirements.

(d) When cleanup levels are not based on applicable state and federal laws, the following averaging times shall be used:

(i) Compliance with ambient air cleanup levels for noncarcinogens shall be based on twenty-four-hour time weighted averages except where the cleanup level is based upon an inhalation reference dose which specifies an alternate averaging time;

(ii) Compliance with ambient air cleanup levels for carcinogens shall be based on annual average concentrations.

NEW SECTION

WAC 173-340-760 SEDIMENT CLEANUP STANDARDS. RESERVED.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-830 (~~LABORATORY ANALYSIS~~) ANALYTICAL PROCEDURES. ((Reserved:))

(1) Purpose. This section specifies acceptable analytical methods and other testing requirements for sites where remedial action is being conducted under this chapter.

(2) General requirements.

(a) All hazardous substance analyses shall be conducted by a laboratory accredited under chapter 173-50 WAC, unless otherwise approved by the department.

(b) All analytical procedures used shall be done in accordance with a sampling and analysis plan prepared under WAC 173-340-820.

(c) Tests for which methods have not been specified in this section shall be performed using standard methods or procedures such as those specified by the American Society for Testing of Materials, when available, unless otherwise approved by the department.

(d) Samples shall be analyzed consistent with methods appropriate for the site, the media being analyzed, the hazardous substances being analyzed for, and the anticipated use of the data.

(e) The department may require or approve modifications to the standard analytical methods identified in subsection (4) of this section to provide lower quantitation limits, improved accuracy, greater precision, or to address the factors in (d) of this subsection.

(f) Limits of quantitation. Laboratories shall achieve the lowest practical quantitation limits consistent with the selected method and WAC 173-340-707.

(3) Multiple methods.

(a) Where there is more than one method specified in subsection (4) of this section with a practical quantitation limit less than the cleanup standard, any of the methods may be selected. In these situations, considerations in selecting a particular method may include confidence in the data, analytical costs, and considerations relating to quality assurance or analysis efficiencies.

(b) The department may require an analysis to be conducted by more than one method in order to provide higher data quality. For example, the department may require that different separation and detection techniques be used to verify the presence of a hazardous substance ("qualification") and determine the concentration of the hazardous substance ("quantitation").

(4) Analytical methods.

(a) The methods used for sample collection, sample preservation, transportation, allowable time before analysis, sample preparation, analysis, method detection limits, practical quantitation limits, quality control, quality assurance and other technical requirements and specifications shall comply with the following requirements, as applicable:

(i) Method 1. Test Methods for Evaluating Solid Waste, U.S. EPA, SW-846 and any revisions or amendments thereto;

(ii) Method 2. Methods for Chemical Analysis of Water and Wastes, U.S. EPA, EPA-600/4-79-020 and any revisions or amendments thereto;

(iii) Method 3. Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act, 40 CFR 136, and Appendix A, B, and C, U.S. EPA and any revisions or amendments thereto;

(iv) Method 4. Standard Methods for the Examination of Water and Wastewater, American Public Health Association, American Water Works Association, and Water Pollution Control Federation and any revisions or amendments thereto;

(v) Method 5. Recommended Protocols for Measuring Selected Environmental Variables in Puget Sound, Puget Sound Estuary Program/Tetra Tech, 1986 and any revisions or amendments thereto;

(vi) Method 6. Quality Assurance Interim Guidelines for Water Quality Sampling and Analysis, Groundwater Management Areas Program, Washington Department of Ecology, Water Quality Investigations Section, December 1986 and any revisions or amendments thereto; or

(vii) Equivalent methods subject to approval by the department.

(b) The methods used for a particular hazardous substance at a site shall be selected in consideration of the factors in subsection (2) of this section.

(c) Ground water. Methods 1, 2, 3 and 4, as described in (a) of this subsection, may be used to determine compliance with WAC 173-340-720.

(d) Surface water. Methods 1, 2, 3, 4 and 5 as described in (a) of this subsection, may be used to determine compliance with WAC 173-340-730.

(e) Soil. Method 1, as described in (a) of this subsection, may be used to determine compliance with WAC 173-340-740 and 173-340-745.

(f) Air. Appropriate methods for determining compliance with WAC 173-340-750 shall be selected on a case-by-case basis, in consideration of the factors in subsection (2) of this section.

WSR 91-04-020

PERMANENT RULES

DEPARTMENT OF HEALTH

(Examining Board of Psychology)

[Order 117B—Filed January 28, 1991, 3:17 p.m.]

Date of Adoption: January 11, 1991.

Purpose: To transfer rules from chapter 308-122 WAC to chapter 246-924 WAC.

Citation of Existing Rules Affected by this Order: See Recodification Section below.

Statutory Authority for Adoption: RCW 18.83.050.

Pursuant to notice filed as WSR 90-23-022 on November 14, 1990.

Changes Other than Editing from Proposed to Adopted Version: Some numbers were changed to make room for addition of new sections.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1991

Dave Gossett

Chair

RECODIFICATION SECTION

The following sections are being recodified as chapter 246-924 WAC:

**Chapter 246-924 WAC
Psychologists**

308-122-001	as	246-924-001
308-122-005	as	246-924-010
308-122-006	as	246-924-020
308-122-060	as	246-924-030
308-122-200	as	246-924-040
308-122-211	as	246-924-050
308-122-215	as	246-924-060
308-122-220	as	246-924-070
308-122-225	as	246-924-080
308-122-230	as	246-924-090
308-122-235	as	246-924-100
308-122-280	as	246-924-110
308-122-350	as	246-924-120
308-122-360	as	246-924-130
308-122-370	as	246-924-140
308-122-430	as	246-924-150
308-122-440	as	246-924-160
308-122-450	as	246-924-170
308-122-505	as	246-924-200
308-122-510	as	246-924-210
308-122-515	as	246-924-230
308-122-520	as	246-924-240
308-122-525	as	246-924-250
308-122-530	as	246-924-260
308-122-535	as	246-924-270
308-122-540	as	246-924-280
308-122-545	as	246-924-290
308-122-600	as	246-924-350
308-122-610	as	246-924-360
308-122-620	as	246-924-370
308-122-630	as	246-924-380
308-122-640	as	246-924-390
308-122-650	as	246-924-400
308-122-660	as	246-924-410
308-122-670	as	246-924-420
308-122-680	as	246-924-430
308-122-690	as	246-924-440
308-122-695	as	246-924-450
308-122-700	as	246-924-460
308-122-710	as	246-924-470
308-122-720	as	246-924-480

WSR 91-04-021

PERMANENT RULES

DEPARTMENT OF HEALTH

(Examining Board of Psychology)

[Order 129B—Filed January 28, 1991, 3:28 p.m.]

Date of Adoption: January 11, 1991.

Purpose: To amend, add and repeal rules to reflect current licensure requirements for psychologists.

Citation of Existing Rules Affected by this Order: New sections WAC 246-924-180 Continuing education—Purpose and scope, 246-924-190 Staggered effective periods for new continuing education rules, WAC 308-122-563 through 308-122-583, 246-924-220 Continuing education—Categories of creditable activities, 246-924-300 Definition of acceptable documentation and proof of CPE, 246-924-310 Continuing education—Special considerations, 246-924-320 Continuing education—Enforcement, 246-924-330 Continuing education—Exemptions and 246-924-340 Continuing education—Program or course approval; amending WAC 308-122-200 Psychologists—Education prerequisite to licensing, 308-122-360 Certificates of qualification, 308-122-515 Continuing education requirements, 308-122-520 Definition of categories of creditable CPE, 308-122-660 Welfare of the consumer and 308-122-670 Professional relationships; and repealing WAC 308-122-380 Certificates of qualification—Educational requirements, 308-122-390 Certificates of qualification—Experience and training requirements, 308-122-400 Certificates of qualification—Psychological functions, 308-122-410 Certificates of qualification—Written examination, 308-122-420 Certificates of qualification—Oral examination and 308-122-500 Continuing education—Purpose and scope.

Statutory Authority for Adoption: RCW 18.83.050.

Pursuant to notice filed as WSR 90-24-069 on December 5, 1990.

Changes Other than Editing from Proposed to Adopted Version: New sections were renumbered to reflect the new Title 246 WAC.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1991

Dave Gossett
Chair

AMENDATORY SECTION (Amending Order PM 722, filed 4/15/88)

WAC 308-122-200 PSYCHOLOGISTS—EDUCATION PREREQUISITE TO LICENSING. To meet the education requirement of RCW 18.83.070, an applicant shall possess a doctoral degree from an institution of higher education accredited in the region in which the doctoral program is offered at the time the applicant's degree was awarded. In that doctoral program, at least forty semester hours, or sixty quarter-hours, of graduate courses shall have been passed successfully, and can be clearly identified by title and course content as being part of a psychology program. One of the standards for issuance of said degree shall have been the submission of an original dissertation which was psychological in nature. Endorsement by the program administrator shall be requested and considered.

An integrated program of graduate study in psychology shall be defined as follows:

(1) The following defines the organizational structure of the program:

(a) The program shall be clearly identified and labeled as a psychology program. Pertinent catalogues and brochures shall show intent to educate and train psychologists.

(b) The psychology program shall stand as a recognized, coherent, entity within the institution.

(c) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(d) There shall be an organized sequence of study planned by those responsible for the program to provide an appropriate, integrated experience covering the field of psychology.

(e) There shall be an identifiable psychology faculty and a psychologist administratively responsible for the program.

(f) There shall be an identified body of students selected on the basis of high ability and appropriate educational preparation.

(2) The following defines the academic program:

(a) The curriculum shall encompass a minimum of three academic years of full-time graduate study or their equivalent. The doctoral program shall involve at least one continuous year of full-time residency at the institution which grants the degree. A minimum of seven hundred fifty hours of student-faculty contact involving face-to-face individual or group educational meetings shall be considered in lieu of one year residency. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least seventy-five percent of the time, be fully documented by the institution and the applicant, and relate substantially to the program components specified. The applicant shall clearly have had instruction in: History and systems, research design and methodology, statistics and psychometrics. The program shall require each student to complete three or more semester hours (five or more quarter-hours) of core study in each of the following content areas:

(i) Biological bases of behavior (physiological psychology, comparative psychology, neurobases, sensation and perception, biological bases of development);

(ii) Cognitive-affective bases of behavior (learning, thinking, motivation, emotion, cognitive development);

(iii) Social bases of behavior (social psychology, organizational theory, community psychology, social development);

(iv) Individual differences (personality theory, psychopathology); and

(v) Scientific and professional ethics.

(b) The program shall include practicum, internship, field or laboratory experience appropriate to the area of psychology that is the student's major emphasis.

(3) If the major emphasis is in clinical, counseling, school or other applied area, the program shall include coordinated practicum and internship experience.

(a) Practicum experience shall total at least two semesters (three quarters) and consist of a total of at least 300 hours of direct experience and 100 hours of supervision.

(b) The practica shall be followed by an organized internship. Predoctoral internship programs accredited by the American Psychological Association shall be accepted by the board as meeting this requirement. Otherwise, an organized internship shall be as follows:

(i) The internship shall be designed to provide a planned, programmed sequence of training experiences, the primary focus of which is to assure breadth and quality of training.

(ii) The internship setting shall have a clearly designated psychologist who is responsible for the integrity and quality of the training program and who is licensed/certified by the state/provincial board of psychology examiners.

(iii) The internship setting shall have two or more psychologists available as supervisors, at least one of whom is licensed/certified as a psychologist.

(iv) Supervision shall be provided by the person who is responsible for the cases being supervised. At least seventy-five percent of the supervision shall be provided by a psychologist(s).

(v) At least twenty-five percent of the intern's time shall be spent in direct client contact (minimum 375 hours) providing assessment and intervention services.

(vi) There shall be a minimum of 2 hours per week of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with the direct psychological services rendered by the intern. There shall also be a minimum of 2 hours of other learning activities such as: Case conferences, seminars on applied issues, co-therapy with a staff person including discussion, group supervision.

(vii) Supervision/training relating to ethics shall be an ongoing aspect of the internship program.

(viii) Trainees shall have titles such as "intern," "resident," "fellow," or other designation of trainee status.

(ix) The internship setting shall have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of trainees' work, and made available to prospective interns.

(x) The internship experience shall consist of at least 1500 hours and shall be completed within twenty-four months.

(4) Applicants for licensure who obtained degrees from foreign universities shall first submit, at their own expense, their credentials to an independent, private professional organization approved by the board to establish equivalency of training required by this section.

AMENDATORY SECTION (Amending Order PM 862, filed 9/19/89, effective 10/20/89)

WAC 308-122-360 CERTIFICATES OF QUALIFICATION. ~~((Procedures by which the Washington state board of psychologist examiners approves certificates of qualification are primarily based upon RCW 18.83.105 that states: "The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of doctor of philosophy or its equivalent in~~

~~psychology from an accredited educational institution." Procedures and rules established by the board are as follows:))~~ Certificates of qualification shall not be granted. Those holding certificates of qualification as of July 1, 1990, shall continue to be in conformance with WAC 308-122-370, 308-122-430, and 308-122-440.

AMENDATORY SECTION (Amending Order PL 522, filed 3/5/85)

WAC 308-122-660 WELFARE OF THE CONSUMER. Psychologists respect the integrity and protect the welfare of the people and groups with whom they work. When conflicts of interest arise between clients and psychologists' employing institutions, psychologists clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Psychologists must inform consumers as to the purpose and nature of an evaluation, treatment, educational, or training procedure, and they freely acknowledge that clients, students, or participants in research have freedom of choice with regard to participation.

(1) Psychologists are continually cognizant of their own needs and of their potentially influential position vis-a-vis persons such as clients, students, and subordinates. They avoid exploiting the trust and dependency of such persons. Psychologists make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, research with and treatment of employees, students, supervisees, close friends, or relatives. Sexual intimacies with clients are unethical.

(2) When a psychologist agrees to provide services to a client at the request of a third party, the psychologist assumes the responsibility of clarifying the nature of the relationships to all parties concerned.

(3) Where the demands of an organization require psychologists to violate this code of ethics, psychologists clarify the nature of the conflict between the demands and these principles. They inform all parties of psychologists' ethical responsibilities and take appropriate action.

(4) Psychologists make advance financial arrangements that safeguard the best interests of and are clearly understood by their clients. ~~((They neither give nor receive any remuneration for referring clients for professional services:))~~ When a client is referred, the psychologist fully informs the client of all financial and other arrangements.

(5) Psychologists terminate a clinical or consulting relationship when it is reasonably clear that the consumer is not benefiting from it. They offer to help the consumer locate alternative sources of assistance.

(6) Psychologists do not offer psychological services entirely by mail. They do not use or utilize mechanical devices alone in the interpretation of test results.

(7) Psychologists do not use untrained personnel for provision of psychological services.

AMENDATORY SECTION (Amending Order PL 578, filed 2/5/86)

WAC 308-122-670 PROFESSIONAL RELATIONSHIPS. Psychologists act with due regard for the needs, special competencies, and obligations of their colleagues in psychology and other professions. They respect the prerogatives and obligations of the institutions or organizations with which these other colleagues are associated.

(1) Psychologists understand the areas of competence of related professions. They make full use of all the professional, technical, and administrative resources that serve the best interests of consumers. The absence of formal relationships with other professional workers does not relieve psychologists of the responsibility of securing for their clients the best possible professional service, nor does it relieve them of the obligation to exercise foresight, diligence, and tact in obtaining the complementary or alternative assistance needed by clients.

(2) Psychologists know and take into account the traditions and practices of other professional groups with whom they work and cooperate fully with such groups. ~~((If a person is receiving similar services from another professional, psychologists do not offer their own services directly to such a person.))~~ If a psychologist is contacted by a person who is already receiving similar services from another professional, the psychologist carefully considers that professional relationship and proceed with caution and sensitivity to the therapeutic issues as well as the client's welfare. The psychologist discusses these issues with the client so as to minimize the risk of confusion and conflict.

(3) Psychologists who employ or supervise other professionals or professionals in training accept the obligation to facilitate the further professional development of these individuals. They provide appropriate working conditions, timely evaluations, constructive consultation, and experience opportunities.

(4) Psychologists do not exploit their professional relationships with clients, supervisees, students, employees, or research participants sexually or otherwise. Psychologists do not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwanted by the recipient or that create for the recipient an intimidating, hostile, or offensive environment.

(5) In conducting research in institutions or organizations, psychologists secure appropriate authorization to conduct such research. They are aware of their obligations to future research workers and ensure that host institutions receive adequate information about the research and proper acknowledgment of their contributions.

(6) Publication credit is assigned to those who have contributed to a publication in proportion to their professional contributions. Major contributions of a professional character made by several persons to a common project are recognized by joint authorship, with the individual who made the principal contribution listed first.

Minor contributions of a professional character and extensive clerical or similar nonprofessional assistance may be acknowledged in footnotes or in an introductory statement. Acknowledgement through specific citations is made for unpublished as well as published material that has directly influenced the research or writing. Psychologists who compile and edit material of others for publication, publish the material in the name of the originating group, if appropriate, with their own name appearing as chairperson or editor. All contributors are to be acknowledged and named.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-122-380 CERTIFICATES OF QUALIFICATION—EDUCATIONAL REQUIREMENTS.

WAC 308-122-390 CERTIFICATES OF QUALIFICATION—EXPERIENCE AND TRAINING REQUIREMENTS.

WAC 308-122-400 CERTIFICATES OF QUALIFICATION—PSYCHOLOGICAL FUNCTIONS.

WAC 308-122-410 CERTIFICATES OF QUALIFICATION—WRITTEN EXAMINATION.

AMENDATORY SECTION (Amending Order PL 276, filed 11/16/77)

WAC 308-122-515 CONTINUING EDUCATION REQUIREMENTS. (1) The Washington state board of psychology (hereafter referred to as the board) requires a minimum of one hundred fifty hours of continuing psychological education (hereafter referred to as CPE) every three years.

(2) One clock hour of instruction and/or training shall equal one credit hour for the purpose of satisfying the one hundred fifty hour CPE requirement.

~~((2))~~ (3) A minimum of ~~((30))~~ sixty hours must be earned in Category I ~~((and it is further required that a minimum of 25 credit hours be earned in each of 2 other categories))~~; all one hundred fifty hours may be earned in Category I.

~~((3))~~ (4) A maximum of ninety ~~((credit))~~ hours may be earned in Category ~~((I. A maximum of seventy-five credit hours may be earned in Category II. A maximum of forty-five credit hours may be earned in each of Categories III, IV, and V))~~ II; there is no minimum required for this category.

~~((4))~~ The maximum credit hours allowed in each category and the minimum number of three categories required in the above have as their purpose encouraging a reasonable broad and rounded scope of CPE, while at the same time enabling specialized areas of interest to be pursued more extensively than other areas.))

(5) ~~((Any reported))~~ Credit hours ~~((that are))~~ in excess of the requirements set forth ~~((, will not serve to credit or off-set the required))~~ cannot be credited to CPE requirements for any succeeding three year cycle.

(6) ~~((Professionals offering CPE courses must meet the training and the full qualifications of their respective professions. For example, a psychologist should either be licensed or have a core of basic psychological courses, in~~

residency, culminated in a Ph.D. or equivalent degree; a psychiatrist should have an MD, appropriate psychiatric residency; a social worker should have appropriate educational qualifications and be eligible for membership in ACSW. All professionals shall have demonstrated an expertise in the areas in which they are instructing.

(7) Audited courses are acceptable if evidence of completion is recorded on a transcript or a validating letter from the instructor is available at the time of CPE review.) A minimum of four hours credit in ethics must be included in the sixty hours required in Category I. Areas to be covered, depending on the licensee's primary area(s) of function are practice, consultation, research, teaching, and/or supervision.

(7) Faculty providing CPE offerings shall meet the training and the full qualifications of their respective professions. All faculty shall have demonstrated an expertise in the areas in which they are instructing.

AMENDATORY SECTION (Amending Order PL 276, filed 11/16/77)

WAC 308-122-520 DEFINITIONS OF CATEGORIES OF CREDITABLE CPE. (1) ((Category I—Educational activities. A maximum of ninety credit hours may be earned in this category, a minimum of 30 hours must be earned:)) All CPE activities shall be directly relevant to maintaining or increasing professional or scientific competence in psychology. Courses or workshops primarily designed to increase practice income or office efficiency, while valuable to the licensee, are specifically noneligible for CPE credit. Recognized ((as appropriate under this category are)) activities for Category I shall include:

(a) Courses, seminars, workshops and post-doctoral institutes offered by educational institutions chartered by a state and recognized (accredited) by a regional association of schools, colleges and universities ((and which offer)) as providing graduate level course(s) offerings. ((Attendance shall be in the home state in which the institution is accredited/chartered. Exceptions may be made for courses offered by educational institutions chartered/accredited in contiguous states or provinces to Washington:)) Such educational activities shall be recorded on an official transcript or certificate of completion (see WAC 308-122-563).

(b) Courses (including correspondence courses), seminars, workshops and post-doctoral institutes sponsored by the American Psychological Association, the National Academy of Professional Psychologists, ((the American Psychological Association:)) regional or state psychological associations((, the Washington State Psychological Association and its divisions, and other states' psychological associations which have CPE programs or requirements, agencies with American Psychological Association approved internship programs)) or their sub-chapters, psychology internship training centers and other ((nationally)) professionally or scientifically recognized behavioral science organizations((, e.g., courses, workshops etc. offered by NASW, NTL, APGA and AGPA. Simple attendance at professional association conventions or meetings is not creditable under Category I (see Category V):

Note: All activities in this and all other categories, must be directly relevant to maintaining or increasing professional competence in psychology.

(2) Category II—Educational activities. A maximum of seventy-five credit hours may be earned in this category. Creditable CPE activities include:

(a) Courses (including correspondence courses), practical, seminars, experiential or didactic workshops offered by institutions or organizations not meeting requirements of Category I.

(b) Obtaining consultative training from a licensed professional or institute (other than that which is required in one's employment).

(c) Organized forms of CPE which include in-service and in-house seminars, lectures, professional journal and book study groups, as well as privately organized regularly scheduled seminars.

(3) Category III—Teaching, supervision, and training of psychologists, psychology students or allied services. A maximum of 45 credit hours may be earned in this category. Creditable CPE activities include instruction and/or supervision of psychologists, psychology students, institutional staff, or other professionals or students from an institution with a formal teaching or training program, if the institution has approved the instruction and/or supervision.

(a) CPE credit for a specific course taught can be given one time only (usually the first time it is taught, unless there is substantial revision). The number of hours credited is based on the number of class contact hours, up to a maximum of 30 hours.

(b) CPE credit for supervision may be earned, up to a maximum of 30 hours.

(4) Category IV—Books, papers, publications, and exhibits. A maximum of 45 credit hours may be earned in this category with specific credit hour allowances listed as follows. Credit may be earned only during the three year period in which the presentation or publication was made or published.

(a) Twenty-five credit hours may be claimed for each publication and for each chapter of a book that is authored and published. Publications must be in a scientific or professional psychological, or allied field journal. Editing is not acceptable for credit in any category.

(b) Ten credit hours may be claimed for each scientific or professional paper or program presentation given at a meeting and for each exhibit shown. All must be presented at a meeting of psychological or allied professional disciplines and must be of scientific or professional nature. Credit may be claimed only once for presentation of the same materials or program and should be claimed as of the date of presentation or publication. Presentations to lay audiences are not credited under this or any other CPE category.

(5) Category V—Self-programmed, nonsupervised and creative activities. A maximum of 45 credit hours may be earned in this category. Credit may be earned only for activities pursued during the three year period prior to the date of current relicensure application. All

~~activities in this category must be primarily psychological in nature and closely related to maintaining and increasing psychological competence. Activities which increase personal scope such as golfing, sailing, potter, cooking, etc., are not acceptable for CPE credit in this, or any other category. Personal therapy is also not acceptable.~~

~~Examples of acceptable Category V activities include:~~

~~(a) Self-instruction—Credit hours may be earned for reading of scientific, professional and clinical journals, books and professional/scientific tapes.~~

~~(b) Attendance at or participation in professional meetings or conventions of national, regional or state psychological associations or other behavioral science conventions—A maximum of 5 CPE credit hours can be earned for attendance at each convention or meeting, up to a maximum total of 15 hours in any one year and 45 hours in 3 years.) such as, but not limited to, National Training Laboratories, National Association of Social Workers, Department of Veterans' Affairs, Regional Medical Education Centers, Western Psychological Association, Northwest Family Training Institute, Seattle Institute for Psychoanalytic Training.~~

~~(2) Recognized activities of Category II shall include:~~

~~(a) Obtaining consultative training from a licensed professional or institute (other than supervision which is routinely required in one's employment).~~

~~(b) CPE which includes in-service and in-house seminars, case conferences, lectures, professional journal and book study groups, as well as noninstitutionally organized regularly scheduled similar activities.~~

~~(c) Teaching a specific course to psychology and other allied health students may be counted the first time it is taught. One classroom hour equals one CPE hour. The course may be counted only once.~~

~~(d) Supervising psychologists, psychology students, institutional staff, or other professionals or students from an institution with a formal teaching or training program, if the institution has approved the supervision, shall qualify for CPE on an hourly basis. Privately arranged supervision shall meet the professionally accepted standards of supervision.~~

~~(e) Writing and having accepted for publication articles and/or chapters for books. Such publications must appear in a scientific, psychological, or allied professional journal or book. Twenty-five hours may be earned for each such article or chapter. Editing the work of others is not acceptable for CPE credit.~~

~~(f) Presentation of a scientific or professional paper or program at a professional/scientific meeting of psychologists or allied professionals. Ten hours of CPE credit may be claimed only once for the same materials or program regardless of how often presented.~~

~~(g) Attendance at or participation in professional meetings or conventions of national, regional, or state psychological associations or other professionally recognized behavioral science conventions. A maximum of five hours may be claimed for each convention or professional meeting.~~

~~(h) Courses or workshops offered by accredited colleges or universities not offering graduate courses in psychology.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-122-420 CERTIFICATES OF QUALIFICATION—ORAL EXAMINATION.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-122-500 CONTINUING EDUCATION—PURPOSE AND SCOPE.

NEW SECTION

WAC 246-924-180 CONTINUING EDUCATION—PURPOSE AND SCOPE. The ultimate aim of continuing education is to ensure the highest quality of professional work. Continuing psychology education consists of educational activities designed to review existing concepts and techniques and to convey information and knowledge about advances in psychology as applied to the work settings. The objectives are to improve and increase the ability of the psychologist to deliver the highest possible quality of psychological work and to keep the professional psychologist abreast of current developments in a rapidly changing field. All psychologists, licensed pursuant to chapter 18.83 RCW, and holders of certificates of qualification issued pursuant to RCW 18.83.105, will be required to meet the continuing education requirements set forth in these rules as a prerequisite to license renewal.

NEW SECTION

WAC 246-924-300 DEFINITION OF ACCEPTABLE DOCUMENTATION AND PROOF OF CPE. Licensees are responsible for acquiring and maintaining all acceptable documentation of their CPE activities.

Acceptable documentation for Category I CPE shall include transcripts, letters from course instructors, or certificate of completion or other formal certification. In all cases other than transcripts, the documentation must show the participant's name, the activity title, number of CPE credit hours, date(s) of activity, faculty's name(s) and degree and the signature of verifying individual (program sponsor).

NEW SECTION

WAC 246-924-190 STAGGERED EFFECTIVE PERIODS FOR NEW CONTINUING EDUCATION RULES, WAC 308-122-563 THROUGH 308-122-583. (1) WAC 308-122-505 through 308-122-545 applies to those licensees who are required to submit affidavits of compliance with their 1990, 1991, or 1992 renewal of licenses for the continuing psychological education as attested to on those affidavits.

(2) For those licensees who have submitted or are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1990, WAC 308-122-565 through 308-122-583 shall apply for the submission of

proof of continuing psychological education with the licensees' 1993 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

(3) For those licensees who are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1991, WAC 308-122-565 through 308-122-583 shall apply for the submission of proof of continuing psychological education with the licensees' 1994 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

(4) For those licensees who are required to submit an affidavit of compliance pursuant to WAC 308-122-545 in 1992, WAC 308-122-565 through 308-122-583 shall apply for the submission of proof of continuing psychological education with the licensees' 1995 renewals of licenses instead of WAC 308-122-505 through 308-122-545.

NEW SECTION

WAC 246-924-220 CONTINUING EDUCATION—CATEGORIES OF CREDITABLE ACTIVITIES. The following are categories of creditable CPE activities approved by the board:

(1) Category I – Educational activities: Formal, didactic classes and/or workshops.

(2) Category II – All other educational related activities as defined by the board.

NEW SECTION

WAC 246-924-310 CONTINUING EDUCATION—SPECIAL CONSIDERATIONS. (1) The board will accept evidence of diplomate award by the American Board of Examiners in Professional Psychology (ABPP) in lieu of one hundred fifty hours of CPE for that three year period in which the diplomate was awarded.

(2) Credit hours may be earned for other specialty board, education awards, or diploma certifications if and when such are established.

(3) Psychologists or psychological associates licensed in Washington state who wish to retain their Washington license, but are working and living in another state, United States territory or country, may submit evidence of their CPE activities pursued outside of Washington state directly to the board for evaluation and partial or total approval based on conformity to the board's CPE requirements.

NEW SECTION

WAC 246-924-320 CONTINUING EDUCATION—ENFORCEMENT. (1) Affidavit of compliance: Every third year, in conjunction with the application for renewal of license, a licensee shall submit an affidavit of compliance with the requirement of one hundred fifty hours of CPE on a form supplied by the board. Failure to submit such affidavit at licensure renewal time, or submission of the affidavit in such manner that

CPE compliance cannot be determined by the board will result in denial of renewal of license. Subsequent renewal will be based on the decision of the board after compliance has been determined to be adequate.

(2) Audit: A percentage, which shall be determined by the board, of all licensees' affidavits submitted in conjunction with license renewal applications shall be regularly audited for supporting documentation by the board. Upon audit, it is the sole responsibility of the licensee to submit copies of the appropriate and acceptable documentation of completed CPE activities to the board. Failure to comply with the audit documentation request or failure to supply acceptable documentation within sixty days of the date of the audit request (in the absence of justification acceptable to the board) shall result in disciplinary action which shall remain in place until compliance is deemed acceptable by the board.

(3) Failure to meet the CPE requirements within each three-year cycle shall result in disciplinary action by the board. The licensee so disciplined may petition the board for a hearing. License reinstatement shall be based on decision of the board.

NEW SECTION

WAC 246-924-330 CONTINUING EDUCATION—EXEMPTIONS. In the event a licensee fails to meet requirements, because of illness, retirement (with no further provision of psychological services to consumers), failure to renew, or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant a time extension. The board may, in its discretion, limit in part or in whole the provision of psychological services to the consumers until the CPE requirements are met. In the case of retirement or illness, the board may grant indefinite waiver of CPE as a requirement for relicensure, provided an affidavit is received indicating the psychologist is not providing psychological services to consumers. If such illness or retirement status is changed or consumer psychological services are resumed, it is incumbent upon the licensee to immediately notify the board and to resume meeting CPE requirements for relicensure. CPE credit hours will be prorated for the portion of that three year period involving resumption of such services.

NEW SECTION

WAC 246-924-340 CONTINUING EDUCATION—PROGRAM OR COURSE APPROVAL. (1) The board will accept CPE that meets the requirements of this chapter. The board relies upon each individual licensee's integrity and the integrity of CPE providers to comply with the intent and spirit of the CPE requirements.

(2) CPE program sponsors or institutes should not apply for, nor expect to receive, prior or current board approval for CPE status or category.

WSR 91-04-022
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY
(By the Code Reviser's Office)
 [Filed January 29, 1991, 8:00 a.m.]

WAC 173-360-220, 173-360-230 and 173-360-620, proposed by the Department of Ecology in WSR 90-15-060, appearing in issue 90-15 of the State Register, which was distributed on August 1, 1990, is withdrawn by the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 91-04-023
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
 [Memorandum—January 24, 1991]

The February Washington State Transportation Commission public meeting will be held on Thursday, February 21, 1991, at 9 a.m. There will be no public meeting on February 20, 1991. The location for the February meeting is: Olympia, Washington, Transportation Building, Conference Room 1D2.

WSR 91-04-024
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 29, 1991, 11:13 a.m.]

Date of Adoption: January 26, 1991.

Purpose: WAC 308-56A-150 to define when inspection fees are/not charged; WAC 308-96A-345, to change "150" day notice to "120" day notice and change "ten" dollar surcharge to "fifteen" dollar surcharge; WAC 308-96A-350, to change "three" outstanding violation criteria to "two" outstanding violations; and WAC 308-96A-380, to change "150" days to "120" days and "ten" dollar surcharge to "fifteen."

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-150, 308-96A-345, 308-96A-350, and 308-96A-380.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.12.040 and 46.16.216.

Pursuant to notice filed as WSR 90-23-091 on November 21, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1991
 Mary Faulk
 Director

AMENDATORY SECTION (Amending Order TL/RG 11, filed 2/22/85)

WAC 308-56A-150 **CERTIFICATE OF INSPECTION.** (1) An application for title must be accompanied by a certificate of inspection signed by an

authorized inspector and must include the applicable statutory inspection fee whenever the applicant's vehicle is:

- (a) From a state or province other than Washington;
- (b) One that has been reported destroyed;
- (c) A homemade, assembled, or rebuilt vehicle;
- (d) One whose identification number has been removed, defaced, altered, destroyed, or has become illegible or is missing;
- (e) One with a structural change in, or modification of, body or frame changing the class designation or body type; or
- (f) A used vehicle and no Washington record can be found ~~(; or)~~.

~~((g) One that))~~ (2) No fee will be charged when a vehicle has been referred for inspection for any other reason; provided that the request for inspection shall have been made by a commissioned law enforcement officer, an employee of the department of licensing, or a vehicle license agent.

~~((2) Where applicable, the statutory inspection fee will be charged.))~~

(3) Inspections will normally be accomplished by the Washington state patrol.

(4) The director may, at his discretion, designate other competent inspecting agencies to perform the inspection required under items (1)(a) and (b) above if the vehicle is located in a foreign state or province and the requirement for inspection will cause undue hardship.

(5) When the inspection is done by the Washington state patrol, the certificate of inspection will be valid for the following periods of time after the inspection date:

- (a) Vehicles from a state or province other than Washington: Sixty days;
- (b) One that has been reported destroyed: Ten days;
- (c) A homemade, assembled, or rebuilt vehicle: Ten days;
- (d) One whose identification number has been removed, defaced, altered, destroyed, or has become illegible or is missing: Ten days;
- (e) One with a structural change in, or modification of, body or frame changing the class designation or body type: Ten days;
- (f) A used vehicle and no Washington record can be found: Sixty days;
- (g) A vehicle required inspection under (1)(a) through (1)(f) above and held for sale by a licensed dealer: One year; and
- (h) One that has been referred for inspection for any reason not listed above: Ten days.

AMENDATORY SECTION (Amending Order TL-RG 7, filed 8/15/84)

WAC 308-96A-345 **DEFINITIONS.** For the purposes of chapter 46.16 RCW the following definitions apply:

- (1) "Jurisdiction" shall mean any district, municipal, justice and/or superior court.
- (2) "NCIC (ORI) number" means the numeric code assigned by the National Crime Information Center (originator) to identify a jurisdiction.

(3) "Department" shall mean the department of licensing.

(4) "Parking violation list" shall mean a computerized listing containing all outstanding parking violations which have been processed by the department and which must be satisfied prior to renewal of license.

(5) "Agent" shall mean any county auditor, or other individual or business entity appointed to carry out vehicle licensing and titling functions for the department.

(6) "Unprocessed" shall mean no update of the computer record has occurred.

(7) "Jurisdiction seal" shall mean method of verifying authenticity of court documents.

(8) "Municipality" means every court having jurisdiction over offenses committed under RCW 46.20.270.

(9) "Local agencies" shall include district, municipal, justice and/or superior courts, and other local reporting agencies.

(10) "~~((+50))~~ One hundred twenty-day notice" shall mean a warning notice of those violations received by the department ~~((+50))~~ one hundred twenty days prior to the license renewal date. The notice will list the dates and jurisdictions in which the violations occurred, unpaid fines, penalties, and a ~~((ten))~~ fifteen dollar surcharge.

AMENDATORY SECTION (Amending Order TL-RG 7, filed 8/15/84)

WAC 308-96A-350 OUTSTANDING PARKING TICKETS—INFORMATION TO BE SUPPLIED BY ISSUING JURISDICTION. In order to submit notification of outstanding parking tickets, a jurisdiction must provide the following:

- (1) Jurisdiction name,
- (2) NCIC number (ORI),
- (3) Parking ticket number,
- (4) Date parking ticket was issued,
- (5) Vehicle license plate number, and
- (6) Fine and penalty amount,
- (7) Jurisdiction seal,
- (8) Signature and date when required on form.

Such information must be provided on a form issued by the department, or on a computer listing sheet, or magnetic tape generated in accordance with department instructions.

Provided that an original report against a vehicle record must contain a minimum of ~~((three))~~ two outstanding violations from one jurisdiction. Subsequent reports against that vehicle by that same jurisdiction may be for a single violation unless such vehicle record indicates all existing tickets have been paid and no further tickets have been accrued in the thirteen months following said payment. If thirteen months have elapsed, the jurisdiction must submit an original report containing a minimum of ~~((three))~~ two violations.

AMENDATORY SECTION (Amending Order TL-RG 7, filed 8/15/84)

WAC 308-96A-380 EFFECT OF ~~((+50))~~ ONE HUNDRED TWENTY-DAY NOTICE ON LICENSE RENEWAL. Violations reported to the department after the ~~((+50))~~ one hundred twenty-day notice is generated, will be posted on the vehicle license renewal record applicable to the following year.

To renew license of a vehicle whose record indicates that ~~((+50))~~ one hundred twenty days notice should have been generated, and whose record also indicates that all violations applicable to the current licensing period have been satisfied, the renewal application must include payment of licensing fees due, and payment of the ~~((ten))~~ fifteen dollar surcharge.

To renew license of a vehicle whose record indicates that a ~~((+50))~~ one hundred twenty-day notice should have been generated, and whose record also indicates that violations applicable to the current licensing period remain unsatisfied, the renewal application must be accompanied by proof of payment of those violations, payment of licensing fees due, and payment of the ~~((ten))~~ fifteen dollar surcharge.

WSR 91-04-025

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 29, 1991, 11:19 a.m.]

Date of Adoption: January 26, 1991.

Purpose: The purpose of these rules is to enable the Department of Licensing to implement and administer the provisions relating to vehicle licenses.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-460, 308-58-010, 308-58-020 and 308-96A-046, 308-96A-056, 308-96A-070, and 308-96A-075.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.12.070.

Pursuant to notice filed as WSR 90-23-090 on November 21, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1991

Mary Faulk

Director

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-460 DESTROYED VEHICLE REBUILT. (1) ~~((If a))~~ Any vehicle ~~((has been))~~ reported as destroyed ~~((or settled as a total loss by an insurance company, the old title must be handled))~~ pursuant to ~~((chapter 308-58 WAC. If the vehicle is rebuilt or repaired, or the owner wishes to continue using the vehicle, an))~~ WAC 308-58-020 (1) or (2) that will be operated on any public road or highway, must be issued a new certificate of ownership and registration. The application for a new title ~~((must be made, accompanied by))~~ shall include a Washington state patrol inspection and ~~((either))~~ a bill of sale from:

(a) ~~((A bill of sale from))~~ The insurance company ((settling the claim)) that declared the vehicle a total loss, less salvage value; or

(b) ~~A ((bill of sale from an auto))~~ motor vehicle wrecker; or

(c) ~~((A notarized bill of sale from))~~ The last registered owner of record((; or)) with the department.

~~((d) In the case of the owner of record retaining the vehicle, a copy of a letter from the department identifying the vehicle and cancelling its title following the notice of destruction.))~~

(2) When the last registered owner retains a vehicle that is reported destroyed, the owner must apply for a new certificate of ownership before operating the vehicle upon a public road or highway. The application for title must include a Washington state patrol inspection and a bill of sale as provided in subsection (1) of this section.

(3) The license plates from a destroyed vehicle ((are not transferrable)) shall not be transferred to a new owner. Fees will be charged as if the vehicle ((were)) was being titled and licensed for the first time. If the owner of record retains the vehicle, the fee charged will be that for reissue of title.

AMENDATORY SECTION (Amending Order MV 142, filed 8/28/72)

WAC 308-58-010 DEFINITIONS. (1) For the purpose of RCW 46.12.070, destruction of a vehicle or ((its)) total loss, less salvage value, shall ((include)) mean the vehicle is:

~~((1) Its being))~~ (a) Dismantled with the intention of never again operating it as a vehicle; or

~~((2) Its being))~~ (b) Damaged to the extent that the cost of ((repairing it)) repair exceeds its market value immediately prior to the ((accident or occurrence)) damage; or

~~((3) Its being))~~ (c) Damaged to the extent that the cost of repairing it plus its salvage value in its damaged condition exceeds or approximately equals the market value ((of the vehicle)) in its repaired or restored condition.

(2) For the purpose of RCW 46.12.070, the settlement of an insurance claim as a total loss, less salvage value shall mean the date on which an insurance company ((receives a certificate of title covering a vehicle on which a claim has been or will be paid and the owner has chosen to relinquish ownership of the damaged vehicle. In the instance of an owner desiring to retain the damaged vehicle and its title, settlement shall be the date on which the insurer)) actually ((pays)) makes payment to the claimant for the ((loss)) damage.

AMENDATORY SECTION (Amending Order TL/RG 46, filed 11/9/88)

WAC 308-58-020 METHOD OF REPORTING DESTRUCTION. (1) An insurance company settling a claim for a destroyed vehicle will report such settlement by using one of the following two methods:

~~((1))~~ (a) If the title ((comes into)) is in the insurer's possession ((in the course of a settlement with a first or

third party claimant)), the title will be forwarded to the department ((of licensing)) within ((five)) fifteen days of the settlement. The insurer will type or print on the title, the name and address of the insurer, a notation "DESTROYED" or, in the event the vehicle is a total loss under the definitions contained in WAC 308-58-010, but in the opinion of the insurer may be repaired at a cost not to exceed sixty percent of its fair market value if repaired, a notation "TOTAL COST OF REPAIR LESS THAN SIXTY PERCENT," and the approximate date of destruction. The requested information will be placed on the title in such a manner as not to obscure any of the printed matter on the title itself. The title, with the information thereon, will be mailed to the Vehicle Records Section, Department of Licensing, Olympia, Washington 98504.

~~((2))~~ (b) If the destroyed vehicle and its title do not come into the insurer's possession, the insurer will report the fact of settlement within ((five)) fifteen days of settlement on a form to be supplied by the department ((of licensing)). The report will include the following information:

~~((a))~~ (i) Year, make, series and body style of vehicle;

~~((b))~~ (ii) License plate number, last year of registration and name of state in which registered;

~~((c))~~ (iii) Registered and legal owner's name and address, if known;

~~((d))~~ (iv) Cause of damage;

~~((e) Whether))~~ (v) If the vehicle is repairable (A vehicle should be considered repairable only if its cost of repair would not exceed sixty percent of its fair market value if repaired.);

~~((f))~~ (vi) Date ((of sale)) and amount of sale;

~~((g))~~ (vii) Name and address of the purchaser and ((whether he)) if the purchaser is the assured, a private party, a salvage buyer, ((auto)) or a motor vehicle wrecker ((or fragmentizer));

~~((h))~~ (viii) Name and address of insurance company or adjuster;

~~((i))~~ (ix) Date of report.

~~((In an instance where an insurer does not obtain possession of the title, the registered owner will))~~ (2) Any private party, government agency, or self-insured person shall, upon destruction of a vehicle registered in their name, forward the title to the department ((of licensing)) within ((five)) fifteen days of the destruction of the vehicle. The title ((will)) must be endorsed by the legal owner to release ((his)) their interest, if the legal owner is not the same as the registered owner. The registered owner will print or type on the title the word "DESTROYED," the approximate date of destruction and sign the title. The license plates from the vehicle will be surrendered to any office of the department of licensing.

The title for a vehicle that has been destroyed, which title has not been surrendered to the department, shall be cancelled. Notice of this cancellation will be mailed to the legal owner of the vehicle by regular mail to ((his)) the address as shown in the department's vehicle records. The legal owner will promptly return the cancelled title to the department.

AMENDATORY SECTION (Amending Order TL/RG 39, filed 12/7/87)

WAC 308-96A-046 VETERAN'S FREE LICENSE. (1) Any disabled American veteran, former prisoner of war, or the surviving spouse of a deceased former prisoner of war who qualifies under chapter 73.04 RCW is entitled to receive regular or special license plates and is exempt from paying any annual licensing fees or excise tax.

Permanent registration and permanent license plate tabs will be issued to qualified persons for use on one personal use passenger vehicle which includes motor homes and trucks rated at less than twelve thousand pounds gross weight. Emission inspections are required each year in the designated inspection areas. For personalized license plates the annual renewal fees are required. Propane powered vehicles are subject to annual propane fees.

(2) For a disabled American veteran, confirmation of eligibility from the Veterans Administration or the military service from which the veteran was discharged must accompany the initial application. The confirmation of eligibility shall be certification of a service-connected disability rating and certification of one or more of the following conditions of eligibility:

(a) Has lost the use of both hands or one foot;

(b) Has become blind in both eyes as the result of military service; or

(c) Is rated by the Veterans Administration or the military service from which the veteran was discharged and is receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year. Verification of vision acuity may be provided by an ophthalmologist or optometrist. Verification that the disabled veteran is receiving compensation at the one hundred percent rate, which may include unemployability expected to exist for more than one year, must be provided by the Veterans Administration or the military service from which the veteran was discharged.

(3) For a former prisoner of war, certification of the following fact from the Veteran's Administration or the military service from which the veteran was discharged must accompany the initial application: That the person was captured and incarcerated for more than twenty-nine days by an enemy of the United States during a period of war with the United States.

(4) The surviving spouse of a deceased former prisoner of war may be issued a regular or special prisoner of war license plate even if the deceased had not been issued a plate pursuant to chapter 73.04 RCW. In addition to confirming eligibility for the deceased, the spouse must furnish the following:

(a) A certified copy of the death certificate;

(b) A copy of the marriage certificate indicating the union of the applicant and the former prisoner of war; and

(c) ~~((A copy of documentation satisfactory to the department which verifies that the surviving spouse was married to the deceased former prisoner of war during the period of incarceration:))~~ An affidavit that the applicant is not currently married.

(5) When the special license plate or free license is transferred to another vehicle, a replacement plate fee, full license and excise fees for twelve months will be collected on the vehicle from which exemption is being removed. A new license expiration date will be established beginning with the first day of the month in which the exemption is transferred. The disabled veteran, former prisoner of war or surviving spouse must notify the department of the transfer and pay the transfer fees in effect.

(6) The disabled veteran, former prisoner of war or surviving spouse must be a registered or coregistered owner or lessee of the vehicle for which licensure is granted.

(7) When a vehicle with a free veterans license is sold, the special license plate must be removed and full excise and license fees for twelve months must be paid by the new registered owner at time of title transfer.

AMENDATORY SECTION (Amending Order TL/RG 39, filed 12/7/87)

WAC 308-96A-056 PEARL HARBOR SURVIVOR LICENSE PLATES. Any Washington resident who served in the United States armed forces and is a survivor of the attack on Pearl Harbor as defined in ~~((chapter 44, Laws of 1987))~~ RCW 46.16.305(4), may receive a set of special license plates designed by the department to indicate that the recipient is a survivor of the Japanese attack on Pearl Harbor.

(1) Applications for the special license plates shall be upon forms provided by the department. Supplemental qualifying documentation shall include:

(a) A certification of eligibility from a Washington state chapter of the Pearl Harbor Survivors Association;

(b) A current vehicle registration for the vehicle for which the special license plates are issued;

(c) An armed forces document showing date of induction and date of honorable discharge.

(2) If the applicant is the surviving spouse of a deceased Pearl Harbor survivor, in addition to the documentation furnished in subsection (1) of this section, the surviving spouse shall include:

(a) A certified copy of the Pearl Harbor survivor's death certificate;

(b) A copy of the marriage license indicating the union of the applicant and the Pearl Harbor survivor; and

(c) An affidavit that the applicant is not currently married.

(3) An applicant must be a registered owner, co-owner or lessee, or co-lessee of the vehicle for which the special license plates are issued.

AMENDATORY SECTION (Amending Order MV-328, filed 7/24/75)

WAC 308-96A-070 ((HAM)) AMATEUR RADIO OPERATOR ((CALL NUMBER)) SPECIAL LICENSE PLATES. ((Anyone)) (1) Every person having ((an)) a valid amateur radio operator's license ((issued by the Federal Communications Commission)) is

~~entitled to apply ((for license plates bearing the individual's official call number. Application must be made directly)) to the department in Olympia ((and must be accompanied by a copy of the)), Washington, upon a satisfactory showing, to receive in lieu of the regular motor vehicle license plates, similar plates bearing the official amateur radio call letters assigned by the Federal Communications Commission (F.C.C.) ((license. When the F.C.C. license expires every five years, the applicant must send a copy of its renewal to the department in order to retain the plates)). Only one set of plates carrying call letters may be ((held by)) issued to an amateur radio operator at any one time.~~

~~(2) An application for special amateur radio operator license plates must be accompanied by a photocopy of the official amateur radio operator license issued by the F.C.C. When the F.C.C. license expires, the operator must notify the department of the expiration and if a renewed F.C.C. license is obtained, furnish a copy of the new license.~~

~~(3) An applicant for special amateur radio operator license plates must be the registered owner of the vehicle for which the plates will be issued. Special amateur radio operator license plates issued prior to January 1, 1991, for vehicles not owned by the amateur radio operator, may continue to be used until the operator no longer has an interest in the vehicle. It is the responsibility of the registered owner to apply for replacement license plates when the special amateur radio operator license plate is no longer authorized.~~

~~(4) In addition to paying all other license fees required by law, each applicant for special amateur radio operator license plates shall pay an additional license fee of five dollars.~~

~~(5) In addition to paying all other license fees required by law, each applicant when applying for transfer of their special amateur radio operator license plates to another vehicle shall pay an additional license fee of five dollars.~~

~~(6) The department shall furnish a list of the names, addresses, and license plate call letters to the state department of community development, Washington state patrol, and all county sheriffs upon request. The lists shall be used only in the performance of official duties of these government agencies and shall not be released for any other purpose.~~

~~(7) Any amateur radio operator who holds a special amateur radio operator license plate as issued under this section who has allowed his or her F.C.C. license to expire, or for any reason no longer has an official valid F.C.C. license, shall notify the department in writing within thirty days of the F.C.C. license becoming invalid and surrender his or her special amateur radio operator license plates. Special amateur radio operator license plates are deemed to be cancelled on the date the F.C.C. license becomes invalid. Failure to notify the department and surrender plates is a traffic infraction. The special plate may be reinstated by applying for and paying the fee for a new special plate.~~

NEW SECTION

WAC 308-96A-073 VEHICLES OVER FORTY YEARS OLD—HORSELESS CARRIAGE PLATES.

(1) Any motor vehicle which is at least forty years old or older, and is owned and operated primarily as a collector's item shall, upon application and acceptance by the department, be issued one special horseless carriage commemorative license plate in lieu of a regular license plate. Any vehicle to be so licensed must be capable of being operated upon the highway.

(2) In addition to paying all other license fees required by law, each applicant for a horseless carriage commemorative license plate shall pay an additional license fee of thirty-five dollars.

(3) The special license plate shall be issued for the life of the vehicle and shall be transferred with the vehicle. The single plate shall be displayed on the rear of the vehicle.

(4) Horseless carriage commemorative license plates shall be assigned a separate numerical series commencing with "HORSELESS CARRIAGE 1."

NEW SECTION

WAC 308-96A-074 VEHICLES OVER THIRTY YEARS OLD—COLLECTOR VEHICLE LICENSE PLATES.

(1) Any motor vehicle which is at least thirty years old or older, and is owned and operated primarily as a collector's item shall, upon application and acceptance by the department, be issued one special collector vehicle license plate in lieu of a regular license plate. Any vehicle so licensed must be capable of being operated upon the highway.

(2) In lieu of a collector vehicle license plate the applicant may be authorized to display a Washington state issued vehicle license plate designated for use in the year of the vehicle's manufacture.

(3) In addition to paying all other license fees required by law, each applicant for a collector vehicle license plate shall pay an additional license fee of thirty-five dollars.

(4) Collector vehicle license plates are valid for the life of the vehicle and shall be transferred with the vehicle. The license plate shall be displayed on the rear of the vehicle.

(5) Collector vehicle license plates shall be assigned a separate numerical series commencing with "Collector Vehicle 0001."

AMENDATORY SECTION (Amending Order TL/RG 24, filed 5/5/86)

WAC 308-96A-075 ((ANTIQUE)) COLLECTOR CARS—USE LIMITATIONS. Vehicles with horseless carriage or ((restored)) collector vehicle license plates are permitted to operate over and along the public highways of the state of Washington only under the following conditions:

(1) To drive to and from meetings of organizations whose members are owners of vehicles more than thirty years old;

(2) To drive to, from and during organized ((community)) events which are featuring horseless carriages or restored vehicles;

(3) To drive for the purpose of testing the vehicle or driving others for pleasure without compensation.

WSR 91-04-026
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed January 29, 1991, 11:24 a.m.]

Date of Adoption: January 26, 1991.

Purpose: To enable the Department of Licensing to implement and administer the motor vehicle excise tax as required under the provisions of chapter 82.44 RCW.

Statutory Authority for Adoption: RCW 46.01.110 and 43.17.060.

Pursuant to notice filed as WSR 90-23-092 on November 21, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 28, 1991

Mary Faulk
Director

NEW SECTION

WAC 308-57-005 DEFINITIONS. The following definitions apply to the terminology used in this chapter:

(1) "Department" means the Department of Licensing.

(2) "Excise Tax Depreciation Schedule One" means the statutory depreciation table as described in RCW 82.44.041 (3)(b).

(3) "Excise Tax Depreciation Schedule Two" means the statutory depreciation table as described in RCW 82.44.041(1).

(4) "Excise Tax Depreciation Schedule Three" means the statutory depreciation table as described in Section RCW 82.50.425(2).

(5) "Fleet" means any person or any type of business entity who is a registered owner of fifteen or more vehicles.

(6) "Light Duty Truck" means a truck which is smaller than a truck type power unit. The empty scale weight is six thousand pounds or less. It includes vehicles such as pickup trucks, vans, and utility vehicles.

(7) "MSRP" means the base manufacturer's suggested retail price as defined in RCW 82.44.041.

(8) "One Hundred Ten Percent Rule" means the limit of excise tax increase pursuant to RCW 82.44.041.

(9) "Purchase Price" means the selling price of the vehicle before deducting for trade-in value or adding sales/use tax.

(10) "Registered within a County" means the county that the vehicle indicates as its resident address.

(11) "Tax Code" means a two-digit alpha, numeric, or alpha-numeric representation of a value assigned by the Department of Revenue to passenger vehicles, motorhomes, light duty trucks, and motorhomes prior to 1986. This value represents the value of the vehicle when

first offered for sale. In 1986 and thereafter, the MSRP is used to represent the value of the vehicle.

(12) "Truck Type Power Unit" means trucks as described in RCW 82.44.041(1). This includes vehicles with CIR (Circus), FIX (Fixed Load), or TOW (Tow Truck) use classes, regardless of scale weight, and other trucks whose empty scale weights exceed six thousand pounds. This also includes vehicles which would normally be considered light duty trucks but weigh more than six thousand pounds empty.

(13) "Truck Type Trailing Unit" means trailers as described in RCW 82.44.041(1). This includes trailers with CIR (Circus), FIX (Fixed Load), C/G (Converter Gear) and COM (Commercial) use classes.

(14) "Value Code" means the value which is used to calculate the excise tax. In determining the value code, it may be a tax code, purchase price, assessor's appraisal, or MSRP.

NEW SECTION

WAC 308-57-010 PREMISE FOR ASSESSING EXCISE TAX. Truck type power units and trailing units are taxed according to the most recent purchase price and purchase year and the depreciation rates in excise tax depreciation schedule two. All other vehicles are taxed using the value of the vehicle when it was first offered for sale and the statutory depreciation rates. Current condition or value of a particular vehicle is not used to determine excise tax.

NEW SECTION

WAC 308-57-020 MODIFIED VEHICLES. All vehicles modified by a licensed primary or secondary manufacturer, such as a van conversion or limousine, for example, shall be taxed according to the MSRP provided by the primary or secondary manufacturer of the modified vehicle. If the vehicle is modified by someone other than a licensed manufacturer, the department shall use the original MSRP of the vehicle prior to the modifications.

NEW SECTION

WAC 308-57-030 DECLARATION OF VALUE. If there is no tax code for 1985 or older model vehicles and there is no MSRP information available for 1986 or newer model vehicles, the Department may require the owner to provide a certified declaration of original value to be used as the basis for assessing the excise tax. Documentation supporting this valuation may also be required as deemed necessary by the Department.

NEW SECTION

WAC 308-57-110 EXCISE TAX DEPRECIATION SCHEDULE ONE. The following vehicles with use classes shall be taxed according to excise tax depreciation schedule one:

CAB (Taxicab)

COM (Commercial) (if powered and the scale weight is six thousand pounds or less)

CYC (Motorcycle)

FAR (Farm) (if powered and the scale weight is six thousand pounds or less)

F/H (For Hire) (if six or fewer seats or if more than six seats and the scale weight is six thousand pounds or less)

H/C (Horseless Carriage) (if the license fee is not based on gross weight or if the license fee is based on gross weight and the scale weight is six thousand pounds or less)

MH (Motorhome)

PAS (Passenger)

PER (Nonpowered personal use)

RES (Restored) (if the license fee is not based on gross weight or if the license fee is based on gross weight and the scale weight is six thousand pounds or less)

STA (Stage) (if six or fewer seats or if more than six seats and the scale weight is six thousand pounds or less)

TLR (Nonpowered Trailer)

TRK (if the scale weight is six thousand pounds or less)

NEW SECTION

WAC 308-57-120 EXCISE TAX DEPRECIATION SCHEDULE TWO. The following vehicles with use classes will be taxed according to excise tax depreciation schedule two:

CIR (Circus)

FIX (Fixed Load)

C/G (Converter Gear)

COM (Commercial) (if powered and the scale weight exceeds six thousand pounds or if non-powered regardless of the scale weight)

F/H (For Hire) (if more than six seats and the scale weight exceeds six thousand pounds)

FAR (Farm) (if scale weight exceeds six thousand pounds)

H/C (Horseless Carriage) (if the license fee is based on gross weight and the scale weight exceeds six thousand pounds)

STA (Stage) (if more than six seats and the scale weight exceeds six thousand pounds)

TRK (Truck) (if the scale weight exceeds six thousand pounds),

TOW (Powered Tow Truck)

NEW SECTION

WAC 308-57-130 EXCISE TAX DEPRECIATION SCHEDULE THREE. A vehicle with a use class of CMP (Camper) or TVL (Nonpowered Travel Trailer) shall be taxed from excise tax depreciation schedule three.

NEW SECTION

WAC 308-57-140 EXCISE TAX EXEMPTIONS. The following vehicles are exempt from payment of excise tax:

(1) Any vehicle with a tax code of 95 (Vehicles taxed as personal property, such as a mobile home);

(2) Any vehicle with the following use classes: EX (Exempt), FED (Federally Owned), FEX (Farm Exempt), H/D (House Moving Dolly), PED (Moped), ORV (Off Road Vehicle), SCH (Private School), SNO (Snowmobile), or SNX (Exempt Snowmobile);

(3) Any vehicle registered in accordance with chapter 308-96A-050 WAC, for non-resident members of the armed forces;

(4) Any vehicle registered in accordance with chapter 308-96A-400 WAC, for members of Washington Indian tribes and reservations recognized by the United States Department of the Interior;

(5) Any vehicle registered in accordance with chapter 308-96A-046 WAC, for disabled American veterans, former prisoners of war or their spouses.

NEW SECTION

WAC 308-57-210 EXCISE TAX IN EVEN DOLLARS. The excise tax shall be rounded to the nearest dollar for a twelve month period.

NEW SECTION

WAC 308-57-220 13-MONTH LEASES. Prior to July 1, 1991, a person who chooses to license for thirteen months on the original registration of a leased vehicle shall be charged thirteen twelfths of the twelve month rate. After July 1, 1991, full year registrations preclude and supersede the thirteen month licenses.

NEW SECTION

WAC 308-57-230 FLEET ABATEMENT. A fleet vehicle, which is required by WAC 308-96A-260 to have a December expiration date, shall be charged excise tax based on the current depreciation rate for the number of months required to license through December. If the owner wishes to renew the registration for this fleet vehicle for the following year at the same time, the vehicle shall also be charged twelve months at the following year's depreciation rate.

NEW SECTION

WAC 308-57-240 NON-FLEET ABATEMENT. With department approval, the owner of a vehicle may change the vehicle's registration expiration date. The owner shall be charged excise tax based on the current rate for twelve months plus the number of months in excess of twelve to extend the registration period to the desired expiration date. Those months in excess of twelve shall be charged at the next year's depreciation rate. This option requires that validation tabs for the desired month and year are available and the total number of months may not exceed eighteen.

NEW SECTION

WAC 308-57-310 USE CLASS AND ONE HUNDRED TEN PERCENT RULE. For purposes of administering the one hundred ten percent rule pursuant to RCW 82.44.041, only the vehicle's current use class will apply.

NEW SECTION

Joseph A. Dear
Director

WAC 308-57-320 TRUCKS AND ONE HUNDRED TEN PERCENT RULE. For purposes of administering the one hundred ten percent rule for trucks:

(1) Light duty trucks whose value code was \$10,000 or less for expirations through July 31, 1991, are equivalent to light duty trucks, which have a scale weight of six thousand pounds or less, and expirations on and after August 31, 1991.

(2) Medium and heavy duty trucks whose value code was more than \$10,000 for expirations through July 31, 1991, are equivalent to medium and heavy duty trucks, which have a scale weight of more than six thousand pounds, and expirations on and after August 31, 1991.

NEW SECTION

WAC 308-57-410 APPEAL PROCESS. The department shall utilize chapter 308-08 WAC, and chapter 10-08 WAC, to administer the appeal process when an applicant challenges the excise tax valuation assessed to the registered owner of the vehicle.

NEW SECTION

WAC 308-57-420 TAXES TO BE PAID BEFORE APPEAL. The excise tax valuation may be appealed only after the excise tax has been paid. Any excise tax determined by the hearing officer to have been paid in excess shall be refunded for that registration period. If it is determined that an insufficient excise tax was collected, the additional tax shall be due and payable to the department.

NEW SECTION

WAC 308-57-430 EFFECTIVE DATE FOR APPEALS. Any appeal which results in a decrease of excise tax liability shall only be eligible for a refund for registration periods ending on and after August 31, 1991.

NEW SECTION

WAC 308-57-440 HEARINGS OFFICER. The director shall appoint the administrator of title and registration services or other such designee to conduct the hearing to determine the excise tax valuation for the vehicle.

WSR 91-04-027

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed January 29, 1991, 2:59 p.m.]

The Department of Labor and Industries is hereby submitting to your office notice of withdrawal of rules pursuant to WAC 1-12-033. The rules being withdrawn were originally noticed in WSR 90-20-120 and continued in WSR 91-01-065.

**WSR 91-04-028
RULES COORDINATOR
MARITIME COMMISSION**

[Filed January 29, 1991, 3:16 p.m.]

The Washington State Maritime Commission has designated Richard W. Buchanan, its attorney, as the commission's rules coordinator. Mr. Buchanan's mailing address is: Richard W. Buchanan, Rules Coordinator, Washington State Maritime Commission, c/o LeGros, Buchanan, Paul & Whitehead, 2500 Columbia Center, 701 Fifth Avenue, Seattle, WA 98104-7098.

Hal Schuyler
Chairman

**WSR 91-04-029
EMERGENCY RULES
DEPARTMENT OF FISHERIES**

[Order 91-02—Filed January 30, 1991, 1:32 p.m.]

Date of Adoption: January 28, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-073001.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: The harvest effort in District 5 has been less than anticipated, and it appears the allowable harvest will have been taken by April 15, 1991. The harvest effort in the southern portion of District 2 has exceeded expectations because of court-ordered participation of unanticipated urchin fishers. A limited fishery is warranted in the remainder of District 2.

Effective Date of Rule: Immediately.

January 28, 1991
Judith Merchant
Deputy
for Joseph R. Blum
Director

NEW SECTION

WAC 220-52-07300J COMMERCIAL SEA URCHIN SEASON Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to take or possess red sea urchins for commercial purposes from any Sea Urchin District except as provided for in the following section:

(1) Open Time and Area:

Immediately through April 15, 1991, seven days a week in District 5. Immediately through February 28, 1991 Monday through Friday only in Sea Urchin District 2, except

Effective February 1, 1991 until further notice, it is unlawful to take or possess red sea urchins for commercial purposes from the following portion of Sea Urchin District 2: those waters of Marine Fish and Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-half mile south of Eagle Point on San Juan Island and west of a line projected true south from Point Colville on Lopez Island.

(2) In addition to the definition of Sea Urchin District 2 found in WAC 220-52-073, Sea Urchin District 2 shall include those waters of Marine fish and Shellfish Management and Catch Reporting Areas 21A, 21B, and 22B.

(3) The following areas of Sea Urchin District 5 are closed to fishing:

(a) Waters of Neah Bay west and south of a line from Klachopis Point to the northern tip of Waaddah Island and thence westerly to a point on the shoreline one-quarter mile due south of Koitlah Point.

(b) Waters of Makah Bay east of a line extending from Waatch Point to Portage Head.

(4) Only one diver from each boat is allowed in the water at any one time during the sea urchin harvest operation, or when commercial quantities of sea urchins are aboard the vessel.

(5) Size Limits: Sea Urchin District 2, 4.0 - 5.5 inches

Sea Urchin District 5, 3.25 - 4.5 inches

All sizes are shell diameter exclusive of the spines.

REPEALER

The following section of the Washington Administrative code is repealed:

WAC 220-52-07300I COMMERCIAL SEA URCHIN SEASON. (90-117)

WSR 91-04-030

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-04—Filed January 30, 1991, 1:35 p.m., effective February 1, 1991, 12:01 a.m.]

Date of Adoption: January 30, 1991.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-235.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: Pacific cod in central Puget Sound are clearly in a depressed condition and the harvest from this fishery has declined dramatically. This action would provide protection to the remaining cod to assist recovery of this stock.

Effective Date of Rule: 12:01 a.m., February 1, 1991.

January 30, 1991

Judith Merchant

Deputy

for Joseph R. Blum

Director

NEW SECTION

WAC 220-56-23500F POSSESSION LIMITS—BOTTOMFISH. Notwithstanding the provisions of WAC 220-56-235, effective 12:01 a.m. February 1, 1991 through 11:59 p.m. March 31, 1991, it is unlawful to take, fish for or possess Pacific cod in that portion of Punch Card Area 10 north of a line from Point Bolin to Battle Point and south and west of a line from Point Monroe to the pier at Indianola.

WSR 91-04-031

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-05—Filed January 30, 1991, 1:38 p.m., effective February 1, 1991, 12:01 a.m.]

Date of Adoption: January 30, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100D; and amending WAC 220-32-051.

Statutory Authority for Adoption: [RCW 75.08.080.]

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

Reasons for this Finding: Harvestable numbers of fish are available during February and March in the area between Bonneville Dam and McNary Dam. This regulation is adopted at the recommendation of the January 29, 1991, Columbia River Compact.

Effective Date of Rule: 12:01 a.m., February 1, 1991.

January 30, 1991

Judith Merchant

Deputy

for Joseph R. Blum

Director

NEW SECTION

WAC 220-32-05100E COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, it is unlawful for a person to take

or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish from 12:01 a.m. February 1 through March 21, 1991.

(2) Notwithstanding the provisions of WAC 220-32-058, during the season specified in subsection 1 the following areas are closed.

(a) at Hood River, those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) at Herman Creek those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of of the boat ramp.

(c) At Deschutes River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) at Umatilla River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) at Big White Salmon River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) at Wind River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) at Klickitat River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) at Little White Salmon River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open period in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a

deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a poin in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 1, 1991:

WAC 220-32-05100D COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE. (90-120)

WSR 91-04-032

NOTICE OF PUBLIC MEETINGS INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

[Memorandum—January 30, 1991]

The March 21-22, 1991, regular meeting of the Interagency Committee for Outdoor Recreation (IAC) will be held in the Lacey City Council Chambers, City Hall, 420 College Street S.E., Lacey, WA, beginning at 9:00 a.m. on March 21.

This meeting is a funding session for firearms range facilities projects and NOVA projects concerning education and enforcement and maintenance and operations. Funding considerations for these projects are scheduled as follows:

10:00 a.m.	NOVA*—EDUCATION AND ENFORCEMENT PROJECTS
March 21	
10:00 a.m.	NOVA*—MAINTENANCE AND OPERATIONS PROJECTS
March 21	
2:00 p.m.	FIREARMS RANGE FACILITIES PROJECTS
March 21	

* NOVA = Nonhighway and Off-Road Vehicles' Activities

WSR 91-04-033
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Medical Examiners)

[Order 130B—Filed January 30, 1991, 3:03 p.m.]

Date of Adoption: January 30, 1991.

Purpose: Amending WAC 308-52-135 to allow physician assistants to use their supervising physician's DEA registration number with a suffix.

Citation of Existing Rules Affected by this Order: Amending WAC 308-52-135 Physician assistant prescriptions.

Statutory Authority for Adoption: RCW 18.71A.020.

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

Reasons for this Finding: The Drug Enforcement Administration (DEA) is no longer issuing DEA registration numbers to physician assistants in the state of Washington and the existing rules do not allow physician assistants to use their supervising physician's DEA registration number. This rule needs to be amended in order to provide for adequate health care to the citizens of the state of Washington.

Effective Date of Rule: Immediately.

January 30, 1991
Patti L. Rathbun
Program Manager

AMENDATORY SECTION (Amending Order PM 599, filed 5/29/86)

WAC 308-52-135 PHYSICIAN ASSISTANT PRESCRIPTIONS. A physician assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician.

(1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.

(a) Written prescriptions shall include the name, address and telephone number of the physician; the name and address of the patient and the date on which the prescription was written.

(b) The physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A."

(c) Written prescriptions must include the physician assistant's D.E.A. registration number, or, if none, the supervising physician's D.E.A. registration number, followed by the initials "P.A." and the physician assistant's license number. ((number issued by the board of medical examiners.))

(2) A physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules

and regulations of the institution, order pharmaceutical agents, except those for schedule two controlled substances, for inpatients under the care of the physician responsible for his supervision.

(3) ~~((To be authorized to issue prescriptions for schedule three through five controlled substances, a physician assistant must be registered with the board of pharmacy and the drug enforcement administration.~~

~~(4))~~ The registration of a physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

~~((5))~~ (4) Physician assistants may dispense medications the physician assistant has prescribed from office supplies. The physician assistant shall comply with the state laws concerning prescription labeling requirements.

WSR 91-04-034
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed January 30, 1991, 4:10 p.m.]

Original Notice.

Title of Rule: WAC 275-16-030 Schedule of charges.

Purpose: To revise the schedule of charges for state mental hospitals. The charges are cost based. Costs have risen during this year due to salary increases. Increased rates result in additional revenue to the state and to the hospital through federal revenue sources, and third party payees.

Statutory Authority for Adoption: RCW 43.20B.335.

Statute Being Implemented: RCW 43.20B.335.

Summary: The schedule of charges for daily patient charges at Western State Hospital, Eastern State Hospital, and Child Study and Treatment Center are revised annually based on actual costs of operating each facility. The charges are used for billing purposes to Medicare, Medicaid, and third party resources for the patients.

Reasons Supporting Proposal: To comply with RCW 43.20B.325, which requires charges for hospitalization of patients in state mental hospitals to be based on the actual cost of operating such hospitals.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jan Wells, Mental Health Division, 753-2743.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 12, 1991.

Date of Intended Adoption: March 26, 1991.

January 30, 1991
 Dewey Brock
 for Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3061, filed 8/23/90, effective 9/23/90)

WAC 275-16-030 SCHEDULE OF CHARGES. Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals for the previous year. Hospitalization charges are due and payable on or before the tenth day of each calendar month for services rendered to patients of the department during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$((191.30))		((206.81))
	<u>224.00</u>	288.23	<u>228.49</u>
Physician Costs	*	15.56	*
Clozapine Costs Per Week	\$172.00	—	172.00

*The department shall bill the client for physician costs on a fee-for-service basis.

(b) OUTPATIENT SERVICES - Per diem

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
Outpatient Day Care Per Day	—	89.30	—
Per Hour	—	15.92	—

(c) ANCILLARY SERVICES - Per relative value unit

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
Radiology	4.20	4.20	5.90
Pathology	.31	.31	.29
Medical Clinics	1.78	1.78	7.31
Electroencephalogram	1.09	1.09	1.09
Electrocardiogram	.18	.18	.62
Physical Therapy	5.06	5.06	12.05
Occupational Therapy	—	—	26.89
Speech Therapy	—	—	16.68
Dental	29.46	29.60	40.60
Podiatry	1.28	1.28	1.00

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost.

¹/California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

WSR 91-04-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 30, 1991, 4:14 p.m.]

Original Notice.
 Title of Rule: WAC 388-49-505 Utility allowance.

Purpose: To change the food stamp standard utility allowance to a single standard and increase the telephone allowance.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Changes the standard utility allowance to a single \$172 allowance for all food stamp households; and increases the telephone allowance to \$25.00 from \$16.00.

Reasons Supporting Proposal: To change the food stamp standard utility allowance to a single standard and increase the telephone allowance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Income Assistance, 753-1354.

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

Rule is necessary because of federal law, 7 CFR 273.9 (d)(VI).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 12, 1991.

Date of Intended Adoption: March 26, 1991.

January 30, 1991
 Dewey Brock
 for Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2901, filed 11/17/89)

WAC 388-49-505 UTILITY ALLOWANCES. (1) The department shall:

- (a) Establish an annualized standard utility allowance for use in calculating shelter costs;
- (b) Obtain FNS approval of the methodology used to establish the standard utility allowance;
- (c) Establish a separate annualized telephone allowance;
- (d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) ((Effective October 1, 1988)) The annual standard utility allowance((s by household size are:

Persons in Household Annualized Utility Standards

1	120
2	129
3	136
4	145
5	153
6	158
7	164
8	171
9	180

10 or more 188)) shall be one hundred and seventy-two dollars.

(3) ((Effective March 1, 1988)) The monthly telephone standard ((is sixteen)) shall be twenty-five dollars.

WSR 91-04-036
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3132—Filed January 30, 1991, 4:16 p.m., effective February 1, 1991, 12:01 a.m.]

Date of Adoption: January 30, 1991.

Purpose: To change the food stamp standard utility allowance to a single standard and increase the telephone allowance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-505 Utility allowance.

Statutory Authority for Adoption: RCW 74.04.510.

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

Reasons for this Finding: To change the food stamp standard utility allowance to a single standard and increase the telephone allowance.

Effective Date of Rule: February 1, 1991, 12.01 a.m.
January 30, 1991

Dewey Brock
for Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2901, filed 11/17/89)

WAC 388-49-505 UTILITY ALLOWANCES.

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Persons in Annualized
Household Utility Standards

1	120
2	129
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6	158
7	164
8	171

Persons in Annualized
Household Utility Standards

9 180

10 or more 188)) shall be one hundred and seventy-two dollars.

(3) ((Effective March 1, 1988)) The monthly telephone standard ((is sixteen)) shall be twenty-five dollars.

WSR 91-04-037
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 3133—Filed January 30, 1991, 4:20 p.m., effective February 1, 1991, 12:01 a.m.]

Date of Adoption: January 30, 1991.

Purpose: To revise the schedule of charges for state mental hospitals. The charges are cost based. Costs have risen during this year due to salary increases. Increased rates result in additional revenue to the state and to the hospital through federal revenue sources, and third party payees.

Citation of Existing Rules Affected by this Order: Amending WAC 275-16-030 Schedule of charges.

Statutory Authority for Adoption: RCW 43.20B.335.

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

Reasons for this Finding: To comply with RCW 43.20B.325, which requires charges for hospitalization of patients in state mental hospitals to be based on the actual cost of operating such hospitals.

Effective Date of Rule: February 1, 1991, 12:01 a.m.
January 30, 1991

Dewey Brock
for Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3061, filed 8/23/90, effective 9/23/90)

WAC 275-16-030 SCHEDULE OF CHARGES. Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals for the previous year. Hospitalization charges are due and payable on or before the tenth day of each calendar month for

services rendered to patients of the department during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$ (191.30)		((206.84))
	<u>224.00</u> *	288.23	<u>228.49</u> *
Physician Costs		15.56	
Clozapine Costs Per Week	\$172.00	—	172.00
*The department shall bill the client for physician costs on a fee-for-service basis.			
(b) OUTPATIENT SERVICES -			
Per diem			
Outpatient	—	—	—
Day Care Per Day	—	89.30	—
Per Hour	—	15.92	—
(c) ANCILLARY SERVICES -			
Per relative value unit ^{1/}			
Radiology	4.20	4.20	5.90
Pathology	.31	.31	.29
Medical Clinics	1.78	1.78	7.31
Electroencephalogram	1.09	1.09	1.09
Electrocardiogram	.18	.18	.62
Physical Therapy	5.06	5.06	12.05
Occupational Therapy	—	—	26.89
Speech Therapy	—	—	16.68
Dental	29.46	29.60	40.60
Podiatry	1.28	1.28	1.00

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost.

^{1/}California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

WSR 91-04-038
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
(Apprenticeship and Training Council)
 [Memorandum—January 28, 1991]

On January 18, 1991, the Washington State Apprenticeship and Training Council voted to change the meeting locations for the April and July 1991 regular meetings to the following locations:

- April 18-19, 1991 Red Lion Inn
Hanford House
Richland, Washington
- July 18-19, 1991 Renton Vocational Technical Institute
Renton, Washington

All council meetings commence at 9:00 a.m.

WSR 91-04-039
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed January 31, 1991, 4:36 p.m.]

Supplemental Notice to WSR 90-24-088.
 Title of Rule: Amending chapter 388-15 WAC, Social services for families.

Purpose: Define "available" and "property owned"; and clarify rules for grandparented clients.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: The rule is necessary to determine eligibility for chore services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Fran Wilson, Aging and Adult Services, 459-2538.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 12, 1991.

Date of Intended Adoption: March 26, 1991.

January 31, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90)

WAC 388-15-208 DEFINITIONS. (1) "Applicant" means a person applying for chore services.

(2) "Attendant care" means the service provided to a grandparented client needing full-time care because the client:

(a) Requires personal care task assistance that cannot be scheduled, e.g., toileting, ambulation, transfer, positioning, some medication assistance; or

(b) Needs protective supervision because of confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume.

(3) "Available" means accessible for use and conversion into money or its equivalent without significant depreciation in the value of the property.

(4) "Chore services" means services in performing personal care and related household assistance tasks as provided in the department's medical assistance state plan provision addressing personal care.

((4)) (5) "Client" means a person receiving chore services.

((5)) (6) "Companionship" means being with a person in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

((+6)) (7) "Contracted program" means that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore services provider.

((+7)) (8) "Grandparented client" means a person approved for hourly household tasks or family care services before December 14, 1987, or a person approved for attendant care services before April 1, 1988 provided the person was receiving the same services as of June 30, 1989.

((+8)) (9) "Hourly care" means the service provided to clients needing assistance with scheduled household or personal care tasks.

((+9)) (10) "Household assistance" means assistance with travel to medical services, essential shopping, laundry, housework, or wood supply as defined under WAC 388-15-820.

((+10)) (11) "Individual provider program" means a method of chore service delivery where the client employs and supervises the chore services provider. Payment is made to the client who, in turn, pays the provider.

((+11)) (12) "Interim assessment" means the department's assessment form used to determine the amount and type of chore services to be provided.

((+12)) (13) "Own home" means the client's present or intended place of residence, whether in a building the client rents or owns or in the home of another person.

((+13)) (14) "Personal care" means assistance with personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, or meal preparation. The tasks are defined under WAC 388-15-820.

((+14)) (15) "Property owned (~~or available~~)" means property over which the applicant(~~or~~) or client has a legal (~~right of control~~) interest.

((+15)) (16) "Relative" means a client's spouse, father, mother, son, or daughter.

((+16)) (17) "Resources" means real or personal property owned by or available to an applicant or a client which the department may apply (~~toward meeting the applicant/client's requirements~~), either directly or (~~by~~) after conversion into money or its equivalent toward meeting the client's financial participation for services.

((+17)) (18) "Service authorization ceiling chart" means the chart indicating the maximum number of hours the department may authorize for a client's score.

((+18)) (19) "Shared living arrangement" means a situation where two or more adults share expenses and reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-209 ELIGIBILITY. The department shall consider the following eligibility criteria when determining an applicant/client's eligibility for chore services:

(1) Service eligibility:

- (a) Eighteen years of age and over;
- (b) At risk of placement in a long-term care facility as evidenced by the need for assistance with one or more personal care tasks listed in WAC 388-15-208(13); and
- (c) Not eligible for Medicaid personal care or community options program entry system (COPES) services.

(2) Financial eligibility, meets the financial and resource eligibility requirements established by the department;

(3) Resource eligibility:

- (a) Has resources at or below ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member;
- (b) Resources considered. The department shall consider the following resources when available to the applicant or client in determining the value of an applicant's or client's resources:
 - (i) Checking accounts;
 - (ii) Savings accounts;
 - (iii) Certificates of deposit;
 - (iv) Money markets;
 - (v) Negotiable stocks and bonds;
 - (vi) Latest assessed value of lots or property not attached to residence;
 - (vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;
 - (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature; and

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2) and (3)(a) and (b).

(c) Resources excluded. The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or client to earn income or for rehabilitation;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance; (~~or~~)
- (vii) Resources that cannot be converted to cash in twenty working days as long as there is a reasonable ongoing effort to convert the resource into cash;

(viii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383(~~-~~); or

(ix) Real estate sales contracts. The interest and principal payments from real estate sales contracts is treated as unearned income.

(4) Adult protective services. Adult protective service clients at risk of being placed in a long-term care facility shall be eligible to receive chore services without regard to income or resources if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period; and

(5) Volunteer chore services. An applicant for chore services shall be referred to the volunteer chore service program when the applicant:

- (a) Does not meet the eligibility criteria for chore services;
- (b) Is eligible for five hours or less per month of chore services;
- (c) Is eligible for a reduced level of chore services because income exceeds thirty percent of the state median income; or
- (d) Needs help with tasks that are not available in the chore services program.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-212 SERVICE DETERMINATION((S)). (1) Assessment.

(a) The purpose of assessment is to determine the applicant/client's need for chore services and the authorized hours of service.

(b) Department staff shall perform the assessment.

(c) The department shall perform a separate assessment for each adult applying for chore services.

(d) The department shall document the assessment on a prescribed form.

(e) When administering the assessment, department staff shall take into account the applicant/client's:

- (i) Risk of long-term care facility placement;
- (ii) Ability to perform personal care and related household tasks;
- (iii) Living situation; and
- (iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(f) The department shall consider the chore services client the secondary client in households where community options program entry system (COPES) services or Medicaid personal care services are also authorized.

(2) Scoring.

(a) For each task listed on the assessment form, the department staff shall determine the level of assistance:

- (i) The applicant/client requires;
- (ii) Available through alternative resources; and
- (iii) Needed from the chore services program.

(b) The applicant/client's assistance needed from the chore services program is the difference between assistance required and assistance available through alternative resources. This represents the applicant/client's unmet need.

(c) The level of the applicant/client's assistance required is indicated by entering one of the following codes for each task listed on the assessment form:

- (i) O = The applicant/client is able to perform this task without help;
 - (ii) M = The applicant/client requires a minimal amount of assistance to perform this task;
 - (iii) S = The applicant/client requires a substantial amount of assistance to perform this task;
 - (iv) T = The applicant/client requires total assistance to perform this task.
- (d) The level of assistance available is indicated by entering one of the following codes for each task listed on the assessment form:
- (i) O = Alternative resources are not available for assistance;
 - (ii) M = Alternative resources are available for minimal assistance;
 - (iii) S = Alternative resources are available for substantial assistance; or
 - (iv) T = Alternative resources are available for total assistance.
- (e) The level of unmet need is indicated by entering one of the following codes for each task listed on the assessment form:
- (i) O = No unmet need; the applicant/client can perform this task without help or all assistance required is available from alternative resources;
 - (ii) M = Minimal unmet need; the applicant/client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources;
 - (iii) S = Substantial unmet need; the applicant/client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources; or
 - (iv) T = Total unmet need; the applicant/client is totally unable to perform this task and no assistance from alternative resources is available. The total need of the applicant/client shall be met through the chore services program.
 - (f) Points are awarded for each task based on the level of unmet need. The number of points allowable for each task are listed below:

TASK	O	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping				
With client	0	5	10	15
or				
For client	0	1	3	5
Meal preparation				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry				
Facilities in home	0	1	2	3
or				
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply	0	3	5	7

- (g) The points awarded for each task are added together to obtain the total score for the applicant/client.
- (3) Ceiling hour computation.
 - (a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized.
 - (b) Use the service authorization ceiling chart to convert the score to ceiling hours per month:

SCORE	CEILING HOURS	SCORE	CEILING HOURS	SCORE	CEILING HOURS
1-4	5	60-64	44	120-124	83
5-9	8	65-69	47	125-129	87
10-14	11	70-74	51	130-134	90
15-19	14	75-79	54	135-139	93
20-24	18	80-84	57	140-144	97
25-29	21	85-89	60	145-149	100
30-34	24	90-94	64	150-154	103
35-39	28	95-99	67	155-159	106
40-44	31	100-104	70	160-164	110
45-49	34	105-109	74	165-169	113
50-54	37	110-114	77	170 and	
55-59	((5+)) 41	115-119	80	Above	116

- (4) Authorization when no reduction in hours.
 - (a) The department may authorize the number of ceiling hours allowable for the applicant/client's score when the applicant/client has a gross income, adjusted for family size, at or below thirty percent of the state median income.
 - (b) The department may authorize fewer than the allowable ceiling hours when appropriate to the applicant/client's individual circumstances.
 - (c) The department shall inform all applicant/clients of their right to request the department to authorize more than the allowable ceiling hours based on the applicant/client's score. The department shall grant a waiver to authorize additional hours up to the maximum of one hundred sixteen hours per month when:
 - (i) Circumstances of a demonstrated duration, frequency, or severity require additional chore services hours to assure the client's health or safety;
 - (ii) Needed additional hours are specific and clearly measurable; and
 - (iii) Available funds are provided under WAC 388-15-214.
 - (d) The department shall approve or deny requests for a waiver to exceed ceiling hours within thirty days.
 - (e) When a request for a waiver is denied, the department shall send the applicant/client a notice of the right to contest the department's decision under chapter 388-08 WAC.
 - (5) Authorization when hours are reduced.
 - (a) An applicant/client with a gross income, adjusted for family size, over thirty percent of the state median income, shall receive fewer than the number of ceiling hours allowable for the applicant/client's score(3):
 - (b) The department shall determine the amount of reduction to allowable ceiling hours by:
 - (i) Deducting one hour for each percentage point when the applicant/client's income exceeds thirty percent of the state median income; and
 - (ii) Deducting an additional hour for each percentage point when the applicant/client's income exceeds fifty percent of the state median income.
 - (c) The reduction computed under subsection (5)(b) of this section shall be subtracted from the allowable ceiling hours to obtain the maximum number of hours per month the applicant/client may be authorized.
 - (6) Meal allowance—IPP hourly services only. When providing meals for the chore services provider is an extra client cost, the department may authorize a payment to partially reimburse the client for the meal cost. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service.
 - (7) Relative providers. The department may authorize a relative to provide chore services only when the relative:
 - (a) Gives up paid employment of thirty hours or more per week, to give the service;
 - (b) Needs to take paid employment of thirty hours or more per week to meet financial needs; or
 - (c) Is financially eligible to receive general assistance to meet their own need.
- The above criteria apply to relatives providing service to clients, including grandparented clients, in either the contracted program or the individual provider hourly program.
- (8) Reassessment.

(a) The department shall reassess the eligibility of all chore service clients, except grandparented clients, at least every eighteen months or more often when deemed necessary because of a change in the client's condition or situation.

(b) The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall notify the client of the right to contest denial or reduction of services.

(c) The eligibility rules as described under WAC 388-15-209 apply to reassessment of all clients except grandparented clients.

(d) The department shall terminate chore services for an hourly personal care client when a reassessment shows the client now needs assistance with household tasks only. This rule shall not pertain to grandparented clients receiving household tasks only.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-215 PROGRAM LIMITATIONS. (1) The department shall not authorize chore services for:

- (a) Teaching and companionship;
- (b) Child care for working parents;
- (c) Providing nursing care; or
- (d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall not provide chore services to a resident of a:

- (a) Group home;
- (b) Licensed boarding home;
- (c) Congregate care facility;
- (d) Nursing care facility;
- (e) Hospital;
- (f) Institution;
- (g) Adult family home; or
- (h) Child foster home.

Shared living arrangements are not considered group homes.
 (3) Chore services shall be provided only in the client's home or surrounding property except for essential shopping, travel to medical services, and laundry when there are no laundry facilities in the client's home.

~~((4) The department shall not pay for chore services for hourly care clients when the clients are not residing at home, for example, because of hospitalization. In an emergency, however, the department may pay for limited services to enable the client to return home.)~~

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-216 GRANDPARENTED CLIENTS. (1) Continuing eligibility for hourly care chore service clients:

(a) The department may continue providing hourly chore services for clients receiving assistance with household tasks only before December 14, 1987, provided the clients were receiving the same services as of June 30, 1989~~((, and))~~.

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before December 14, 1987:

(i) If a review indicates a ~~((household tasks only client needs assistance with personal care, Medicaid personal care may be authorized if eligible for Medicaid funding.))~~ grandparented hourly care client is eligible for COPES or Medicaid personal care, the department shall terminate chore services and authorize COPES or Medicaid personal care unless the provider is a spouse;

(ii) If the client is not eligible for COPES or Medicaid personal care, ~~((chore services shall be authorized according to the eligibility requirements for a new client))~~ and continues to need hourly care chore services, the client shall continue as a grandparented client;

~~((iii))~~ (iii) If more or less household task services are required, the department shall authorize services ~~((may be authorized))~~ accordingly.

(2) Continuing eligibility for attendant care for adults.
 (a) The department may continue providing chore services to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall ~~((make))~~ perform periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) ~~((Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who))~~ If a review indicates an attendant care client is eligible for COPES or Medicaid personal care, the department shall terminate chore services and authorize COPES or Medicaid personal care unless the provider is a spouse;

(ii) If the client is not eligible for COPES or Medicaid personal care, the department shall authorize attendant care for a client who:

(A) Continues to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or ~~((who))~~ needs protective supervision;

~~((iii) Attendant care protective supervision shall be authorized for clients who))~~ (B) May hurt ~~((themselves))~~ self, others, or damage property if left alone, or ~~((are))~~ is confused and may wander, or become easily disoriented~~((;))~~;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore services provider must be with the client. The chore services provider performs necessary household or personal care tasks during the authorized attendant care hours;

(iv) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(c) The department shall pay a daily rate for attendant care for adults~~((The rate shall not exceed the lesser of the following))~~ a sum not exceeding the department-established rate:

- (i) ~~((A maximum of twenty-four dollars and fifty cents per day; or~~
- (ii) ~~The amount determined by the following table:~~

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50))

The department shall add up to five dollars per day for each additional client in the household; and

~~((iii))~~ (ii) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the state median income.

(d) The department shall not increase the payment in effect on June 30, 1989~~((;))~~ except for a department-approved vendor rate increase; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospitalization; except, up to seven days during the service month may be provided to enable the client to return home.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:

- (i) Is in the home but unable to physically care for the children; or
- (ii) Is in the home and physically unable to perform the necessary household tasks; or
- (iii) Is temporarily out of the home, as defined by the department; and

(iv) The division of children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(c) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

(d) For families to receive services, the total family income shall be at or below the department-established financial eligibility requirement. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(e) Determination of need for hourly care takes into consideration the ages, number and level of responsibility of the children and presence of a spouse. Allowable family care activities are:

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) Points are awarded for family care activities as follows:

(i) O = 0;

(ii) M = 14;

(iii) S = 27; and

(iv) T = 40.

Enter the points awarded on the bottom of the assessment form and add to the client's total score.

((~~4~~)) (4) Board and room meal allowances. When providing board and room or meals for the chore services provider is an extra cost to the client, the department may authorize a payment to partially reimburse the client for this expense. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service. No client shall be authorized for both a board and room allowance and a meal allowance.

((~~5~~)) (5) Ninety-day rule. Grandparented clients terminated from chore services because of transfer to another program may be re-authorized for chore services when the:

(a) Transfer was in effect for less than ninety days; and

(b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

((~~6~~)) (6) Priority levels. Priority levels for grandparented clients are:

(a) Level A: Client needs help with one of the following personal care tasks:

(i) Eating;

(ii) Body care;

(iii) Bed transfer;

(iv) Wheelchair transfer; or

(v) Toileting.

(b) Level B: Client needs help with four or more other personal care tasks as described under WAC 388-15-208(13);

(c) Level C: Client needs help with one to three other personal care tasks;

(d) Level D: Client needs help with all five household tasks:

(i) Travel to medical services;

(ii) Essential shopping;

(iii) Laundry;

(iv) Housework; and

(v) Wood supply.

(e) Level E: Client needs help with three or four household tasks; and

(f) Level F: Client needs help with one or two household tasks.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 91-04-040
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 31, 1991, 4:37 p.m.]

Original Notice.

Title of Rule: WAC 388-86-00901 Kitsap Physicians Service—Sound Care Plan.

Purpose: To delete Clallam County as an area where Kitsap Physician Services Sound Care Plan (KPS-SCP) serves recipients.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Recipients receiving AFDC-R and enrollees in FIP-J and G are required to enroll in KPS-SCP in Kitsap, Mason, and Jefferson counties.

Reasons Supporting Proposal: Delete Clallam County as an area where KPS-SCP serves recipients.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Anderson, Medical Assistance, 753-0529.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 12, 1991.

Date of Intended Adoption: March 26, 1991.

January 31, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2936, filed 1/29/90, effective 3/1/90)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients and family independence program (FIP-J and G) enrollees residing in Kitsap, Mason, or Jefferson(~~or Clallam~~) counties in the Kitsap Physicians Service—Sound Care Plan (plan), except as provided in subsections (4) and (5) of this section.

(2) The department may offer optional enrollment to additional program eligible groups with the agreement of the plan.

(3) Timely provision of services means a recipient shall have the right to receive medically necessary care without unreasonable delay.

(4) Upon a client's request, the department may exempt the client((s)), for whom medically necessary care is required, (~~and~~) when the plan is contracted to provide the service but cannot make medically necessary ((care)) service available. In making the exemption determination, the department's consideration shall include, but not be limited to whether:

(a) (~~Whether~~) Distance or transportation problems make it unreasonably difficult for the client to obtain services; or

(b) (~~Whether~~) The absence of a translator((s)) for or of services accessible to disabled persons makes it unreasonably difficult for the client to obtain services.

(5) (~~Indians~~) Native Americans eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service may choose to enroll in the plan.

(6) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which a person immediately requires medical services (~~are immediately required~~) to avoid placing (~~an individual's~~) a person's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for further services received only if the recipient is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010(6).

(7) Any client aggrieved by a decision of the plan or the department has the right to a fair hearing under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case where the plan denies a recipient urgently needed medical services, a recipient need only provide a written grievance to the plan before or when requesting a fair hearing.

(c) A client requesting exemption from enrollment in the plan is required to file a written request with the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to the fair hearing.

(8) Each recipient enrolled in the plan shall have a primary care physician (PCP):

(a) Recipients shall have an opportunity to choose a PCP from current plan providers;

(b) The plan shall assign a PCP to recipients not choosing a participating provider;

(c) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason;

(ii) For subsequent changes during the twelve-month period the recipient shall first show good cause.

(d) When requesting a change in their PCP the recipient shall notify the plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(9) The recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the recipient needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the recipient believes the PCP is not authorizing medically necessary care.

(10) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

(11) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

(13) The plan shall appoint a medical director who:

(a) Is responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to such grievances.

(14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan.

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

WSR 91-04-041
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3113A—Filed January 31, 1991, 4:44 p.m., effective February 7, 1991]

Date of Adoption: January 31, 1991.

Purpose: To extend the effective date of this permanent rule from February 1, 1991, to February 7, 1991.

Citation of Existing Rules Affected by this Order:
Amending chapter 388-77 WAC, Family independence program.

Statutory Authority for Adoption: RCW 74.21.070.

Pursuant to notice filed as WSR 90-21-149 on October 24, 1990; WSR 90-24-026 on November 30, 1990; and WSR 91-01-062 on December 14, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-77-010 is modified to include and clarify the definition of "good cause for late reporting." Although included by reference to the Washington Administrative Code (WAC) for the aid to families with dependent children program, some commenters felt that the definition should be set out specifically in FIP WAC; and WAC 388-77-500(2) is modified to limit the 185% gross income test to applications only. As proposed, the test would have applied to applications and to ongoing eligibility. The change is in response to and reflects the concerns raised by the legal services community.

Effective Date of Rule: February 7, 1991.

January 31, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-010 DEFINITION. Unless the context clearly requires otherwise, the definitions in WAC 388-77-010 apply throughout chapter 388-77 WAC. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural. Other definitions applicable to FIP are contained in chapters 388-22 and 388-49 WAC.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus food cash assistance as determined in WAC 388-77-820.

(3) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age and under nineteen years of age who are reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training,

before the end of the month in which nineteen years of age is reached.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive FIP cash assistance or other services under the family independence program.

(5) "Transitional benefits" means noncash benefits the enrollee is eligible to receive after eligibility for cash assistance no longer exists because of increased earnings.

(6) "Family independence program" means a demonstration project which remains within the AFDC system under Title IV of the federal Social Security Act and the Food Stamp Act.

(7) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(8) "FIP cash assistance" means the IV-A payment for the grant, additional requirements, and incentive and/or the cash equivalent for food stamps.

(9) "FIP noncash benefits" means benefits, such as medical or child care.

(10) "Full-time employment" means working one hundred fifty or more hours per month.

(11) "Good cause for late reporting" means any circumstance beyond the control of the enrollee. Good cause shall be determined by the department.

(12) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

~~((12) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children.))~~

(13) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(14) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(15) "Overpayment" means FIP cash assistance including food assistance, and/or medical benefits, received by the FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the enrollee to receive or retain benefits to which the enrollee is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/enrollee's willful intent to defraud the department.

(16) "Qualifying parent" means the parent in a two-parent household who earned the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(17) "Self-sufficiency plan" means a written agreement between the employment security department or the department and the enrollee that may include activities specifically undertaken for self-support, and other items outlined in the employability plan or social services plan.

(18) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-320 RESOURCES—EXEMPT. In addition to those exempted under aid to families with dependent children in WAC 388-28-005 through 388-28-474 and 388-28-575, the department shall exempt ~~((the following resources for FIP Title IV-A assistance:~~

~~(1) The cash surrender value of life insurance;~~

~~(2) The cash surrender value of burial plots and prepaid funeral agreements;~~

~~(3)) nonexempt real property as long as the enrollee is making a good faith effort to sell the property.~~

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-500 INCOME—DETERMINATION OF NEED. (1) An applicant is not eligible for FIP cash assistance if nonexempt gross monthly income less disregards, as specified in AFDC, exceeds the payment standard and authorized additional requirements for AFDC in effect at the time of application:

(a) The department shall ~~((not))~~ apply the one hundred eighty-five percent gross income test in WAC 388-28-484(7) to the income of FIP applicants; and

(b) For the purpose of subsection (1) of this section, an applicant shall not have been a recipient of AFDC or an enrollee of FIP for ninety days prior to application.

(2) For FIP enrollees, the AFDC one hundred eighty-five percent gross income test and the AFDC payment standard test shall not apply.

(3) Unless the household qualifies for a hold-harmless payment, an enrollee shall not be eligible for IV-A FIP cash assistance if nonexempt monthly income less disregards exceeds the totals of:

(a) The payment standard for AFDC for the appropriate household size;

(b) Applicable incentives; and

(c) Authorized additional requirements.

(4) An enrollee shall not be eligible for FIP cash assistance when nonexempt income less deductions exceeds the benchmark plus applicable incentives and authorized additional requirements unless the household qualifies for a hold-harmless payment. For the purpose of subsection (4) of this section, the food assistance amount

used in the benchmark shall be calculated at eighty percent of the thrifty food plan.

(5) The department shall determine the exempt or nonexempt status of all income.

AMENDATORY SECTION (Amending Order 2984, filed 5/31/90, effective 7/1/90)

WAC 388-77-515 INCOME—EXEMPT. In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt the following income from FIP:

- (1) Higher education benefits;
- (2) ~~((Earned income tax credit (EIC);~~
- ~~(3)))~~ The earnings of a child under eighteen years of age;
- ~~((4)))~~ (3) Retroactive FIP benefits;
- ~~((5)))~~ (4) Income tax refunds; and
- ~~((6) Loans, if there is a written agreement to repay;~~
- ~~(7) Income in-kind; and~~
- ~~(8)))~~ (5) Gifts as follows:
 - (a) Small nonrecurring gifts, not to exceed thirty dollars per recipient in any quarter;
 - (b) Gifts to cover the costs of tuition, books, or fees; or
 - (c) Gifts to cover medical expenses for procedures used to eliminate barriers to employment.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-520 INCOME—DEDUCTIONS. (1) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

(2) The department shall not allow the ten percent earned income deduction if earnings are reported after the eighteenth of the process month without good cause.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-555 EARNED INCOME REPORTING. (1) The department shall send employed enrollees a form to report their gross earnings and hours worked. This section shall not apply to an employed child.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed enrollees shall report earnings and hours worked in writing beginning the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of ~~((suspension and))~~ termination to an enrollee who fails to submit a written report and verify earned income and hours worked by the tenth of the process month;

(b) ~~((Suspend))~~ Terminate FIP cash assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the process month;

~~(c) ((Terminate FIP assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the payment month. Assistance shall be terminated effective the end of the payment month; however, cash assistance shall not be provided for the payment month; and~~

~~(d) Reinstate assistance to the start of the payment month, suspend or terminate FIP assistance as appropriate when earned income and hours worked are reported and necessary verification is provided by the end of the payment month, and give advance and adequate notice of the action taken))~~ Disallow AFDC income disregards in the hold-harmless calculation if income is reported after the eighteenth of the process month without good cause.

(5) Earned income reporting shall apply to both the Title IV-A and food assistance portions of FIP in place of mandatory monthly reporting.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-600 STANDARDS OF ASSISTANCE—HOLD HARMLESS. (1) The department shall ensure no applicant or enrollee of FIP receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the AFDC and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

- (a) The federal food stamp allotment and deductions; and
- (b) The Washington state payment standard for AFDC.

(2) The department shall compare the amount the household would have received under the AFDC program (excluding the allowance for the child care) with the FIP IV-A payment. If the AFDC payment amount is greater, the department shall issue a supplement to bring the FIP IV-A payment up to the amount the household would have received on AFDC.

(3) Notwithstanding subsection (2) of this section, the department shall allow the AFDC child care deduction in the hold-harmless computation for the month of conversion to FIP and the month following if such deduction may be allowed for AFDC.

AMENDATORY SECTION (Amending Order 2757, filed 1/13/89)

WAC 388-77-610 STANDARDS OF ASSISTANCE—INCENTIVE STANDARDS. (1) The department shall provide enrollees who are teen parents in high school or enrollees who are employed with incentive benefits as follows:

(a) Five percent of the benchmark standard for pregnant or parenting teenage parents under twenty-two years of age who stay in:

- (i) High school and progress toward graduation; and
- (ii) Participate, when available, in parenting education approved by the office of the superintendent of public instruction or the department.

(b) Fifteen percent of the benchmark standard for enrollees working half time;

(c) Thirty-five percent of the benchmark standard for enrollees working full-time.

(2) As described under subsection (1) of this section, the department shall not provide employment incentives for:

(a) Earnings reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(b) Income that is exempt or disregarded.

(3) The department shall provide other FIP enrollees participating in education or training programs approved by ESD or the department with incentive benefits equaling five percent of the benchmark standard.

~~((3))~~ (4) The department shall allow self-employed enrollees with an approved self-employment plan fifteen percent or thirty-five percent of the benchmark standard based on:

(a) The enrollee's declaration of hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(b) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

~~((4))~~ (5) An enrollee's participation in job search skills development or job search activities shall not qualify the enrollee for an incentive under WAC 388-77-610.

~~((5))~~ (6) The department shall not allow more than one incentive per assistance unit. The department shall allow the incentive at the highest level for which the assistance unit qualifies.

~~((6))~~ (7) The department shall round incentive payments down to the nearest dollar.

~~((7))~~ (8) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

~~((8))~~ (9) For the purposes of the incentive computation, the department shall calculate the food assistance amount used in the benchmark at eighty percent of the thrifty food plan. The department shall round the product of the calculation of the eighty percent of the thrifty food plan down to the nearest dollar.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-615 STANDARDS OF ASSISTANCE—PAYMENT AMOUNTS. (1) To determine FIP Title IV-A cash assistance, the department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements(~~(:~~

~~(a) The department shall not pay grants less than one dollar; and~~

~~(b))~~. The department shall round the amount to be issued down to the nearest dollar.

(2) Payment amounts for enrollees, not in their own home, shall be as in WAC 388-29-125 through 388-29-280.

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-77-230 FAMILY INDEPENDENCE PROGRAM—INCAPACITY CRITERIA.

388-77-530 INCOME—NONRECURRING LUMP SUM PAYMENTS.

WSR 91-04-042

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3134—Filed January 31, 1991, 4:45 p.m., effective February 1, 1991, 12:01 a.m.]

Date of Adoption: January 31, 1991.

Purpose: Delete the requirement that siblings and nonsiblings be included in a single assistance unit. Changes "OPPORTUNITIES" to "Job opportunities and basic skills training (JOBS)." JOBS program replaces OPPORUTNITIES program effective October 1, 1990.

Citation of Existing Rules Affected by this Order: Amending WAC 388-24-050 Aid to families with dependent children—Assistance unit.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: To comply with United States Court of Appeals, 9th circuit, decision in *Beaton v. Thompson*. The court ruled WAC 388-24-050(3) violates federal regulations.

Effective Date of Rule: February 1, 1991, 12:01 a.m.

January 31, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2731, filed 11/30/88)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT.

(1) ~~Except as specified in subsection ((4))~~ (3) of this section, the department shall include, in a single assistance unit, the following persons living together:

(a) A woman in her third trimester of pregnancy who has no other child; or

(b) The child(ren), including all full or half brothers and sisters of such a child(ren); and

(c) The parent(s) or stepparent(s) with whom the child(ren) lives; and

(d) A minor parent's parent who claims to be the needy caretaker relative of:

(i) The minor parent,

- (ii) The minor parent's child, or
- (iii) The minor parent's full or half brother or half sister.

(2) Except as specified in subsection ~~((4))~~ (3) of this section, the department may include in the assistance unit at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child(ren), if a parent does not reside in the family home; ~~((or))~~

(b) The stepbrothers or stepsisters of a child included in the assistance unit, except as required in subsection (1) of this section; or

(c) Needy eligible nonsibling children.

~~(3) ((The department shall authorize only one assistance unit grant for all needy eligible siblings and nonsiblings living with a single caretaker relative or relative married couple.~~

~~(4))~~ The department shall exclude from the assistance unit those persons ineligible due to factors not related to need. Exclusions include, but are not limited to:

(a) A recipient of SSI benefits;

(b) An alien not meeting the citizenship and alienage requirements (see WAC 388-26-120); and

(c) A person under sanction for noncooperation with:

(i) The ~~((OPPORTUNITIES))~~ Job Opportunities Basic Skills Training (JOBS) program (see WAC 388-24-107); or

(ii) The department's office of support enforcement (see WAC 388-24-108 and 388-24-109).

WSR 91-04-043
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 31, 1991, 4:46 p.m.]

Original Notice.

Title of Rule: WAC 388-24-050 Aid to families with dependent children—Assistance unit.

Purpose: Delete the requirement that siblings and nonsiblings be included in a single assistance unit. Changes "OPPORTUNITIES" to "Job opportunities and basic skills training (JOBS)." JOBS program replaces OP-PORTUNITIES program effective October 1, 1990.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Deletes the requirement that nonsiblings be included in same assistance unit as siblings. WAC 388-24-050(3) deleted because the requirement that siblings and half-siblings be included in a single assistance unit is stated in WAC 388-24-050 (1)(b). Changes reference to work program from "OPPORTUNITIES" to "JOBS."

Reasons Supporting Proposal: To comply with United States Court of Appeals, 9th circuit, decision in *Beaton v. Thompson*. The court ruled WAC 388-24-050(3) violates federal regulations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Culhane, Income Assistance, 753-0471.

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

Rule is necessary because of federal court decision, United States Court of Appeals, 9th circuit, *Beaton v. Thompson*.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by March 12, 1991.

Date of Intended Adoption: March 26, 1991.

January 31, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2731, filed 11/30/88)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. (1) Except as specified in subsection ~~((4))~~ (3) of this section, the department shall include, in a single assistance unit, the following persons living together:

(a) A woman in her third trimester of pregnancy who has no other child; or

(b) The child(ren), including all full or half brothers and sisters of such a child(ren); and

(c) The parent(s) or stepparent(s) with whom the child(ren) lives; and

(d) A minor parent's parent who claims to be the needy caretaker relative of:

(i) The minor parent,

(ii) The minor parent's child, or

(iii) The minor parent's full or half brother or half sister.

(2) Except as specified in subsection ~~((4))~~ (3) of this section, the department may include in the assistance unit at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child(ren), if a parent does not reside in the family home; ~~((or))~~

(b) The stepbrothers or stepsisters of a child included in the assistance unit, except as required in subsection (1) of this section; or

(c) Needy eligible nonsibling children.

~~(3) ((The department shall authorize only one assistance unit grant for all needy eligible siblings and nonsiblings living with a single caretaker relative or relative married couple.~~

~~(4))~~ The department shall exclude from the assistance unit those persons ineligible due to factors not related to need. Exclusions include, but are not limited to:

(a) A recipient of SSI benefits;

(b) An alien not meeting the citizenship and alienage requirements (see WAC 388-26-120); and

(c) A person under sanction for noncooperation with:

(i) The ~~((OPPORTUNITIES))~~ Job Opportunities Basic Skills Training (JOBS) program (see WAC 388-24-107); or

(ii) The department's office of support enforcement (see WAC 388-24-108 and 388-24-109).

WSR 91-04-044
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3135—Filed January 31, 1991, 4:47 p.m., effective February 1, 1991]

Date of Adoption: January 31, 1991.

Purpose: To delete Clallam County as an area where Kitsap Physician Services Sound Care Plan (KPS-SCP) serves recipients.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-00901.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: [No information supplied by agency.]

Effective Date of Rule: February 1, 1991.

January 31, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2936, filed 1/29/90, effective 3/1/90)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients and family independence program (FIP-J and G) enrollees residing in Kitsap, Mason, or Jefferson (~~or Clallam~~) counties in the Kitsap Physicians Service—Sound Care Plan (plan), except as provided in subsections (4) and (5) of this section.

(2) The department may offer optional enrollment to additional program eligible groups with the agreement of the plan.

(3) Timely provision of services means a recipient shall have the right to receive medically necessary care without unreasonable delay.

(4) Upon a client's request, the department may exempt the client(s), for whom medically necessary care is required, ~~(and)~~ when the plan is contracted to provide the service but cannot make medically necessary ~~(care)~~ service available. In making the exemption determination, the department's consideration shall include, but not be limited to whether:

(a) ~~(Whether)~~ Distance or transportation problems make it unreasonably difficult for the client to obtain services; or

(b) ~~(Whether)~~ The absence of a translator(s) for or of services accessible to disabled persons makes it unreasonably difficult for the client to obtain services.

(5) ~~(Indians)~~ Native Americans eligible under subsection (1) of this section and eligible to receive health

services through the Indian Health Service may choose to enroll in the plan.

(6) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which a person immediately requires medical services ~~((are immediately required))~~ to avoid placing ~~((an individual's))~~ a person's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for further services received only if the recipient is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010(6).

(7) Any client aggrieved by a decision of the plan or the department has the right to a fair hearing under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case where the plan denies a recipient urgently needed medical services, a recipient need only provide a written grievance to the plan before or when requesting a fair hearing.

(c) A client requesting exemption from enrollment in the plan is required to file a written request with the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to the fair hearing.

(8) Each recipient enrolled in the plan shall have a primary care physician (PCP):

(a) Recipients shall have an opportunity to choose a PCP from current plan providers;

(b) The plan shall assign a PCP to recipients not choosing a participating provider;

(c) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason;

(ii) For subsequent changes during the twelve-month period the recipient shall first show good cause.

(d) When requesting a change in their PCP the recipient shall notify the plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(9) The recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the recipient needs more information as to the medical necessity of medical treatment recommended by the PCP, or

(b) If the recipient believes the PCP is not authorizing medically necessary care.

(10) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

(11) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

(13) The plan shall appoint a medical director who:

(a) Is responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to such grievances.

(14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan.

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

WSR 91-04-045
EMERGENCY RULES
HIGHER EDUCATION
COORDINATING BOARD
[Filed February 1, 1991, 8:17 a.m.]

Date of Adoption: February 1, 1991.

Purpose: This statement of purpose is written in compliance with section 2, chapter 186, Laws of 1980, and to accompany the notice of intention to adopt, amend or repeal rules by the Higher Education Coordinating Board.

Citation of Existing Rules Affected by this Order: Amending WAC 250-44-050, 250-44-110, and 250-44-130.

Statutory Authority for Adoption: RCW 28B.10.806.

Other Authority: Chapter 28B.04 RCW, as amended.

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

Reasons for this Finding: These rules are promulgated for emergency adoption so the Higher Education Coordinating Board may begin the 1991-93 contract award process.

Effective Date of Rule: Immediately.

January 30, 1991

Ann Daley

Executive Director

AMENDATORY SECTION (Amending Order 1-89, Resolution No. HECB 89-3, filed 3/31/89)

WAC 250-44-050 UTILIZATION OF AVAILABLE CONTRACT FUNDS. (1) Each biennium the executive director shall issue contract application guidelines which shall establish criteria for specific utilization of available contract funds. The guidelines shall set forth:

(a) The maximum contract amount for a multipurpose service center to be provided depending on available funds under the act during the ((1989-91)) 1991-1993 biennium shall not exceed \$4,600 per month.

(b) The maximum contract amount for a contract for a program or programs of service depending on available funds under the act during the ((1989-91)) 1991-1993 biennium shall not exceed \$3,200 per month.

(c) A reservation of funds for contracts to provide state-wide outreach and information services and/or training for service providers.

(2) At least two multipurpose service centers in major population centers will be supported under the displaced homemaker program, provided adequate funds have been appropriated.

(3) Remaining funds will be used for contracts selected to provide geographic dispersion of displaced homemaker multipurpose service centers and programs of service.

AMENDATORY SECTION (Amending Order 1-89, Resolution No. HECB 89-3, filed 3/31/89)

WAC 250-44-110 LENGTH OF CONTRACT PERIODS. Contract periods for contracts awarded under the act shall be in accordance with each application proposal, subject to contract application guidelines issued by the executive director.

(1) Contracts for operation of multipurpose service centers during the ((1989-91)) 1991-1993 biennium may cover operations beginning as early as July 1, ((1989)) 1991, and ending June 30, ((1991)) 1993.

(2) Contracts for operation of programs of services during the ((1989-91)) 1991-1993 biennium may cover operations beginning as early as July 1, ((1989)) 1991, and ending June 30, ((1991)) 1993.

AMENDATORY SECTION (Amending Order 1-89, Resolution No. HECB 89-3, filed 3/31/89)

WAC 250-44-130 CALENDAR AND CLOSING DATES FOR LETTERS OF INTENT, APPLICATIONS AND AWARDS. (1) Sponsoring organizations wishing to apply for contracts to operate multipurpose service centers, shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by Monday, March (~~(6, 1989)~~) 4, 1991, as specified in the contract application guidelines.

(2) The executive director or the director's designee will screen the letters of intent for multipurpose service centers, prepare a list of all eligible sponsoring organizations which filed letters of intent and distribute the list to all organizations on the list, by Monday, March (~~(13, 1989)~~) 11, 1991, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(3) Applications for contracts for multipurpose service centers may be submitted by sponsoring organizations on the list pursuant to subsection (2) of this section. The closing dates for such applications by (~~Wednesday~~) Friday, April 5, (~~(1989)~~) 1991, as specified in the contract application guidelines.

(4) Sponsoring organizations wishing to apply for contracts to operate programs of service and a state-wide outreach and information services program shall submit to the executive director a letter of intent, accompanied by appropriate documentation of nonprofit status in the case of nonpublic applicants, by Monday, March (~~(6, 1989)~~) 4, 1991.

(5) The executive director or the director's designee will screen the letters of intent for programs of service and a state-wide outreach and information services program, prepare a list of all eligible sponsoring organizations which filed letters of intent, and distribute the list to all organizations on the list, by Monday, March (~~(13, 1989)~~) 11, 1991, or seven days from the filing date for letters of intent as specified in the contract application guidelines.

(6) Applications for contracts for programs of service and a state-wide outreach and information services program may be submitted by sponsoring organizations on the list pursuant to subsection (5) of this section by (~~Wednesday~~) Friday, April 5, (~~(1989)~~) 1991, as specified in the contract application guidelines.

(7) The executive director of the board will approve awards of contracts, provided qualifying applications were received by the closing dates specified in this section and in the guidelines.

(8) In the event that available funds for contracts under the act are not fully utilized after approval of contracts the executive director may either establish a new calendar for further consideration of applications and award of contracts or award supplemental funds to existing centers and programs by amendment of contracts in effect.

WSR 91-04-046**PROPOSED RULES****PERSONNEL BOARD**

[Filed February 1, 1991, 1:40 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-15-020 Work period designations.

Purpose: This rule establishes guidelines for the State Personnel Board to assign specific work period designations to each class.

Other Identifying Information: Scheduled alternate work period designations.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal adds another option schedule to those defined as scheduled alternate work period designation.

Reasons Supporting Proposal: The two-week cycle scheduling plan allows employees to work 44 hours in one calendar week and 36 in the second, with a three-day weekend on alternate weeks, provided the employee's work week is reset to divide 40 hours into one workweek and 40 hours into the second.

Name of Agency Personnel Responsible for Drafting: Gail Salisbury, 521 Capitol Way South, 753-5383; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Transportation, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency supports this proposal.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This allows an employee to work four 9-hour days and one eight hour day in the first calendar week. In the second calendar week the employee works only four 9-hour days and has the fifth day off. This schedule has become popular in the Department of Transportation, but without this rule change, each such schedule must be individually approved by the director of personnel. With this change, agencies will be able to implement such schedules without the delay of submission and review, and without the central recordkeeping required for "scheduled unlisted" approvals. It will save time, save recordkeeping, and allow greater freedom of scheduling, while avoiding Fair Labor Standards Act overtime requirements.

Proposal Changes the Following Existing Rules: This proposal adds another option schedule to those defined as scheduled alternate work period designation.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA 98504, on March 14, 1991, at 10:00 a.m.

Submit Written Comments to: Gail Salisbury, P.O. Box 1789, Mailstop FE-11, Olympia, WA 98504, by March 12, 1991.

Date of Intended Adoption: March 14, 1991.

January 29, 1991
Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 294, filed 2/12/88, effective 4/1/88)

WAC 356-15-020 WORK PERIOD DESIGNATIONS. (1) The personnel board shall assign a specific work period designation to each job class. In deciding which work period designation is appropriate, the personnel board shall consider the following factors:

(a) Whether the positions are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

(b) Whether the positions have been historically paid overtime by the state.

(c) Whether the private sector or other governmental jurisdictions have a historical or prevailing overtime pay practice for direct counterpart positions.

(d) Other factors it may deem to be appropriate.

(2) The personnel board may authorize a work period designation for an individual position which differs from the class-wide designation when the position has atypical working conditions. When two or more designations are indicated for a job class, the first designation listed shall constitute the class-wide designation. Each position shall be assigned only one designation. The work period designation for persons on "in-training" and "underfill" appointments shall be the same as that of the position to which they are appointed, except that if the position is designated "exceptions," the employee's work period designation will be "nonscheduled."

(a) Scheduled (S):

(i) Standard: Full-time positions with conditions of employment which may be completed within five consecutive (~~work days~~) workdays, each having the same starting time and lasting not more than eight working hours.

(ii) Alternate: Full-time positions with conditions of employment which may be completed within:

(A) Five (~~work days~~) workdays lasting not more than eight working hours within the same workweek but which, because of operational necessity, cannot be scheduled with the same daily starting time or with consecutive days off; or

(B) Four (~~work days~~) workdays lasting not more than ten working hours each within the same workweek; or

(C) Four nine-hour (~~work days~~) workday and one four-hour (~~work day~~) workday; or

(D) Ten consecutive (~~work days~~) workdays with four consecutive days off; or

(E) Ten (~~work days~~) workdays lasting not more than eight working hours and occurring within a scheduled fourteen consecutive day period. Positions are restricted to employees in the registered nurse class series who work in an institutional hospital primarily engaged in the care of residents.

(F) Continuous five (~~work days~~) workdays-per-week shifts which rotate each 28 days to a different schedule of regular days and hours per week. The rotation involves extended or shortened time off between the ending shift of one schedule and the beginning shift of the next, but does not require more than eight hours work in any one 24-hour period within a schedule, nor more than fifty-two 40-hour workweeks per year. Positions are limited to communications officers and scheduled commercial vehicle enforcement officers of the state patrol.

After giving written notice to the employee and the certified exclusive representative, the employer may implement an alternate schedule provided the employer can document a program need for the alternate schedule or the alternate schedule is mutually agreeable to the employer and employee.

(G) Within a period of two workweeks, eight workdays of nine hours each and one workday of eight hours, with two consecutive days off in one workweek, and three consecutive days off in the other, provided:

(a) the employee's workweek is reset to end and begin at the point where it divides the two workweeks into 40 hours each; and (b) the employee must be paid any overtime which results from the change of workweeks as required in WAC 356-15-090(7), regardless of who requested the change to this schedule.

(iii) Unlisted: Full-time positions for which the director of personnel has approved a schedule or scheduling plan not allowed above. Such

unlisted schedules may be approved by the director of personnel when both the agency and the affected employees are in agreement. Approval by the exclusive representative shall constitute approval of employees within a certified bargaining unit.

(b) Nonscheduled (NS): Full-time positions with conditions of employment which necessitate adjustment of hours by employees within forty working hours within the workweek. These positions may have preset schedules or task assignments which require their attendance at certain hours, but are generally responsible to adjust their hours to best accomplish their workload.

(c) Law enforcement (1): Full-time positions which meet the law enforcement criteria of section 7(k) of the Fair Labor Standards Act. (Defined as law enforcement personnel in WAC 356-05-210.)

(d) Exceptions (e): Full-time positions which are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

WSR 91-04-047
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 1, 1991, 3:39 p.m.]

Continuance of WSR 90-22-099 and 91-03-039.
Title of Rule: WAC 388-44-145 Involuntary repayment of overpayment—Mandatory grant deduction.
Date of Intended Adoption: March 1, 1991.

February 1, 1991
Rosemary Carr
Acting Director
Administrative Services

WSR 91-04-048
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3136—Filed February 1, 1991, 3:46 a.m.]

Date of Adoption: February 1, 1991.

Purpose: Chapter 388-155 WAC supersedes those portions of chapter 388-73 WAC pertaining to child day care homes. The purpose of the new chapter is to codify recommendations formulated by a department-convened licensing task force, whose mission was to propose new regulations contributing toward enhancing the quality of child care practices and services, and increasing the availability of child care resources without compromising the safety or well-being of children in care.

Citation of Existing Rules Affected by this Order: New chapter 388-155 WAC, Minimum licensing requirements for family child day care homes.

Statutory Authority for Adoption: RCW 74.15.030.

Pursuant to notice filed as WSR 90-21-150 on October 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: Addition of definitions, WAC 388-155-010, to be equivalent to definitions found in chapter 212-56 WAC, Standard for fire protection, including: Definition of "child," definition of "family abode," and additions to

the definition of "family child day care home"; incorporation of fire safety regulations by reference, WAC 388-155-070; and clarifying language added to regulations regarding prohibition of smoking, WAC 388-155-430.

Effective Date of Rule: Thirty-one days after filing.

February 1, 1991

Rosemary Carr

Acting Director

Administrative Services

Chapter 388-155 WAC
MINIMUM LICENSING REQUIREMENTS FOR
FAMILY CHILD DAY CARE HOMES

NEW SECTION

WAC 388-155-005 AUTHORITY. The following rules are adopted under chapter 74.15 Revised Code of Washington (RCW).

NEW SECTION

WAC 388-155-010 DEFINITIONS. As used and defined under this chapter:

(1) "Assistant" means a child care giver or child care givers employed by the licensee to supervise a child served at the home.

(2) "Capacity" means the maximum number of children the licensee is authorized to have on the premises at a given time.

(3) "Child" means a person seventeen years of age and under.

(4) "Child abuse or neglect" means the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by a person under circumstances indicating the child's health, welfare, and safety is harmed.

(5) "Department" means the state department of social and health services.

(6) "Department of health" means the state department of health.

(7) "Family abode" means "a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

(8) "Family child care home" means a facility in the family residence of the licensee providing regularly scheduled care for twelve or fewer children, within a birth through eleven-years-of-age range exclusively, for periods less than twenty-four hours.

(9) "Family child day care home" means the same as "family child care home" and "a child day care facility, licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home."

(10) "Family residence" means the same as "family abode."

(11) "Home" means the same as "family child care home."

(12) "License" means a permit issued by the department authorizing by law the licensee to operate a family

child care home and certifying the licensee meets minimum requirements under licensure.

(13) "Licensee" means the person, organization, or legal entity responsible for operating the home.

(14) "Premises" means the buildings where the home is located and the adjoining grounds over which the licensee has control.

(15) "Provider" means the same as "licensee."

(16) "Under two years of age" means a child twenty-three months of age or younger.

NEW SECTION

WAC 388-155-020 SCOPE OF LICENSING. (1) The person operating a family child care home shall be subject to licensing by authority under chapter 74.15 RCW, unless exempted by RCW 74.15.020(4).

(2) The person operating a family child care home and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) The department shall not license the home legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the home as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

NEW SECTION

WAC 388-155-040 LOCAL ORDINANCES AND CODES. The department shall issue or deny a license on the basis of the applicant's compliance with minimum licensing and procedural requirements. Local officials shall be responsible for enforcing city ordinances and county codes, such as zoning and building regulations.

NEW SECTION

WAC 388-155-050 WAIVERS. (1) In an individual case, the department, for good cause, may waive a specific requirement and may approve an alternate method of achieving the specific requirement's intent if the:

(a) Licensee or applicant submits to the department a written waiver request fully explaining the circumstances necessitating the waiver; and

(b) Department determines waiver approval will not jeopardize the safety or welfare of the child in care or detract from the quality of services the licensee delivers.

(2) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of the license.

(3) The department may limit or restrict a license issued in conjunction with a waiver.

(4) The licensee shall maintain on the premises a copy of the written waiver approval.

(5) The department's denial of a waiver request shall not be subject to appeal under chapter 34.05 RCW.

NEW SECTION

WAC 388-155-060 DUAL LICENSURE. The department may either:

(1) Issue a family child care home license to the applicant having a foster home license or other license involving full-time care; or

(2) Permit simultaneous care for the child and adolescent or adult on the same premises if the applicant or licensee:

(a) Demonstrates evidence that care of one client category will not interfere with the quality of care provided to another category of clients;

(b) Maintains the most stringent maximum capacity limitation for the client categories concerned;

(c) Requests and obtains a waiver permitting dual licensure; and

(d) Requests and obtains a waiver to subsection (2)(b) of this section, if applicable.

NEW SECTION

WAC 388-155-070 APPLICATION AND REAPPLICATION FOR LICENSURE—ORIENTATION, TRAINING AND INVESTIGATION. (1) The person, organization, or legal entity applying for a license or relicensure under this chapter and responsible for operating the home shall:

(a) Attend orientation and training programs provided, arranged, or approved by the department;

(b) Comply with application procedures the department prescribes; and

(c) Submit to the department:

(i) A completed department-supplied application for family child care home license, including required attachments, ninety or more days before the:

(A) Beginning of licensed care;

(B) Expiration of a current license;

(C) Relocation of a home; or

(D) Change of licensed capacity category.

(ii) A completed criminal history and background inquiry form for each applicant, assistant, volunteer, or member of the household sixteen years of age or older having unsupervised or regular access to the child in care; and

(iii) The licensing fee.

(2) In addition to the required application materials specified under subsection (1) of this section, the applicant for initial licensure shall submit to the department:

(a) A department-supplied employment and education resume of the applicant and assistant including a transcript or its equivalent documenting early childhood education class completion, where appropriate; and

(b) Three references for the applicant.

(3) The applicant for a license under this chapter shall be eighteen years of age or older.

(4) The department may, at any time, require additional information from the applicant, licensee, assistant, volunteer, member of their household and other person having access to the child in care as the department deems necessary, including, but not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

(5) The department may perform investigations of the applicant, licensee, assistant, volunteer, member of their household, and other person having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.

(6) The applicant shall conform to rules and regulations adopted by the:

(a) Department of health, promoting the health of the child in care, contained in this chapter; and

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire and other pertinent fire safety regulations adopted by the state fire marshal's office.

NEW SECTION

WAC 388-155-080 ISSUANCE OF LICENSE.

(1) The department shall issue the applicant or licensee a license for a specific number of children dependent on the:

(a) Department's evaluation of the home's premises and physical accommodations;

(b) Number and skills of the licensee, assistant, and volunteers; and

(c) Ages and characteristics of the children served.

(2) The department:

(a) May issue the applicant or licensee a license to care for fewer children than the home's maximum capacity; and

(b) Shall not issue the applicant or licensee a license for the care of more children than permitted under this chapter.

NEW SECTION

WAC 388-155-090 LICENSE DENIAL, SUSPENSION, OR REVOCATION. (1) Before granting a license and as a condition for continuance of a license,

the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department shall consider the persons' qualifications separately and jointly, and may deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department or the department of health access to records related to operation of the home or to interview an assistant or a child in care;

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the home is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the home is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the home;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the home in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing, shall be governed under RCW 43.20A.205.

NEW SECTION

WAC 388-155-100 ACTIVITIES AND ROUTINES. (1) The provider shall offer activities and routines designed to meet the developmental, cultural, and individual needs of the child served. The provider shall

ensure the activities and routines contain a range of learning experiences for the child to:

(a) Gain self-esteem, self-awareness, self-control, and decision-making abilities;

(b) Develop socially, emotionally, intellectually, and physically;

(c) Learn about nutrition, health, and personal safety; and

(d) Experiment, create, and explore.

(2) The provider shall implement a schedule of daily activities, establishing familiar routines and contributing to learning experiences, with allowances for a variety of special events.

(3) The provider shall ensure the home's activities offer variety and options, including a balance between:

(a) Child-initiated and provider-initiated activities;

(b) Free play and organized events;

(c) Individual and group activities; and

(d) Quiet and active experiences.

(4) The provider shall ensure the home's daily routine affords the child opportunities for small and large muscle activities and outdoor play.

(5) The child may remain in care only ten hours or less per day except as necessitated by the parent's working hours and travel time from and to the home.

NEW SECTION

WAC 388-155-110 LEARNING AND PLAY MATERIALS. The provider shall furnish the child a variety of easily accessible, developmentally appropriate learning and play materials of sufficient quantity to implement the home's daily activities. The provider shall ensure material is culturally relevant and promotes:

(1) Social development;

(2) Intellectual ability;

(3) Language development and communication;

(4) Self-help skills;

(5) Sensory stimulation;

(6) Large and small muscle development; and

(7) Creative expression.

NEW SECTION

WAC 388-155-120 PROVIDER-CHILD INTERACTIONS. (1) The provider shall furnish the child a nurturing, respectful, supportive, and responsive environment through frequent interactions with the child:

(a) Supporting the child in developing an understanding of self and others by assisting the child to share ideas, experiences, and feelings;

(b) Providing age-appropriate opportunities for intellectual growth and development of the child's social and language skills, including encouraging the child to ask questions;

(c) Helping the child solve problems;

(d) Fostering creativity and independence in routine activities, including showing tolerance for mistakes; and

(e) Treating equally children in care regardless of race, religion, and handicapping condition.

(2) The provider shall:

(a) Furnish the child a pleasant and educational environment at meal and snack times; and

(b) Provide good models for nutrition habits and social behavior by:

- (i) Eating with children, when feasible; and
 - (ii) Encouraging conversation among children.
- (3) The provider shall ensure the child is supervised by continuous visual or auditory contact.

NEW SECTION

WAC 388-155-130 BEHAVIOR MANAGEMENT AND DISCIPLINE. (1) The licensee shall guide the child's behavior based on an understanding of the individual child's needs and stage of development. The licensee shall promote the child's developmentally appropriate social behavior, self-control, and respect for the rights of others.

(2) The licensee shall ensure behavior management and discipline practices are fair, reasonable, consistent, and related to the child's behavior. The licensee shall not administer cruel, unusual, hazardous, frightening, or humiliating discipline.

(3) The licensee shall be responsible for implementing the behavior management and discipline practices of the home. The child in care shall not determine or administer behavior management or discipline.

(4) The licensee shall prohibit and prevent:

(a) Corporal punishment by any person on the premises, including hitting, biting, jerking, shaking, spanking, slapping, striking, or kicking the child, or other means of inflicting physical pain or causing bodily harm;

(b) The use of a physical restraint method injurious to the child;

(c) The use of a mechanical restraint for disciplinary purposes, locked time-out room, or closet; or

(d) The withholding of food as a punishment.

(5) In emergency situations, the licensee competent to use restraint methods may use limited physical restraint when:

(a) Protecting a person on the premises from physical injury;

(b) Obtaining possession of a weapon or other dangerous object; or

(c) Protecting property from serious damage.

(6) The licensee shall document any incident involving the use of physical restraint.

NEW SECTION

WAC 388-55-140 REST PERIODS. (1) The provider shall offer a supervised rest period to the child:

(a) Five years of age and under remaining in care more than six hours; or

(b) Showing a need for rest.

(2) The provider shall plan quiet activities for the child not needing rest.

(3) The provider shall allow the child twenty-nine months of age and under to follow an individual sleep schedule.

NEW SECTION

WAC 388-155-150 EVENING AND NIGHT-TIME CARE. (1) For the home offering child care during evening and nighttime hours, the licensee shall adapt

the activities, routines, and equipment to meet the physical and emotional needs of the child away from home at night.

(2) The licensee shall maintain the same capacity requirements in effect during daytime care. At all times, including sleeping hours, the child shall be within continuous visual or auditory range of the licensee or assistant.

(3) The licensee shall arrange child grouping so the sleeping child remains asleep during the arrival or departure of another child.

NEW SECTION

WAC 388-55-160 OFF-SITE TRIPS. (1) The licensee may transport or permit the off-site travel of the child to attend school, participate in field trips, or engage in other off-site activities only with written parental consent.

(2) The parent's consent may be:

(a) For a specific date and trip; or

(b) A blanket authorization describing the full range of trips the child may take. In such case, the licensee shall notify the parent in advance about the trip.

NEW SECTION

WAC 388-155-165 TRANSPORTATION. When the licensee provides transportation for the child in care:

(1) The licensee shall ensure the motor vehicle is maintained in a safe operating condition;

(2) The licensee shall ensure the motor vehicle is equipped with appropriate safety devices and individual seat belts or safety seats for each child to use when the vehicle is in motion. An individual safety seat is required for the child eleven months of age and younger;

(3) The licensee shall ensure the number of passengers does not exceed the seating capacity of the motor vehicle;

(4) The licensee or driver shall carry motor vehicle liability and medical insurance. The driver shall have a current Washington driver's license, valid for the classification of motor vehicle operated;

(5) The licensee or assistant supervising the child in the motor vehicle shall have current first aid and cardiopulmonary resuscitation training; and

(6) The licensee, assistant, or driver shall not leave the child unattended in the motor vehicle.

(7) The licensee shall ensure the assistant is present in the motor vehicle when capacity guidelines require an assistant.

NEW SECTION

WAC 388-155-170 PARENT COMMUNICATION. (1) The licensee shall:

(a) Explain to the parent the provider's policies and procedures;

(b) Orient the parent to the home and activities;

(c) Advise the parent of the child's progress and issues relating to the child's care and individual practices concerning a child's special needs; and

(d) Encourage parent participation in the home's activities.

(2) The licensee shall give the parent the following written policy and procedure information:

- (a) Enrollment and admission requirements;
- (b) The fee and payment plan;
- (c) A typical activity schedule, including hours of operation;
- (d) Meals and snacks served, including guidelines on food brought from the child's home;
- (e) Permission for free access by the child's parent to all home areas used by the child;
- (f) Child abuse reporting requirements;
- (g) Behavior management and discipline;
- (h) Nondiscrimination statement;
- (i) Religious activities, if any;
- (j) Transportation and field trip arrangements;
- (k) Medical emergencies;
- (l) Practices concerning an ill child;
- (m) Medication management; and
- (n) If licensed for the care of the young child;
 - (i) Diapering;
 - (ii) Toilet training; and
 - (iii) Feeding.

NEW SECTION

WAC 388-155-180 STAFFING—QUALIFICATIONS. (1) General qualifications. The licensee, assistant, volunteer, and other person associated with the operation of the home who has access to the child in care shall:

- (a) Be of good character;
- (b) Have the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural emotional, mental, physical, and social needs of the child in care; and
- (c) Not have committed or been convicted of child abuse or any crime involving physical harm to another person.

(2) The licensee shall:

- (a) Be eighteen years of age or older;
- (b) Be the primary child care provider; and
- (c) Ensure compliance with minimum licensing requirements under this chapter.

(3) The assistant shall be:

- (a) Fourteen years of age or older; or
- (b) Eighteen years of age or older if assigned sole responsibility for the child in care; and
- (c) Competent to exercise appropriate judgements.

NEW SECTION

WAC 388-155-190 CAPACITY. (1) The department shall determine the maximum capacity of the family child care home based on the:

- (a) Licensee's experience and training;
- (b) Assistant's qualifications;
- (c) Number, ages, and characteristics of the children cared for;
- (d) Number and ages of the licensee's own children and other children residing in the home eleven years of age and under;
- (e) Usable indoor and outdoor space; and
- (f) Supply of toys and equipment.

(2) The department may license the family child care home according to the following table:

NUMBER OF PROVIDERS REQUIRED	AGE RANGE IN YEARS	MAXIMUM NUMBER OF CHILDREN UNDER TWO YEARS OF AGE	MAXIMUM NUMBER OF CHILDREN
(a) Licensee	Birth - 11	2	6
(b) Licensee with one year experience	2 - 11	None	8
(c) Licensee with one year experience	5 - 11	None	10
(d) Licensee with one year experience plus assistant	Birth - 11	4	9
(e) Licensee with two years' experience and one early childhood education (ECE) class	3 - 11	None	10
(f) Licensee with two years' experience and one ECE class plus assistant	Birth - 11	4	12

So that the:

- (a) Unassisted licensee may provide care for a maximum of six children, birth through eleven years of age, with two or fewer children under two years of age; or
 - (b) Unassisted licensee with one year of experience operating a licensed family child care home or the equivalent experience may provide care for a maximum of eight children, two years through eleven years of age; or
 - (c) Unassisted licensee with one year of experience operating a licensed family child care home or the equivalent experience may provide care for a maximum of ten children, five years through eleven years of age; or
 - (d) Licensee with one year of experience as a licensed family child care home provider or the equivalent experience and an assistant may provide care for seven through nine children, birth through eleven years of age, with four or fewer children under two years of age; or
 - (e) Unassisted licensee with two years of experience operating a licensed family child care home or the equivalent experience and one class in ECE, or the equivalent education, may provide care for a maximum of ten children, three years through eleven years of age; or
 - (f) Licensee with two years of experience operating a licensed family child care home or the equivalent experience, one class in ECE or the equivalent education, and a qualified assistant may provide care for a maximum of twelve children, birth through eleven years of age, with four or fewer children under two years of age.
- (3) The licensee shall ensure an assistant is on the premises when:

(a) Three or more children under two years of age are in care;

(b) Seven or more children are in care and any child in care is under two years of age; or

(c) More than ten children are in care.

(4) The department's determination of capacity shall include all children eleven years of age or under on the premises.

(5) The licensee shall ensure the assistant is eighteen years of age or older when the assistant is solely responsible for the child in care.

NEW SECTION

WAC 388-155-200 DEVELOPMENT AND TRAINING. (1) The licensee shall have an orientation system making the new employee and volunteer aware of policies and practices. The licensee shall provide the new employee or volunteer an orientation including, but not limited to:

(a) Minimum licensing rules required under this chapter;

(b) Goals and philosophy of the home;

(c) Daily activities and routines;

(d) Child guidance and behavior management methods;

(e) Child abuse and neglect prevention, detection, and reporting policies and procedures;

(f) Special health and developmental needs of the individual child;

(g) The health care plan;

(h) Fire prevention and safety procedures; and

(i) Personnel policies, when applicable.

(2) The licensee shall:

(a) Obtain basic, standard first aid, and cardiopulmonary resuscitation (CPR) training, approved by the department of health. CPR training shall include methods appropriate for child age groups in care; and

(b) Ensure that first aid and CPR training is current.

(3) The licensee shall ensure the assistant eighteen years of age or older obtains basic, standard first aid, and CPR training approved by the department of health if the assistant will be solely responsible for the child in care.

(4) The licensee and assistant shall obtain appropriate education and training on the prevention and transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

(5) The licensee shall encourage the assistant to participate in training opportunities to promote ongoing education and enhance practice skills.

(6) The licensee shall conduct periodic meetings for planning and coordination purposes when applicable.

NEW SECTION

WAC 388-155-210 HEALTH CARE PLAN. (1) The licensee shall write and implement health policies and procedures. The licensee shall make the health care plan available to:

(a) The assistant, new employee or volunteer for training and use; and

(b) The parent of the child in care, upon request.

(2) The licensee's health care plan shall include, but not be limited to, information about the home's general health practices concerning:

(a) Injury prevention;

(b) Treatment of illnesses;

(c) Medication management;

(d) Cleaning and disinfecting;

(e) First aid, including medical emergencies;

(f) Communicable disease prevention, management, and reporting;

(g) Handwashing practices;

(h) Food and food services; and

(i) Care of the young child, where applicable.

NEW SECTION

WAC 388-155-220 HEALTH SUPERVISION AND INFECTIOUS DISEASE PREVENTION. (1) Child. The licensee shall encourage the parent to arrange a physical examination for the child who has not had regular health care or a physical examination within one year before enrollment.

(2) The licensee shall encourage the parent to obtain health care for the child when necessary. The licensee shall not be responsible for providing or paying for the child's health care.

(3) Before or on the child's first day of attendance, the parent shall present a certificate of immunization status form prescribed by the department of health proving the child's full immunization for:

(a) Diphtheria;

(b) Tetanus;

(c) Pertussis (whooping cough);

(d) Poliomyelitis;

(e) Measles (rubeola);

(f) Rubella (German measles);

(g) Mumps; and

(h) Other diseases prescribed by the department of health.

(4) The licensee may accept the child without all required immunizations on a conditional basis if immunizations are:

(a) Initiated before or on enrollment; and

(b) Completed as rapidly as medically possible.

(5) The licensee may exempt the immunization requirement for the child if the parent or guardian:

(a) Signs a statement expressing a religious, philosophical, or personal objection; or

(b) Furnishes a physician's statement of a valid medical reason for the exemption.

(6) Procedures. The licensee shall daily observe the child for signs of illness. The licensee shall care for or discharge home the ill child based on the home's policies concerning an ill child.

(a) When the child has a severe illness or is injured, tired, or upset, the licensee shall separate the child from other children and attend the child continuously until:

(i) The licensee secures appropriate health care for the child; or

(ii) The licensee makes an arrangement to return the child to the parent; or

(iii) The child is able to rejoin the group.

(b) The licensee shall provide a quiet, separate care room or area allowing the child requiring separate care an opportunity to rest.

(c) The licensee shall sanitize equipment used by the child, if the licensee suspects the child has a communicable disease.

(d) The licensee may use the separate care room or area for other purposes when not needed for separation of the child.

(7) The licensee shall wash, or assist the child to wash hands according to the home's handwashing procedures.

(8) The licensee shall clean and disinfect toys, equipment, furnishings, and facilities according to the home's cleaning and disinfecting policies.

(9) The licensee shall have appropriate extra clothing available for the child who wets or soils clothes.

(10) The licensee shall ensure the child does not share personal hygiene or grooming items.

(11) Each licensee, assistant, volunteer, and adult member of the household having regular contact with the child in care shall have a tuberculin (TB) skin test, by the Mantoux method, upon employment or initial licensure, unless against medical advice.

(a) The person whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within thirty days following the skin test.

(b) The licensee shall not require the person to obtain routine periodic TB retesting or x-ray (biennial or otherwise) after entry testing unless directed to obtain retesting by the person's health care provider or the local health department.

(12) The licensee shall not permit the person with a reportable communicable disease to be on duty in the home or have contact with the child in care unless approved by a health care provider.

(13) The licensee and assistant shall wash hands according to the home's handwashing practices.

NEW SECTION

WAC 388-155-230 MEDICATION MANAGEMENT. (1) The home may have a policy of not giving medication to the child in care.

(2) If the home's health care plan includes giving medication to the child in care, the licensee:

(a) Shall give medications, prescription and nonprescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;

(b) Shall give prescription medications:

(i) Only as specified on the prescription label; or

(ii) As authorized by a physician or other person legally authorized to prescribe medication.

(c) Shall give the following classifications of nonprescription medications, with written parent authorization, only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication:

(i) Antihistamines;

(ii) Nonaspirin fever reducers/pain relievers;

(iii) Nonnarcotic cough suppressants;

(iv) Decongestants;

(v) Anti-itching ointments or lotions, intended specifically to relieve itching;

(vi) Diaper ointments and powders, intended specifically for use in the diaper area of the child; and

(vii) Sun screen.

(d) Shall give other nonprescription medication:

(i) Not included in the categories listed in subsection (2)(c) of this section; or

(ii) Taken differently than indicated on the manufacturer's label; or

(iii) Lacking labeled instructions, only when disbursement of the nonprescription medication is as required under subsection (2) (d) (i) and (ii):

(A) Authorized, in writing, by a physician; or

(B) Based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.

(e) Shall accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:

(i) The child's first and last names;

(ii) The date the prescription was filled; or

(iii) The medication's expiration date; and

(iv) Legible instructions for administration, such as manufacturer's instructions or prescription label.

(f) Shall keep medication, refrigerated or nonrefrigerated, in an orderly fashion, inaccessible to the child;

(g) Shall store external medication in a compartment separate from internal medication;

(h) Shall keep a record of medication disbursed;

(i) Shall return to the parent or other responsible party, or shall dispose of medications no longer being taken; and

(j) May at the licensee's option, permit self-administration of medication by a child in care if the:

(i) Child is physically and mentally capable of properly taking medication without assistance;

(ii) Licensee includes in the child's file a parental or physician's written statement of the child's capacity to take medication without assistance; and

(iii) Licensee ensures the child's medications and other medical supplies are stored so the medications and medical supplies are inaccessible to another child in care.

NEW SECTION

WAC 388-155-240 NUTRITION. (1) The licensee shall provide food meeting the nutritional needs of the child in care, taking into consideration the:

(a) Number of children in care;

(b) Child's age and developmental level;

(c) Child's cultural background;

(d) Child's handicapping condition; and

(e) Hours of care on the premises.

(2) The licensee shall provide only pasteurized milk or a pasteurized milk product.

(3) The licensee shall provide only whole milk to the child twenty-three months of age or under except with the written permission of the child's parent.

(4) The licensee may serve the child twenty-four months of age or older powdered Grade A milk mixed in the home provided the licensee completes the dry milk

mixture, service, and storage in a safe and sanitary manner.

(5) The licensee may provide the child nutrient concentrates, nutrient supplements, a modified diet, or an allergy diet only with written permission of the child's health care provider. The licensee shall obtain from the parent or child's health care provider a written list of foods the child cannot consume.

(6) The licensee shall use the following meal pattern to provide food to the child in care in age-appropriate servings:

- (a) Providing the child in care for ten or less hours:
 - (i) Two or more snacks and one meal; or
 - (ii) Two meals and one snack.
- (b) Providing the child in care for ten or more hours:
 - (i) Two or more meals and two snacks; or
 - (ii) One meal and three snacks;
- (c) Providing the child arriving after school a snack;
- (d) Providing the child with food at not less than two-hour intervals, and not more than three and one-half hours apart; and

(e) Allowing the occasional serving of party foods not meeting nutritional requirements.

(7) The licensee shall provide the child in care food which complies with the meal pattern of the United States Department of Agriculture Child and Adult Care Food Program, with the addition of:

- (a) A minimum of one serving of Vitamin C fruit, vegetable, or juice, provided daily; and
- (b) Servings of food high in Vitamin A, provided three or more times weekly.

(8) The licensee shall provide:

- (a) Dinner to the child in evening care when the child did not receive dinner at home before arriving;
- (b) A bedtime snack to the child in nighttime care; and

(c) Breakfast to the child in nighttime care if the child remains at the home after the child's usual breakfast time.

(9) The licensee shall monitor foods brought from the child's home for consumption by the child, all children, or a group of children in care ensuring safe storage and nutritional adequacy.

(10) For the home permitting sack lunches, the licensee shall have available food supplies to supplement food deficient in meeting nutrition requirements brought from the child's home and to nourish the child arriving without food.

NEW SECTION

WAC 388-155-250 KITCHEN AND FOOD SERVICE. (1) The licensee shall provide equipment for the proper storage, preparation, and service of food.

(2) The licensee shall make potentially hazardous appliances and sharp or pointed utensils inaccessible to the child when the child is not under direct supervision.

(3) The child may participate in food preparation as an educational activity.

(4) The licensee shall install and maintain kitchen equipment and clean re-usable utensils in a safe and sanitary manner by:

(a) Washing and sanitizing reusable utensils in a dishwasher or through use of a manual dishwashing procedure; and

(b) Using only single-use or clean cloths, used solely for wiping food service, preparation, and eating surfaces.

NEW SECTION

WAC 388-155-260 DRINKING AND EATING EQUIPMENT. (1) The licensee shall provide the child individual drinking cups, glasses, or disposable single-use cups.

(2) The licensee shall provide the child durable eating utensils appropriate in size and shape for the child in care.

NEW SECTION

WAC 388-155-270 CARE OF YOUNG CHILDREN. (1) Diapering and toileting. The licensee shall ensure:

- (a) The diaper-changing area is:
 - (i) Separate from food preparation areas; and
 - (ii) Easily accessible to a handwashing sink;
 - (iii) Sanitized between use for different children; or
 - (iv) Protected by a disposable covering discarded after each use.

(b) The diaper-changing area is impervious to moisture and washable.

(2) The licensee shall:

(a) Use reusable diapers, a commercial diaper service, or disposable diapers;

(b) Place soiled diapers without rinsing into a separate, cleanable, covered container provided with a waterproof liner before transporting to a laundry, parent, or acceptable disposal;

(c) Remove soiled diapers from the home daily or more often unless the licensee uses a commercial diaper service;

(d) Use disposable towels or clean, reusable towels laundered between use for different children for cleaning the child; and

(e) Wash hands after diapering the child or helping the child with toileting.

(3) The licensee shall:

(a) Consult with the child's parent regarding initiating toilet training;

(b) Locate potty chairs on washable, impervious surfaces when in use; and

(c) Sanitize toilet training equipment after each use.

(4) Feeding. The licensee and the infant's parent shall agree on a schedule for feedings:

(a) The licensee or parent may provide the child's bottle feeding in the following manner:

(i) A filled bottle brought from home;

(ii) Whole milk or formula in ready-to-feed strength; or

(iii) Formula requiring no preparation other than dilution with water, mixed on the premises.

(b) The licensee shall prepare the child's bottle and nipple in a sanitary manner in an area separate from the diapering area.

(c) The licensee shall sanitize the child's bottle and nipple between uses.

(d) The licensee shall label the bottle with the child's name and date prepared, if more than one bottle-fed child is in care.

(e) The licensee shall refrigerate a filled bottle if the child does not consume the contents immediately and discard the bottle's contents if the child does not consume the contents within twelve hours.

(f) To ensure safety and promote nurturing, the licensee and assistant shall:

(i) Hold in a semi-sitting position for feeding the child unable to sit in a high chair, unless such is against medical advice;

(ii) Interact with the child;

(iii) Not prop a bottle;

(iv) Not give a bottle to the reclining child; and

(v) Take the bottle from the child when the child finishes feeding.

(g) The licensee shall provide semi-solid food for the child, upon consultation with the parent, as recommended by the child's health care provider.

(5) Sleeping equipment. The licensee shall furnish the child a single-level crib, infant bed, bassinet, or play pen for napping until such time the parent and licensee agree the child can safely use a mat, cot, or other approved sleep equipment.

(6) The licensee shall ensure the young child has a sturdy crib, infant bed, bassinet, or play pen:

(a) Made of wood, metal, or plastic with secure latching devices; and

(b) Constructed with two and three-eighths inches or less space between vertical slats when the crib is used for a child six months of age or younger; and

(c) Additionally supplied with crib bumpers or another effective method preventing the child's body from slipping between the slats.

(7) The licensee shall ensure the child's crib mattress, infant bed, bassinet, or play pen mattress is:

(a) Snug fitting, preventing the infant from being caught between the mattress and crib side rails; and

(b) Waterproof and easily sanitized.

(8) Activities and equipment. The licensee shall provide the young child a daily opportunity for:

(a) Large and small muscle development;

(b) Crawling and exploring;

(c) Sensory stimulation;

(d) Social interaction;

(e) Development of communication; and

(f) Learning self-help skills.

(9) The licensee shall provide the young child safe, noningestible, suitable toys and equipment for the child's mental and physical development.

NEW SECTION

WAC 388-155-280 GENERAL SAFETY, MAINTENANCE, AND SITE. (1) The licensee shall operate the home on an environmentally safe site.

(2) The licensee shall maintain the indoor and outdoor premises in a safe and sanitary condition, free of hazards, and in good repair. The licensee shall ensure furniture and equipment are safe, stable, durable, and free of sharp, loose, or pointed parts.

(3) The licensee shall:

(a) Install handrails or safety devices at child height adjacent to steps, stairways, and ramps;

(b) Maintain a flashlight or other emergency lighting device in working condition;

(c) Ensure there is no flaking or deteriorating lead-based paint on interior and exterior surfaces, equipment, and toys accessible to the child;

(d) Finish rough or untreated wood surfaces; and

(e) Maintain one or more telephones in working order.

(4) The licensee shall supply bathrooms and other rooms subject to moisture with washable, moisture-impervious flooring or routinely cleaned floor covering.

(5) The licensee shall equip child-accessible electrical outlets with nonremovable safety devices or covers preventing electrical injury.

(6) The licensee shall ensure staff can gain rapid access in an emergency to a bathroom or other room occupied by the child.

(7) The licensee shall keep the premises free from rodents, fleas, cockroaches, and other insects and pests.

(8) The licensee shall use an appropriate method for draining clean mop water and disposing waste water.

(9) The licensee shall ensure a firearm or another weapon is kept in locked storage accessible only to an authorized person.

(10) The licensee shall ensure a person with current first aid and infant-child CPR training is on the premises at all times.

(11) The licensee shall store and make inaccessible to the child cleaning supplies, toxic substances, paint, poisons, aerosol containers, and items bearing warning labels.

(12) The licensee shall label a container filled from a stock supply to identify contents.

NEW SECTION

WAC 388-155-290 WATER SUPPLY, SEWAGE, AND LIQUID WASTES. (1) The licensee shall obtain approval of a private water supply by the local health authority or department.

(2) The licensee shall ensure sewage and liquid wastes are discharged into:

(a) A public sewer system; or

(b) An independent sewage system approved by the local health authority or department.

NEW SECTION

WAC 388-155-295 WATER SAFETY. (1) The licensee shall maintain the following water safety precautions when the child uses an on-premises swimming pool or wading pool. The licensee shall ensure:

(a) The on-premises pool is inaccessible to the child when not in use; and

(b) During the child's use of a wading pool or swimming pool, an adult with current CPR training supervises the child at all times.

(2) The licensee shall ensure a certified lifeguard is present during the child's use of an off-premises swimming pool.

(3) The licensee shall daily empty and clean a portable wading pool, when in use.

(4) The licensee shall not permit the child to use or access a heated tub, spa, whirlpool, tank, or similar equipment.

NEW SECTION

WAC 388-155-310 FIRST AID SUPPLIES. (1) The licensee shall maintain first aid supplies on the premises conforming with the home's first aid policies and procedures.

(2) The home's first aid supplies shall include unexpired syrup of ipecac which may be administered only on the advice of a physician or poison control center.

NEW SECTION

WAC 388-155-320 OUTDOOR PLAY AREA. (1) The licensee shall provide a safe and securely-fenced or department-approved, enclosed outdoor play area:

- (a) Adjoining directly the indoor premises; or
- (b) Reachable by a safe route and method; and
- (c) Promoting the child's active play, physical development, and coordination; and
- (d) Protecting the play area from unsupervised exit by the child; and
- (e) Preventing child access to roadways and other dangers.

(2) The licensee shall ensure the home's activity schedule affords the child sufficient daily time to participate actively in outdoor play.

(3) The licensee shall provide a variety of age appropriate play equipment for climbing, pulling, pushing, riding, and balancing activities. The licensee shall arrange, design, construct, and maintain equipment and ground cover to prevent the child's injury. The licensee's quantity of outdoor play equipment shall offer the child a range of outdoor play options.

NEW SECTION

WAC 388-155-330 INDOOR PLAY AREA. (1) The home's indoor premises shall contain adequate space for child play and sufficient space to house developmentally appropriate activities for the number and age range of children served. The licensee shall provide a minimum of thirty-five square feet of usable floor space per child, exclusive of a bathroom, hallway, and closet.

(2) The licensee may use and consider the napping area as child care space if mats and cots are removed when not in use. The licensee may consider the kitchen usable space if:

- (a) Appliances and utensils do not create a safety hazard;
- (b) Toxic or harmful substances are not accessible to the child;

(c) Food preparation and storage sanitation is maintained; and

(d) The space is used safely and appropriately as a child care activity area.

(3) The licensee may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided:

- (a) The room is of sufficient size; and
- (b) The room's use for one purpose does not interfere with use of the room for another purpose.

NEW SECTION

WAC 388-155-340 TOILETS, HANDWASHING SINKS, AND BATHING FACILITIES. (1) The licensee shall provide a minimum of one indoor flush-type toilet and one adjacent handwash sink.

(2) The licensee shall supply the child warm running water for handwashing at a temperature range no less than eighty-five degrees Fahrenheit and no more than one hundred and twenty degrees Fahrenheit.

(3) The licensee shall provide toileting privacy for the child of opposite sex six years of age and older and for other children demonstrating a need for privacy.

(4) The licensee shall provide toilets and handwashing sinks of appropriate height and size for the child in care or furnish safe, easily cleanable platforms impervious to moisture so the child can reach the toilet and handwashing sink.

(5) The licensee shall ensure a room used for toileting is ventilated.

(6) When a home serves the child not toilet-trained, the licensee shall provide developmentally appropriate equipment for the toileting and toilet training of the young child. The licensee shall sanitize the equipment after each child's use.

(7) The licensee shall provide the child with soap and individual cloth or paper towels for washing and drying the child's hand and face.

(8) If the home is equipped with a bathing facility, the licensee shall:

- (a) Ensure the young child is supervised while using the bathing facility; and
- (b) Equip the bathing facility with a conveniently located grab bar or other safety device such as a nonskid pad; or
- (c) Make the bathing facility inaccessible to the child.

NEW SECTION

WAC 388-155-350 LAUNDRY. (1) The licensee shall maintain access to laundry washing and drying facilities, which may include using on-premises or off-site equipment.

(2) When washing and drying occurs on-site, the licensee shall locate equipment in an area inaccessible to the child, or make the equipment inaccessible to the child.

(3) The licensee shall use an effective method through temperature or chemical measures for adequately sanitizing the child's laundry contaminated with urine, feces, lice, scabies, or other infectious material.

(4) The licensee shall store the child's soiled laundry separately from clean laundry.

NEW SECTION

WAC 388-155-360 NAP AND SLEEP EQUIPMENT. (1) The licensee shall provide a clean, separate, firm mat, cot, bed, mattress, play pen, or crib for each child five years of age and under remaining in care for six or more hours and for the child requiring a nap or rest period.

(2) The licensee shall ensure the child's mat is of sufficient length, width, and thickness to provide adequate comfort for the child to nap. The licensee may use a washable sleeping bag meeting the mat requirements for the toilet-trained child.

(3) The licensee shall ensure the child's cot is of sufficient length and width and constructed to provide adequate comfort for the child to nap. The licensee shall ensure the cot surface is of a material which can be cleaned with a detergent solution, disinfected, and allowed to air dry.

(4) The licensee shall clean the child's nap equipment as needed and between use by different children.

(5) The licensee shall separate the child's nap equipment when in use to facilitate child comfort and staff access.

(6) The licensee shall ensure the child's bedding:

(a) Consists of a clean sheet or blanket to cover the sleeping surface and a clean, suitable cover for the child;

(b) Is laundered weekly or more often and between use by different children; and

(c) Is stored separately from bedding used by another child.

(7) The licensee shall not use the upper bunk of a double deck bed for a preschool age or younger child.

NEW SECTION

WAC 388-155-370 STORAGE. (1) The licensee shall provide accessible individual space for the child to store clothes and personal possessions.

(2) The licensee shall provide sufficient space to store equipment, supplies, records, files, cots, mats, and bedding.

NEW SECTION

WAC 388-155-380 HOME ATMOSPHERE. (1) The licensee shall provide a cheerful learning environment for the child consistent with a family home environment by placing visually stimulating decorations, pictures, or other attractive materials at appropriate heights for the child.

(2) The licensee shall maintain a safe and developmentally appropriate noise level, without inhibiting normal ranges of expression by the child, so provider and child can be clearly heard and understood in normal conversation.

(3) The licensee shall locate light fixtures and provide lighting intensities promoting good visibility and comfort for the child in care.

(4) The licensee shall maintain the temperature within the home at:

(a) Sixty-eight degrees Fahrenheit or more during the child's waking hours; and

(b) Sixty degrees Fahrenheit or more during the child's napping or sleeping hours.

(5) The licensee shall ventilate the home for the health and comfort of the child in care.

NEW SECTION

WAC 388-155-390 DISCRIMINATION PROHIBITED. The licensee shall comply with federal and state regulatory and statutory requirements, defined under chapter 49.60 RCW, regarding nondiscrimination in employment practices and client services.

NEW SECTION

WAC 388-155-400 RELIGIOUS ACTIVITIES.

(1) Consistent with state and federal laws, the licensee shall respect and facilitate the rights of the child in care to observe the tenets of the child's faith.

(2) The licensee shall not punish or discourage the child for exercising these rights.

(3) If the home conducts religious activities, the licensee shall maintain a written description of the home's religious policies and practices affecting the child in care.

NEW SECTION

WAC 388-155-410 SPECIAL REQUIREMENTS REGARDING AMERICAN INDIAN CHILDREN.

When one or more Indian child receives care at the home, the licensee shall develop social service resources and training designed to meet the special needs of such children through coordination with tribal, Indian Health Service, Bureau of Indian Affairs social service staff, and appropriate urban Indian and Alaskan native consultants.

NEW SECTION

WAC 388-155-420 CHILD ABUSE, NEGLECT, AND EXPLOITATION. The licensee and assistant shall protect the child in care from child abuse, neglect, or exploitation as required under chapter 26.44 RCW.

NEW SECTION

WAC 388-155-430 PROHIBITED SUBSTANCES. (1) During operating hours or when the child is in care, the licensee, assistant, and volunteers on the premises or caring for the child off-site shall not be under the influence of or consume an:

(a) Alcoholic beverage; or

(b) Illegal drug.

(2) The licensee shall prohibit smoking in:

(a) All areas of the home used by the child during hours of operation when the child is in care; and

(b) A motor vehicle when the licensee or assistant transports a child.

NEW SECTION

WAC 388-155-440 LIMITATIONS TO PERSONS ON PREMISES. (1) During home operating

hours or while the child is in care, only the child's parent, the licensee, an employee, the licensee's family member, a volunteer, or an authorized representative of a governmental agency shall have unsupervised or regular access to the child in care.

(2) The licensee shall allow the parent of the child in care unsupervised access only to the parent's child.

NEW SECTION

WAC 388-155-450 CHILD RECORDS AND INFORMATION. The licensee shall maintain on the premises organized confidential records and information concerning each child in care. The licensee shall ensure the child's record contains, at a minimum:

(1) Registration data:

(a) Name, birthdate, dates of enrollment and termination, and other identifying information; and

(b) Name, address, and home and business telephone number of the parent and other person to be contacted in case of emergency.

(2) Authorizations:

(a) Name, address, and telephone number of the person authorized to remove from the home the child under care;

(b) Written parental consent for transportation provided by the home, including field trips and swimming, when the child participates in these activities. A parent-signed blanket consent form may authorize the child's off-site travel; and

(c) Written parental consent, or court order, for providing medical care and emergency surgery, except for such care authorized by law.

(3) Medical and health data:

(a) A health history, obtained when the licensee enrolls the child for care. The history includes:

(i) The date of the child's last physical examination;

(ii) Allergies;

(iii) Special health problems and other pertinent health information;

(iv) Immunization history as required under WAC 388-155-220;

(v) Name, address, and telephone number of the child's health care provider or facility; and

(vi) Special developmental problems.

(b) Date and kind of illness and injury occurring on the premises, including the treatment given by the licensee; and

(c) Medication given indicating dosage, date, time, and name of the dispensing person.

NEW SECTION

WAC 388-155-460 HOME RECORDS. The licensee shall maintain the following documentation on the premises:

(1) The attendance records, completed daily, including arrival and departure times;

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) The twelve-month record indicating the date and time the licensee conducted the required monthly fire evacuation drills; and

(4) The twelve-month record indicating the date the licensee tested the battery-powered smoke detector monthly.

NEW SECTION

WAC 388-155-470 PERSONNEL RECORDS.

(1) Each assistant and volunteer having unsupervised or regular access to the child in care shall complete and submit to the licensee by the date of hire:

(a) An application for employment on a department-prescribed form, or its equivalent; and

(b) A criminal history and background inquiry form.

(i) The licensee shall submit this form to the department for the employee and volunteer, within seven calendar days of the assistant's or volunteer's first day of employment, permitting a criminal and background history check.

(ii) The department shall discuss the result of the criminal history and background inquiry information with the licensee, when applicable.

(2) The licensee, assistant, and volunteer shall have on file at the home:

(a) An employment application, including work and education history;

(b) Documentation of criminal history and background inquiry form submission;

(c) A record of the tuberculin skin test results, x-ray, or an exemption to the skin test or x-ray;

(d) Documentation of HIV/AIDS education and training; and

(e) Documentation of current first aid and CPR training, when applicable.

NEW SECTION

WAC 388-155-480 REPORTING OF DEATH, INJURY, ILLNESS, EPIDEMIC, OR CHILD ABUSE. The licensee shall report immediately:

(1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the parent, licensor, and child's social worker, if any;

(2) An instance when the licensee or assistant has reason to suspect the occurrence of physical, sexual, or emotional child abuse, child neglect, or child exploitation, as required under Chapter 26.44 RCW, by telephone, to child protective services or local law enforcement; or

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

NEW SECTION

WAC 388-155-490 REPORTING OF CIRCUMSTANTIAL CHANGES. A family child care home license is valid only for the person and address named on

the license. The licensee shall promptly report to the licensor major changes in premises, activities and routines, the assistant, or members of the household affecting the home's capacity classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensure. A major change includes the:

- (1) Home's address, location, or phone number;
- (2) Maximum number and age ranges of children the licensee wishes to serve as compared to current license specifications;
- (3) Number and qualifications of the home's staff that may affect competencies to implement the specified activities and routines, including the death, retirement, or incapacity of a licensee;
- (4) Name by which the home is commonly known;
- (5) Occurrence of a fire, major structural change, or damage to the premises from any cause; and
- (6) Plans for major remodeling of the home, including planned use of space not previously department-approved.

NEW SECTION

WAC 388-155-500 POSTING REQUIREMENTS. The licensee shall post the following items, clearly visible to the parents and the assistant:

- (1) The home's child care license issued under this chapter;
- (2) Evacuation plans and procedures; and
- (3) Emergency telephone numbers.

WSR 91-04-049

RULES COORDINATOR PIERCE COLLEGE

[Filed February 1, 1991, 4:00 p.m.]

The following individual has been appointed as rules coordinator for Pierce College: Christine D. Givens, Executive Assistant to the President, Pierce College, 9401 Farwest Drive S.W., Tacoma, WA 98498.

Frank B. Brouillet
President

WSR 91-04-050

NOTICE OF PUBLIC MEETINGS STATE BOARD OF EDUCATION

[Memorandum—January 29, 1991]

The State Board of Education schedule of meeting dates and location for the 1991 calendar year, filed with the state Code Reviser on October 12, 1990, WSR 90-21-050, is hereby amended as follows: The May 16-17, 1991, regular meeting of the board will be held in the Thurston Room at Educational Service District No. 113, 601 McPhee Road S.W., Olympia, WA 98502.

WSR 91-04-051

RULES COORDINATOR TRANSPORTATION IMPROVEMENT BOARD

[Filed February 4, 1991, 9:07 a.m.]

The name of the Transportation Improvement Board's rules coordinator is Donna Laing. She can be reached at 753-7198.

Jerry Fay
Executive Director

WSR 91-04-052

NOTICE OF PUBLIC MEETINGS BOARD FOR VOCATIONAL EDUCATION

[Memorandum—January 28, 1991]

Thursday, February 14, 1991
9:00 a.m.

Grays Harbor/Olympia Rooms
Educational Service District 113
601 McPhee Road S.W.
Olympia, WA

A special meeting of the Washington State Board for Vocational Education (SBVE) will be held on Thursday, February 14, 1991, beginning at 9:00 a.m. Primary agenda items will include a discussion on issues relating to the job skills program; the Carl D. Perkins Vocational and Applied Technology Education Act postsecondary/secondary distribution, and comments from Dr. Kenneth P. Mortimer, President, Western Washington University, on the recently awarded discretionary grant for teacher education and training.

People needing special accommodations, please call Patsi Justice at (206) 753-5660 or 234-5660 scan.

WSR 91-04-053

ATTORNEY GENERAL OPINION Cite as: AGO 1991 No. 3

[February 1, 1991]

CITIES AND TOWNS—CHARTERS—ELECTIONS— FREEHOLDERS

1. A first class city may, by ordinance, require candidates for the office of freeholder to be nominated in a primary election.
2. A first class city may, by ordinance, require candidates for the office of freeholder to run for specific freeholder positions, as opposed to all candidates running against one another.
3. A first class city may, by ordinance, require candidates for the office of freeholder to reside in specific areas or districts of the city. However, the election itself must be city wide. The office of freeholder is a

city wide office and a first class city cannot, by ordinance, authorize freeholders to be elected by the voters of a district of the city.

Requested by:

The Honorable Ruth Fisher
State Representative, District 27
435 John L. O'Brien Building, AS-33
Olympia, Washington 98504

WSR 91-04-054
PERMANENT RULES
CENTRAL WASHINGTON UNIVERSITY

[Filed February 4, 1991, 2:30 p.m.]

Date of Adoption: January 24, 1991.

Purpose: To provide a procedure and rules by which a student will be afforded due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

Citation of Existing Rules Affected by this Order: Amending WAC 106-120-004, 106-120-005, 106-120-023, 106-120-024, 106-120-026, 106-120-027, 106-120-028, 106-120-033, 106-120-131, 106-120-132, and 106-120-143.

Statutory Authority for Adoption: Chapter 34.05 and RCW 28B.35.120(11).

Pursuant to notice filed as WSR 91-01-095 on December 18, 1990.

Effective Date of Rule: Thirty-one days after filing.

January 24, 1991
Harriet R. Jardine
Associate Vice President
of Student Affairs

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-004 DEFINITIONS. (1) "University" shall mean Central Washington University.

(2) (~~"Dean"~~) "Vice-president" shall mean the (~~dean of students~~) vice-president for student affairs of the university or the (~~dean's~~) vice-president's designee.

(3) "Student" shall mean a person enrolled at the university either full or (~~parttime~~) part time, pursuing undergraduate, graduate, or extension studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-005 PROVISION FOR DUE PROCESS. The (~~dean~~) vice-president shall provide for due process for students throughout the behavioral problem solving intervention by following the proper

steps related to the initiation, investigation, and disposition of complaints against a student which is outlined in WAC 106-120-131.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-023 CAMPUS JUDICIAL COUNCIL—MEMBERSHIP. The campus judicial council shall consist of three faculty members holding the rank of assistant professor or above, and (~~six~~) eight students, at least one of whom should be a graduate student if a graduate student files for appointment to the council.

(1) The faculty members of the council shall be designated in accordance with procedures established by the faculty senate.

(2) The student members of the council shall be selected in accordance with procedures established by the constitution of the associated students of Central Washington University. (~~Six~~) Eight student members shall be appointed, each student being appointed for a term of one calendar year. Terms of office for students begin with the first day of instruction of the academic year for which the student is appointed.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-024 CAMPUS JUDICIAL COUNCIL—CHAIR. A campus judicial council chair shall be elected at the first meeting each academic year and shall continue in office until the person resigns or is recalled. The duties of the chair are as follows:

(1) To call regular and special meetings of the council by notification to members at least twenty-four hours in advance of the meeting time, except in bona fide emergency situations.

(2) To preside over all regular and special meetings.

(3) To act as (~~hearing~~) presiding officer at all meetings of the (~~hearing~~) proceeding board.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-026 CAMPUS JUDICIAL COUNCIL—ADVISOR. The (~~dean~~) vice-president shall appoint a faculty member as a judicial council advisor whose duties shall be to convene the council, and advise the council during all meetings and hearings.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-120-027 PROSCRIBED CONDUCT. A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but without being limited to:

(a) Cheating on tests.

(b) Copying from another student's test paper.

(c) Using materials during a test not authorized by the person giving the test.

(d) Collaboration with any other person during a test without authority.

(e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.

(f) Bribing any other person to obtain an unadministered test or information about an unadministered test.

(g) Substitution for another student or permitting any other person to substitute for oneself to take a test.

(h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.

(i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.

(3) Filing a formal complaint with the ~~((dean of students))~~ vice-president with the intention of falsely accusing another with having violated a provision of this code.

(4) Furnishing false information to any university official, especially during the investigation of alleged violations of this code.

(5) Furnishing false information to the campus judicial council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the campus judicial council or the willful failure to appear before the campus judicial council or the ~~((dean of students))~~ vice-president when properly notified to appear.

~~((5))~~ (6) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency equipment except when done with the reasonable belief in the existence of a need therefore.

~~((6))~~ (7) Forgery, alteration, or misuse of university documents, records, or identification cards.

~~((7) Physically abusing or intentionally inflicting severe emotional distress upon another person, whether a member or nonmember of the university community, whether occurring on or off campus.)~~

(8) Sexual assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity.

(9) Actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.

(10) Harassment of any sort or any malicious act which causes harm to any person's physical or mental well being.

(11) Recklessly engaging in conduct which creates a substantial risk of physical harm to another person.

(12) Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner.

(13) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.

~~((9))~~ (14) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.

~~((10))~~ (15) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off campus or of activities or programs authorized or permitted by the university to be conducted on campus.

~~((11))~~ (16) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university.

~~((12))~~ (17) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

~~((13))~~ (18) Possession or use on campus of any fire-arm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

~~((14))~~ (19) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the state of Washington except as expressly permitted by law.

~~((15))~~ (20) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington state law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington state law.

(c) The campus judicial council may place on probation any organization or prohibit a specific campus social function when the consumption of alcoholic beverages has become a problem of concern to the university.

~~((16))~~ (21) Conduct which violates the university policies on computer use.

(22) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee or commission or council acting within the scope of its authority.

~~((17))~~ (23) Violation on campus of any state or federal law or violation of any state or federal law off

campus while participating in any university sponsored activity.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-028 DISCIPLINARY SANCTIONS. The following definitions of disciplinary terms have been established and may be the sanctions imposed by the ((~~dean~~)) vice-president or by the campus judicial council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus. The conditions specified may be in effect for a period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the college community and exclusion from the campus without any possibility for return.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-033 READMISSION AFTER SUSPENSION. Any student suspended from the university under the provisions of the student judicial code may be readmitted upon expiration of the time period specified in the document of original suspension.

If circumstances warrant reconsideration of the suspension prior to its time of expiration, the student may

be readmitted following approval of a written petition submitted to the ((~~dean~~)) vice-president. Such petitions must state reasons which either provide new evidence concerning the situation which resulted in the suspension, or demonstrate that earlier readmission is in the best interest of the student and the university. Approval for such readmission must be given by the ((~~dean~~)) vice-president or by the campus judicial council.

Students who have been suspended and whose suspension upon appeal is found to have been unwarranted shall be provided full opportunity to reestablish their academic and student standing to the extent possible within the abilities of the university, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-131 INITIATION, INVESTIGATION, AND DISPOSITION OF COMPLAINTS. (1) Philosophy.

When student behavioral problems occur, the university employs a team problem-solving approach. The director of housing, director of residence living, and the chief of campus police join the assistant and associate vice-president weekly to review residence living incident reports filed by living group advisors and hall managers, as well as campus police reports which cover both on-campus and off-campus students. This problem-solving team then deals with student behavioral problems which constitute violations of this code.

The problem-solving team works together to suggest intervention strategies which are considered to be most appropriate and effective for eliminating specific negative student behaviors.

(2) Process.

Incidents which come to the attention of the problem-solving team may be addressed in one of the following ways:

(a) No action;

(b) Informal meetings with relevant university officials;

(c) Referral to the residence hall arbitration council, for resolving certain disputes within the residence halls;

(d) Proceedings in the office of the vice-president.

Official proceedings in the vice-president's office are conducted when it becomes apparent to the problem-solving team that the initial and more informal forms of intervention with a student have been unsuccessful in positively modifying a student's behavior. The following rules will govern the processing of alleged violations of the proscribed conduct listed in the ((~~campus~~)) student judicial code.

((+)) (3) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the ((~~dean~~)) vice-president. Students, faculty members, administrators and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

~~((2))~~ (4) Any student charged in a complaint shall receive oral or written notification from the ~~((dean))~~ vice-president. Such notice shall:

(a) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the students judicial code and the date of the violation(s); ~~((and))~~

(b) Set forth those provisions allegedly violated; ~~((and))~~

(c) Specify a time and date the student is required to meet with the ~~((dean))~~ vice-president or designee; and

(d) Inform the student that failure to appear at the appointed time at the ~~((dean's))~~ vice-president's office may subject the student to suspension from the university.

~~((3))~~ (5) When the ~~((dean))~~ vice-president meets with the student, the ~~((dean))~~ vice-president shall:

(a) Provide for the student a copy of the student judicial code;

(b) Review the facts of the alleged violation with the student; and

(c) Conduct an investigation into the alleged violation.

~~((4))~~ (6) Upon completion of the review with the student and/or the investigation, the ~~((dean))~~ vice-president may:

(a) Drop the charges, when they appear to be invalid or without substance or capricious;

(b) Issue a verbal warning;

(c) Apply any of the sanctions as outlined in WAC 106-120-028 if such sanction is warranted by the evidence;

(d) Refer the case to the campus judicial council; or

(e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

The ~~((dean))~~ vice-president shall inform the student that the ~~((dean's))~~ vice-president's sanction may be appealed to the campus judicial council, and that if an appeal is made, the ~~((dean))~~ vice-president shall take no action ~~((nor))~~ or make any determination, except for summary suspension, in the matter other than to inform the student of the time, date, and location of the ~~((hearing))~~ proceeding by the campus judicial council.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-132 PROCEDURES FOR ~~((HEARING))~~ PROCEEDING BEFORE THE CAMPUS JUDICIAL COUNCIL. (1) When a case is referred to the campus judicial council the ~~((dean))~~ vice-president shall forward to the council:

(a) A statement describing the alleged misconduct;

(b) The name and address of the complainant;

(c) The name and address of the student charged; and

(d) All relevant facts and statements.

(2) The council chair shall call a special meeting of the council and arrange for a ~~((hearing))~~ proceeding in the following manner:

(a) The council shall determine the time and place of the ~~((hearing))~~ proceeding, which shall be at least ten days after delivery of written notice to the student. In the interest of timeliness and efficiency, upon the request of either the student or the vice-president, this ten-day

interval may be waived by the vice-president, with the student's permission. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the ~~((hearing))~~ proceeding for sufficient cause.

(b) The council shall draw lots ~~((to determine a hearing board, consisting of four student members and two faculty members of the council, and the chair acting as hearing officer))~~ for five student names, one of whom will serve as an alternate to be available until the proceeding board has been constituted.

(c) No case shall be heard unless the full membership of the ~~((hearing))~~ proceeding board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The council chair shall send written notice by certified mail of the ~~((hearing))~~ proceeding to the student to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the ~~((hearing))~~ proceeding;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the ~~((hearing))~~ proceeding or to request the presence of witnesses, or the production of other evidence relevant to the ~~((hearing))~~ proceeding. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the ~~((hearing))~~ proceeding.

(5) ~~((Hearings))~~ Proceedings will ordinarily be held in closed session unless the ~~((hearing))~~ proceeding board determines there is a compelling reason for the ~~((hearing))~~ proceeding to be open, or the student requests an open ~~((hearing))~~ proceeding. A closed ~~((hearing))~~ proceeding shall include only members of the ~~((hearing))~~ proceeding board, persons directly involved in the ~~((hearing))~~ proceeding as parties and persons called as witnesses.

(6) The ~~((hearing))~~ proceeding shall be audio tape recorded, and the tape shall be on file at the office of the ~~((dean))~~ vice-president for a period of three years.

(7) The university shall be represented by the ~~((dean))~~ vice-president who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the ~~((dean))~~ vice-president two days notice of intent to do so. If the student elects to be advised by an attorney, the ~~((dean))~~ vice-president may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The ~~((hearing))~~ proceeding is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial ~~((hearing))~~ proceeding are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the ~~((hearing))~~ proceeding will be considered as evidence. The ~~((hearing))~~ presiding officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the ~~((hearing))~~ proceeding or any other procedure described in this document may be excluded from the process by the chair of the campus judicial council or by the ~~((dean))~~ vice-president, using such means as are necessary to insure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the campus judicial council or the ~~((dean))~~ vice-president immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the campus judicial council or the ~~((dean))~~ vice-president at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial ~~((hearing))~~ proceeding, but the student's failure to cooperate with or attend a ~~((hearing))~~ proceeding procedure shall not preclude the committee from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the campus judicial council and the ~~((dean))~~ vice-president in deciding the appropriate disciplinary action.

(12) Upon conclusion of the ~~((hearing))~~ proceeding, the ~~((hearing))~~ proceeding board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the student judicial code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the campus judicial council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a

serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the campus judicial council for a rehearing.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-143 SUMMARY SUSPENSION PROCEEDINGS. The ~~((dean))~~ vice-president may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct violation or violations, if the ~~((dean))~~ vice-president has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the ~~((dean))~~ vice-president finds it necessary to exercise the authority to summarily suspend a student the ~~((dean))~~ vice-president shall:

(a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;

(b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;

(c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

(d) Give an oral or written notice of the time and place of the summary suspension ~~((hearing))~~ proceeding before the ~~((dean))~~ vice-president; and

(e) Determine a time for the summary suspension ~~((hearing))~~ proceeding to be held within ~~((36))~~ thirty-six hours;

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension ~~((hearing))~~ proceeding, the ~~((dean))~~ vice-president shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of his decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the student for no more than ~~((15))~~ fifteen working days with a judicial council ~~((hearing))~~ proceeding of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the ~~((dean))~~ vice-president to appear for summary suspension proceedings and then fails to appear at the time designated, the ~~((dean))~~ vice-president may suspend the student from the university, and shall give written notice of suspension to the student at his last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the ~~((dean))~~ vice-president. However, the ~~((dean))~~ vice-president may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a ~~((hearing))~~ proceeding before the campus judicial council.

WSR 91-04-055
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Medical Examiners)
 [Filed February 4, 1991, 3:00 p.m.]

Original Notice.

Title of Rule: WAC 308-52-135 Physician assistant prescriptions; and 246-918-035 Certified physician assistant prescriptions.

Purpose: To allow physician assistants to use their supervising physician's DEA registration number with a suffix. Also allows certified physician assistants to prescribe Schedule II through V as approved by the board and noncertified physician assistants to prescribe Schedule II through V as approved by the board and delegated by the supervising physician.

Statutory Authority for Adoption: RCW 18.71A.020.

Summary: Allows physician assistants to use their supervising physician's DEA registration number with a suffix. Also allows certified physician assistants to prescribe Schedule II through V as approved by the board and noncertified physician assistants to prescribe Schedule II through V as approved by the board and delegated by the supervising physician.

Reasons Supporting Proposal: To provide adequate health care to the citizens of the state of Washington.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patti Rathbun, Board of Medical Examiners, Olympia, 753-2844.

Name of Proponent: Board of Medical Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-52-135 is amended to allow noncertified physician assistants the ability to use their supervising physician's DEA registration number with a suffix and also allows them to prescribe Schedule II through V when approved by the board and delegated by the supervising physician. Eliminates physician assistants from registering by Board of Pharmacy; WAC 246-918-035 is proposed to allow certified physician assistants the ability to use their supervising physician's DEA registration number with a suffix and allows certified physician assistants to prescribe Schedule II through V when approved by the board. The Drug Enforcement Administration (DEA) has notified the Board of Medical Examiners that they will no longer issue DEA registration numbers to physician assistants in Washington. These

changes are required in order to provide adequate health care to the Washington citizens.

Proposal Changes the Following Existing Rules: Eliminates physician assistants from registering with Board of Pharmacy and allows physician assistants to use their supervising physician's DEA registration number with a suffix.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Seattle Airport Hilton, Elliott East and West Rooms, 17620 Pacific Highway South, Seattle, WA 98168, on March 22, 1991, at 9:30 a.m.

Submit Written Comments to: Patti Rathbun, Program Manager, Board of Medical Examiners, 1300 Quince Street, EY-25, Olympia, WA 98504, by March 16, 1991.

Date of Intended Adoption: March 22, 1991.

January 30, 1991

Patti Rathbun

Program Manager

AMENDATORY SECTION (Amending Order PM 599, filed 5/29/86)

WAC 308-52-135 NON-CERTIFIED PHYSICIAN ASSISTANT PRESCRIPTIONS. A non-certified physician assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician(s).

(1) ~~((Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.))~~ A non-certified physician assistant may not prescribe controlled substances unless especially approved by the board. A non-certified physician assistant may issue prescriptions for legend drugs for a patient who is under the care of the physician(s) responsible for the supervision of the non-certified physician assistant.

(a) Written prescriptions shall include the name, address and telephone number of the physician; the name and address of the patient and the date on which the prescription was written.

(b) The non-certified physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A.". Written prescriptions must include the non-certified physician assistant's license number.

(c) Written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, ~~((the number issued by the board of medical examiners.))~~ the supervising physician's D.E.A. registration number, followed by the letters "P.A." and the physician assistant's license number.

(2) A non-certified physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, order pharmaceutical agents ~~((except those for schedule two controlled substances.))~~ for inpatients under the care of the physician(s) responsible for his or her supervision.

~~((3) To be authorized to issue prescriptions for schedule three through five controlled substances, a physician assistant must be registered with the board of pharmacy and the drug enforcement administration.))~~

~~((4))~~ (3) The ~~((registration))~~ license of a non-certified physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

~~((5))~~ (4) Non-certified physician assistants may dispense medications the non-certified physician assistant has prescribed from office supplies. The non-certified physician assistant shall comply with the state laws concerning prescription labeling requirements.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 246-918-035 **CERTIFIED PHYSICIAN ASSISTANT PRESCRIPTIONS.** A certified physician assistant may issue written or oral prescriptions as provided herein when approved by the board.

(1) Written prescriptions shall include the name, address and telephone number of the physician; the name and address of the patient and the date on which the prescription was written.

(a) The certified physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A.-C". Written prescriptions must include the certified physician assistant's license number.

(b) The written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, the supervising physician's D.E.A. registration number, followed by the letters "P.A.-C" and the physician assistant's license number.

(2) A certified physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, order pharmaceutical agents for inpatients under the care of the physician(s) responsible for his or her supervision.

(3) The license of a certified physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

(4) Certified physician assistants may dispense medications the certified physician assistant has prescribed from office supplies. The certified physician assistant shall comply with the state laws concerning prescription labeling requirements.

WSR 91-04-056
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)

[Order 140B—Filed February 4, 1991, 4:39 p.m.]

Date of Adoption: October 25, 1990.

Purpose: To regulate the use of legend drugs by animal control agencies and humane societies for the sole purpose of sedating animals prior to euthanasia and for the use in chemical capture programs.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 90-19-021 on September 11, 1990.

Changes Other than Editing from Proposed to Adopted Version: Quotation marks were placed around terms being defined in WAC 360-35-020; and typographical errors corrected in WAC 360-35-070 and 360-35-080.

Effective Date of Rule: Thirty days after filing.

October 25, 1990

Lloyd Y. Young
Board Chair

Chapter 360-35 WAC
ANIMAL CONTROL—LEGEND DRUGS

NEW SECTION

WAC 360-35-010 **PURPOSE.** The purpose of this chapter shall be to ensure compliance with the law and rules regarding the use of legend drugs by animal control agencies and humane societies for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs.

NEW SECTION

WAC 360-35-020 **DEFINITIONS.** (1) "Board": The Washington state board of pharmacy.

(2) "Animal control agency": Any agency authorized by law to euthanize or destroy animals; to sedate animals prior to euthanasia or to engage in chemical capture of animals.

(3) "Humane society": A society incorporated and authorized to act under RCW 16.52.020.

(4) "Legend drugs": "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(5) "Controlled substances": "Controlled substance" means a drug, substance, or immediate precursor in Schedule I through V of Article II of chapter 69.50 RCW.

(6) "Approved legend drug": Any legend drug approved by the board for use by registered humane societies or animal control agencies for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs.

NEW SECTION

WAC 360-35-030 **REGISTRATION.** Humane societies and animal control agencies registered with the board under RCW 69.50.310 and WAC 360-36-210 to purchase, possess, and administer sodium pentobarbital as provided therein may also, under that registration, purchase, possess, and administer approved legend drugs as provided in RCW 69.41.080 and herein.

NEW SECTION

WAC 360-35-040 **APPROVED LEGEND DRUGS.** (1) The following legend drugs are hereby designated as "approved legend drugs" for use by registered humane societies or animal control agencies for limited purposes:

(a) Acetylpromazine.

(b) Ketamine.

(c) Xylazine.

(2) A humane society or animal control agency shall not be permitted to purchase, possess, or administer approved legend drugs unless that society or agency:

(a) Is registered with the board under RCW 69.50.310 and WAC 360-36-210 to purchase, possess, and administer sodium pentobarbital;

(b) Submits to the board written policies and procedures ensuring that only those of its agents and employees who have completed a board-approved training program will possess or administer approved legend drugs; and

(c) Has on its staff at least one individual who has completed a board-approved training program.

NEW SECTION

WAC 360-35-050 **TRAINING OF PERSONNEL.** (1) Approved legend drugs may only be administered by those personnel who have completed a board-approved training program. Such training programs

shall be submitted to the board for approval no later than thirty days prior to the initiation of training.

(2) Any training program shall use a text approved by the board. The board will make available a list of approved texts. Training programs shall be at least four hours in length and shall be taught by a licensed veterinarian or by a person who has completed an approved training program taught by a licensed veterinarian. Each program shall require that the trainee participate in both didactic and practical training in the use of these drugs and shall be required to score no less than seventy-five percent on a final examination. Training programs shall include the following topics:

- (a) Anatomy and physiology;
- (b) Pharmacology of the drugs;
- (c) Indications, contraindications, and adverse effects;
- (d) Human hazards;
- (e) Disposal of medical waste (needles, syringes, etc.);
- (f) Recordkeeping and security requirements.

NEW SECTION

WAC 360-35-060 LEGEND DRUG ADMINISTRATION. Humane societies and animal control agencies and the staff of those agencies may not purchase, possess, or administer controlled substances or legend drugs except sodium pentobarbital and approved legend drugs as provided herein. Provided, staff may administer legend drugs and controlled substances which have been prescribed by a licensed veterinarian for a specific animal and which drugs have been dispensed by a pharmacy or a veterinarian and are properly labeled in accordance with either RCW 18.64.246 or 69.41.050.

NEW SECTION

WAC 360-35-070 RESPONSIBLE INDIVIDUALS. (1) Each agency or society registered in accordance with WAC 360-36-210 shall name a designated individual as the person who shall be responsible for maintaining all records and submitting all reports required by applicable federal or state law or regulation, including chapter 360-36 WAC.

(2) This designated individual shall also be responsible for the ordering, possession, safe storage, and utilization of the sodium pentobarbital and approved legend drugs.

NEW SECTION

WAC 360-35-080 NOTIFICATION. Each humane society and animal control agency shall promptly notify the board of its designated individual, of all employees authorized to purchase, possess, or administer approved legend drugs, and of any change in the status of these individuals.

NEW SECTION

WAC 360-35-090 RECORDKEEPING AND REPORTS. (1) A bound log book with consecutively numbered pages shall be used to record the receipt, use, and disposition of approved legend drugs. No more than one drug shall be recorded on any single page. The record

shall be in sufficient detail to allow an audit to be performed.

(2) All invoices, record books, disposition records, and other records regarding approved legend drugs shall be maintained in a readily retrievable manner for no less than two years.

(3) All records shall be available for inspection by the state board of pharmacy or any officer who is authorized to enforce this chapter.

(4) A physical inventory of approved legend drugs shall be performed and reconciled with the log book no less frequently than every six months.

(5) Any discrepancy in the actual inventory of approved legend drugs shall be documented in the log book and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy which has not been corrected within seven days shall be reported to the board of pharmacy in writing.

(6) Any approved legend drug which has become unfit for use due to contamination or having passed its expiration date shall be destroyed by a supervisor and another staff member. Record of such destruction shall be made in the log book which shall be signed and dated by the individuals involved.

NEW SECTION

WAC 360-35-100 DRUG STORAGE. All approved legend drugs shall be stored in a substantially constructed locked cabinet or drawer. Keys to the storage area shall be restricted to those persons authorized to administer the drugs. Specifically designated agents and employees of the registrant may possess a supply of approved legend drugs for emergency field use. Such emergency supply shall be stored in a locked metal box securely attached to the vehicle.

NEW SECTION

WAC 360-35-110 VIOLATIONS. The board may suspend or revoke a registration issued under chapter 69.50 RCW if the board determines that any agent or employee of a registered humane society or animal control agency has purchased, possessed, or administered legend drugs in violation of RCW 69.41.080 or this chapter or has otherwise demonstrated inadequate knowledge in the administration of legend drugs. The board's revocation or suspension of a registration as provided herein would restrict the registered entity's ability to use both approved legend drugs and sodium pentobarbital.

WSR 91-04-057

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Filed February 5, 1991, 9:02 a.m.]

Original Notice.

Title of Rule: Fees and assessments for financial examinations and policy rates and forms processing costs.

Purpose: Repeal regulations that have become obsolete due to amendments of authorizing statutes.

Other Identifying Information: Insurance Commissioner Matter No. R 91-1.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.44.145, 48.46.120, and 48.14.010.

Summary: System of funding the Office of Insurance Commissioner was changed by 1986 legislation. Outdated regulations remain in WACs.

Reasons Supporting Proposal: Eliminate outdated regulations from WACs and improve usability and clarity of WACs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Roger Polzin, Room 200B, Insurance Building, Olympia, Washington, (206) 753-2403.

Name of Proponent: Insurance Commissioner Dick Marquardt, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 284-44-400 and 284-46-010 clarified how assessments for health care service contractors and health maintenance organizations, respectively, would be established pursuant to RCW 48.44.145 and 48.46.120. RCW 48.44.145 and 48.46.120 were amended in 1986 removing the applicability of these WACs. WAC 284-14-010 clarified how the proper filing fee is determined. The system of funding the Office of Insurance Commissioner was changed by 1986 legislation, RCW 48.02.190, which removes the need for this WAC.

Proposal Changes the Following Existing Rules: It repeals the existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposed regulation would have no economic effect on either small or large businesses.

Hearing Location: Office of Insurance Commissioner, Insurance Building, Olympia, Washington, on March 12, 1991, at 9:30.

Submit Written Comments to: Insurance Commissioner, Insurance Building, AQ-21, Olympia, Washington 98504-0321, by March 12, 1991.

Date of Intended Adoption: March 19, 1991.

February 1, 1991
Dick Marquardt
Insurance Commissioner
by Roger Polzin
Deputy Commissioner

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-44-400 ASSESSMENTS FOR EXAMINATION COSTS.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-46-010 ASSESSMENTS FOR EXAMINATION COSTS.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-14-010 FILING FEE FOR RATES AND FORMS.

WSR 91-04-058

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed February 5, 1991, 9:03 a.m.]

Original Notice.

Title of Rule: Chapter 478-250 WAC, Governing indexing of public records; and chapter 478-276 WAC, Rules and regulations for the University of Washington governing access to public records.

Purpose: Regarding chapter 478-250 WAC, to comply with the indexing requirements of chapters 42.17 and 34.05 RCW; and regarding chapter 478-276 WAC, to correct WAC citations to reflect changes in the Revised Code of Washington and to repeal WAC 478-276-130 which is no longer viable under RCW 42.17.260(4).

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.100, 34.05.220, and 42.17.260.

Summary: Regarding chapter 478-250 WAC, the proposed rules establish a new chapter on indexing of records as mandated by RCW 42.17.260 and 34.05.220; regarding chapter 478-276 WAC, the proposed amendments correct the WAC citations regarding the number of members of the board of regents and the public disclosure law citations, and to bring them both into uniformity with the Revised Code of Washington; and regarding WAC 478-276-130, the proposed repeal is required because the university can no longer claim an exemption from indexing pursuant to RCW 42.17.260(4).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vice President for University Relations, 400 Administration, 543-2560.

Name of Proponent: University of Washington, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regarding proposed chapter 478-250 WAC, in adopting the Administrative Procedure Act in 1989, the legislature required state agencies to index specific records as defined by chapters 42.17 and 34.05 RCW. The purpose of the proposed rules is to comply with the new statutory requirements for indexing; and regarding chapter 478-276 WAC, specific sections of this chapter need to be amended to reflect statutory changes that have occurred in recent years and have not been codified in the WAC: (1) In 1985, the size of the board of regents was increased from 7 to 9 members, RCW 28B-20.100. WAC 478-276-040 needs to be corrected to reflect this; and (2) prior to 1973, citations for public disclosure laws were referred to as "Chapter 1, Laws of 1973 (Initiative 276)." In 1974, the public disclosure laws were incorporated into the Revised Code of

Washington as chapter 42.17 RCW. The amendments to chapter 478-276 WAC reflect this citation change.

Proposal Changes the Following Existing Rules: In 1981, the university issued WAC 478-276-130 as an order of exemption. At that time indexing was considered to be unduly burdensome by the university and the law allowed state agencies to claim exemption from this requirement. In adopting the Administrative Procedure Act in 1989, the legislature removed the indexing exemption for state agencies. Therefore, because WAC 478-276-130 is not longer viable, the university proposes repealing this rule.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: 142 Administration Building, University of Washington, on March 18, 1991, at 1:00 p.m.

Submit Written Comments to: Melody Tereski, Rules Coordination Office, AI-10, University of Washington, Seattle, Washington 98195, by March 17, 1991.

Date of Intended Adoption: April 19, 1991.

February 1, 1991

Melody Tereski

Administrative Procedures Officer

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-010 PURPOSE. This chapter is enacted by the board of regents of the University of Washington in compliance with the provisions of chapter ((~~1, Laws of 1973 (Initiative 276)~~)) 42.17 RCW, "Disclosure—Campaign finances—Lobbying—Records"; and in particular with ((~~§§ 25-32 of that act~~)) RCW 42.17.250 through 42.17.340 dealing with public records.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-040 GENERAL COURSE AND METHOD OF GOVERNMENT. The government of the University of Washington is vested in a board of regents, consisting of ((~~seven~~)) nine members appointed by the governor of the state pursuant to RCW 28B.20.100. Regular meetings of the board are held each month (except for the month of July) at a time established by resolution of the board in Room 301 of the Administration Building on the campus in Seattle, or at such other place as the board may direct.

The general course and method of government at the university, including all formal and informal procedures, are subject to the authority, bylaws, and standing orders of the board of regents.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-060 PUBLIC RECORDS OFFICER. For purposes of compliance with chapter ((~~1, Laws of 1973~~)) 42.17 RCW, a public records officer shall be designated by the president of the university. The duties of the public records officer shall be as provided by the president of the university and may include but not be limited to: The implementation of the university's rules and regulations regarding release of public records, coordinating the staff of the visitors' information center in this regard, and generally coordinating compliance by the university with the public records disclosure requirements of chapter ((~~1, Laws of 1973~~)) 42.17 RCW. The person so designated shall be located in the Visitors' Information Center, 4014 University Way N.E., University of Washington, Seattle, Washington 98105.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-080 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter ((~~1, Laws of 1973~~)) 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records required to be disclosed by chapter ((~~1, Laws of 1973~~)) 42.17 RCW, may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedures: All requests shall be directed to the public records officer at the

address set forth in WAC 478-276-140. The request shall include the following information:

- (1) The name of the person requesting the records or some other means of identifying that person;
- (2) The time of day and calendar date on which the request was made; and
- (3) The public record(s) requested.

AMENDATORY SECTION (Amending Order 81-2, filed 10/2/81)

WAC 478-276-100 INSPECTION OF PUBLIC RECORDS—COPYING. (1) Public records of the University of Washington required to be disclosed by chapter ((~~1, Laws of 1973~~)) 42.17 RCW, shall be made available for inspection and copying at the visitors' information center under the supervision of the public records officer.

(2) No fee shall be charged for the inspection of public records. The university may impose a charge for providing copies of public records. Such charges shall not exceed the amount necessary to reimburse the university for its actual costs incident to such copying.

(3) No person shall be provided a copy of a public record which has been copied by the university at the request of such person until and unless such person has tendered payment for the charge for providing such copying.

AMENDATORY SECTION (Amending Order 73-5, filed 5/29/73)

WAC 478-276-110 EXEMPTIONS—COURT PROTECTION.

(1) The University of Washington reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 478-276-080 is exempt under the provisions of ((~~section 31, chapter 1, Laws of 1973~~)) chapter 42.17 RCW.

(2) In addition, pursuant to ((~~section 26, chapter 1, Laws of 1973~~)) chapter 42.17 RCW, the University of Washington reserves the right to delete identifying details when it makes available or publishes any public record in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by ((~~chapter 1, Laws of 1973~~)) RCW 42.17.255.

(3) Responses by the University of Washington refusing, in whole or in part, inspection of any record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

(4) Pursuant to ((~~section 33, chapter 1, Laws of 1973~~)) RCW 42.17.330, the University of Washington reserves the right to seek to enjoin the examination of any specific record, the examination of which the university determines would clearly not be in the public interest and would substantially and irreparably damage any person or would substantially and irreparably damage vital governmental functions.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-276-130 UNIVERSITY RECORDS.

Chapter 478-250 WAC

GOVERNING INDEXING OF PUBLIC RECORDS

NEW SECTION

WAC 478-250-010 PURPOSE. This chapter is enacted by the board of regents of the University of Washington in compliance with chapter 42.17 RCW, "Disclosure—Campaign finances—Lobbying—Records"; and chapter 34.05 RCW, "Administrative Procedure Act"; and in particular with RCW 42.17.260 and 34.05.220.

NEW SECTION

WAC 478-250-020 DEFINITIONS. (1) "Interpretive statement" means a written expression of the university's opinion. The board of regents or its designees issues interpretive statements as to the meaning of a statute or other provision of law as it pertains to the university, a court decision as it pertains to the university, or a university order.

(2) "Policy statement" means a written description of the university's current approach. The board of regents or its designees issues policy statements as to implementation of a statute or other provision

of law, a court decision, or a university order, including where appropriate the university's current practice, procedure, or method of action.

(3) Interpretive statements and policy statements are advisory only. All other definitions shall be in accordance with RCW 34.05.010.

NEW SECTION

WAC 478-250-050 UNIVERSITY RULES COORDINATION OFFICE. (1) The university rules coordination office shall be under the direction of the administrative procedures officer who reports to the office of the vice-president for university relations.

(2) The administrative procedures officer shall have knowledge of the subjects of rules being proposed or prepared within the university, maintain the records of any such action, and respond to public inquires about possible, proposed, or existing rules and the identity of university personnel developing, reviewing, or commenting on them.

NEW SECTION

WAC 478-250-060 RULE INDEXING. (1) Content. The university rules coordination office shall maintain an index of final orders, declaratory orders, interpretive statements, and policy statements, as defined by RCW 42.17.260(4), issued after June 30, 1990, by the board of regents of the University of Washington, the president of the University of Washington, or their designees.

(2) Form. The index shall reference final orders, declaratory orders, interpretive statements, or policy statements by one or more of the following classifications: Date of implementation, organizational unit, or subject matter.

NEW SECTION

WAC 478-250-070 REQUESTS FOR ACCESS TO INDEXES. Information regarding public inspection of indexes, their location, and a schedule for revising and updating these indexes can be obtained by contacting the public records officer, in accordance with WAC 478-276-060.

WSR 91-04-059

**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—February 1, 1991]

**MEETING NOTICE FOR MARCH 1991
(Rescheduled)
TRANSPORTATION IMPROVEMENT BOARD
TRANSPORTATION BUILDING
OLYMPIA, WASHINGTON 98504**

This meeting had been canceled and is being rescheduled to reduce the workload for the April meeting.

TIB meeting, 9:00 a.m., Friday, March 22, 1991, in Sea-Tac at the Sea-Tac City Hall, 19215 28th Avenue South.

TIB work session, 6:00 p.m., Thursday, April 18, 1991, in Olympia, at the Best Western Aladdin Motor Inn, Cascade Room, 900 South Capitol Way.

TIB meeting, 9:00 a.m., Friday, April 19, 1991, in Olympia, at the Transportation Building, Commission Board Room.

**WSR 91-04-060
PERMANENT RULES
COMMISSION ON
JUDICIAL CONDUCT**

[Order 3—Filed February 5, 1991, 10:39 p.m.]

Date of Adoption: February 1, 1991.

Purpose: To provide information on how to access public records of the Commission on Judicial Conduct.

Statutory Authority for Adoption: RCW 42.17.250 and [42.17.]260.

Other Authority: Washington State Constitution, Article IV, Section 31.

Pursuant to notice filed as WSR 91-01-126 on December 19, 1990.

Effective Date of Rule: Thirty-one days after filing.
February 1, 1991
Steven A. Reisler
Chair

**Chapter 292-10 WAC
PUBLIC RECORDS**

NEW SECTION

WAC 292-10-010 PURPOSE. The purpose of this chapter is to implement those provisions of RCW 42.17-.250 through 42.17.340 relating to access to public records.

NEW SECTION

WAC 292-10-020 PUBLIC RECORDS AVAILABLE. All commission public records are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 2.64-.111 and 42.17.310. In accordance with chapter 256, Laws of 1990, work and home addresses of any person requesting in writing that their addresses be kept private because disclosure would endanger life, safety or property, shall be omitted from all documents in public files.

NEW SECTION

WAC 292-10-030 RECORDS INDEX. The indexes developed by or for the agency shall be available to all persons under the same rules and under the same conditions as are applied to public records available for inspection and shall be available at the offices of the agency.

NEW SECTION

WAC 292-10-040 REQUESTS FOR PUBLIC RECORDS. (1) All requests for inspection or copying made in person at the agency shall be made on a form substantially as follows:

REQUEST FOR PUBLIC RECORDS

Date Time.....
Name
Address
.....

Representing.....
Description of Records:
.....
.....

I certify that lists of names obtained through this request for public records will not be used for commercial purposes.

.....
Signature

Number of copies
Number of pages
Per page charge \$.....
Total charge \$.....

(2) All requests made in person may be made to the agency at 908 E. 5th, Olympia, Washington, between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays.

(3) A request for inspection or copying of public records may be made by mail in a letter containing the following information:

(a) The name and address of the person making the request;

(b) The organization or group that the person represents;

(c) The time of day and the calendar date on which the person wishes to inspect the public records;

(d) A description of the public records requested;

(e) A statement whether access to copying equipment is desired;

(f) A phone number where the person can be reached in case the public records officer or designee needs to contact the person for further description of the material or any other reason;

(g) A statement that the record will not be used for commercial purposes.

(4) All requests by mail should be received at the agency at least three business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection.

(5) The agency may in its discretion fill requests made by telephone.

NEW SECTION

WAC 292-10-050 FEES. No fee shall be charged for inspection of public records. The agency may charge a reasonable fee, determined from time to time by the director, for providing copies. The fee shall be the amount necessary to reimburse the agency for its actual costs incident to such copying.

NEW SECTION

WAC 292-10-060 STATEMENT OF REASONS FOR DENIAL OF PUBLIC RECORDS REQUEST. When the agency refuses, in whole or in part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing

the refusal and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION

WAC 292-10-070 PROTECTION OF PUBLIC RECORDS. In order to protect the public records of the agency, the following guidelines shall be adhered to by any person inspecting such public records:

(1) No public records shall be removed from the agency's premises.

(2) Inspection of any public record shall be conducted in the presence of a designated agency employee.

(3) No public records may be marked or defaced in any manner during inspection.

(4) Public records which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by commission director or designee.

(5) Access to file cabinets, shelves, and other storage areas with public records is restricted to office personnel, unless other arrangements are made with the commission director or designee.

WSR 91-04-061

**PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE**

[Filed February 5, 1991, 10:55 a.m.]

Subject of Possible Rule Making: WAC 458-20-151 Dentists, dental laboratories, and physicians.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Les Jaster, Rules Coordinator, Department of Revenue, Interpretation and Appeals, Olympia, Washington 98504, Mailstop AX-02. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 13, 1991, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: This is a continuation of a meeting held on October 8, 1991. A rule draft is available upon request. Contact Roseanna Hodson, (206) 586-4281. The rule will include specific tax reporting information for orthodontists as well as other medical service providers.

February 5, 1991

Les Jaster
Rules Coordinator

WSR 91-04-062

**PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE**

[Filed February 5, 1991, 10:56 a.m.]

Subject of Possible Rule Making: WAC 458-20-126 Sales of motor vehicle fuel and special fuels.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should

be addressed to: Les Jaster, Rules Coordinator, Department of Revenue, Interpretation and Appeals, General Administration Building, Mailstop AX-02, Olympia, Washington 98504. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 13, 1991, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: This is a continuation of a meeting held on November 7, 1990. A rule draft is available upon request. Contact Roseanna Hodson, (206) 586-4281. The rule will include tax reporting information for persons selling propane for use as a motor vehicle fuel and will provide examples of certificates to substantiate sales exempt from retail sales tax.

February 5, 1991
 Les Jaster
 Rules Coordinator

WSR 91-04-063
 NOTICE OF PUBLIC MEETINGS
 HUMAN RIGHTS COMMISSION
 [Memorandum—February 4, 1991]

This is to advise you that the Washington State Human Rights Commission will hold its next regular commission meeting in Olympia on February 27 and 28, 1991. The meeting on February 27, will be held at the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia, beginning at 7:00 p.m. The regular business meeting will be held at the General Administration Building, Room G150, 11th and Columbia, Olympia, beginning at 9:00 a.m.

WSR 91-04-064
 NOTICE OF PUBLIC MEETINGS
 HUMAN RIGHTS COMMISSION
 [Memorandum—February 4, 1991]

This is to advise you that the Washington State Human Rights Commission will hold its March regular commission meeting in Tacoma (Fife) on March 18, 1991. The meeting will be held at the Executive Inn, Spinnaker Room, 5700 Pacific Highway East, Tacoma, beginning at 9:00 a.m.

WSR 91-04-065
 NOTICE OF PUBLIC MEETINGS
 UNIVERSITY OF WASHINGTON
 [Memorandum—February 4, 1991]

Following are the meeting schedules for regular meetings to be held by the University of Washington's Departments of Anthropology, Asian Languages and Literature, Economics, Microbiology, Orthodontics, Pediatrics, Pharmacy Practice, and Social Work.

Department of Anthropology		
Meeting Dates	Location	Time
January 10, 1991	401 Denny Hall	3:30 p.m.
February 14, 1991	401 Denny Hall	3:30 p.m.
March 14, 1991	401 Denny Hall	3:30 p.m.
April 11, 1991	401 Denny Hall	3:30 p.m.
May 9, 1991	401 Denny Hall	3:30 p.m.
June 13, 1991	401 Denny Hall	3:30 p.m.
October 10, 1991	401 Denny Hall	3:30 p.m.
November 14, 1991	401 Denny Hall	3:30 p.m.
December 12, 1991	401 Denny Hall	3:30 p.m.

Asian Languages and Literature	
Meeting Dates	Location
January 16, 1991	Conference Room – Faculty Club
February 20, 1991	Conference Room – Faculty Club
March 20, 1991	Conference Room – Faculty Club
April 17, 1991	Conference Room – Faculty Club
May 15, 1991	Conference Room – Faculty Club

Economics Faculty		
Meeting Dates	Location	Time
Tuesdays	Savery 300	12:30

Microbiology Faculty		
Meeting Dates	Location	Time
2nd Monday each month	G324 – Health Sciences	4 p.m.

Orthodontics Faculty Meeting
 The Department of Orthodontics meets regularly every Monday morning at 9:30 a.m. in D561 HSB.

Pediatrics Department Meetings		
Meeting Dates	Location	Time
February 12, 1991	CHMC, Wright Auditorium	4:30 p.m.
March 19, 1991	UWMC, RR-134	4:30 p.m.
April 9, 1991	CHMC, Wright Auditorium	4:30 p.m.
14, 1991	UWMC, RR-134	4:30 p.m.
[May 14, 1991]		
10, 1991	CHMC, Wright Auditorium	4:30 p.m.
[June 10, 1991]		
July 9, 1991	UWMC, RR-134	4:30 p.m.
September 10, 1991	CHMC, Wright Auditorium	4:30 p.m.
October 8, 1991	UWMC, RR-134	4:30 p.m.
November 12, 1991	CHMC, Wright Auditorium	4:30 p.m.
December 10, 1991	UWMC, RR-134	4:30 p.m.

Department of Pharmacy Practice Faculty		
Meeting Dates	Location	Time
1st Wednesday of each month	HSB T-341	12:00

Pharmacy Department		
Meeting Dates	Location	Time
January 15	HSB T-341	1:00
February 15		
March 15		
1st Wednesday of each quarter	T-341	1:00

School of Social Work
Faculty Meeting

Meeting Dates	Location	Time
January 22, 1991	Parrington Hall Forum	1:30
February 19, 1991	Parrington Hall Forum	to
March 12, 1991	Parrington Hall Forum	4 p.m.
April 23, 1991	Parrington Hall Forum	
May 21, 1991	Parrington Hall Forum	
June 4, 1991	Parrington Hall Forum	

Executive Committee

Meeting Dates	Location	Time
January 15, 1991	Room 210-F, Social Work	1:30
January 29, 1991	Room 210-F, Social Work	to
February 12, 1991	Room 210-F, Social Work	3 p.m.
February 26, 1991	Room 210-F, Social Work	
March 19, 1991	Room 210-F, Social Work	
April 2, 1991	Room 210-F, Social Work	
April 16, 1991	Room 210-F, Social Work	
April 30, 1991	Room 210-F, Social Work	
May 14, 1991	Room 210-F, Social Work	
May 28, 1991	Room 210-F, Social Work	
June 11, 1991	Room 210-F, Social Work	

Curriculum Committee

Meeting Dates	Location	Time
January 10, 1991	Room 210-F, Social Work	3:30
January 24, 1991	Room 210-F, Social Work	to
February 7, 1991	Room 210-F, Social Work	5 p.m.
February 21, 1991	Room 210-F, Social Work	
March 7, 1991	Room 210-F, Social Work	
March 21, 1991	Room 210-F, Social Work	
April 4, 1991	Room 210-F, Social Work	
April 18, 1991	Room 210-F, Social Work	
May 2, 1991	Room 210-F, Social Work	
May 16, 1991	Room 210-F, Social Work	
May 30, 1991	Room 210-F, Social Work	
June 13, 1991	Room 210-F, Social Work	

WSR 91-04-066
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 5, 1991, 3:07 p.m.]

Original Notice.

Title of Rule: Chapter 16-316 WAC, Bean seed certification standards; and chapter 16-494 WAC, Bean seed quarantine.

Purpose: To revise the bean seed quarantine rules to reflect recent changes in technology in the detection and determination of viral, bacterial and fungal diseases of beans. To make bean seed certification rules consistent with changes in the bean seed quarantine rules.

Statutory Authority for Adoption: Chapter 15.49 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

Summary: The proposed changes include the addition of Bean Common Mosaic Virus, and Adzuki Mosaic Virus to the list of quarantine diseases. The bean seed quarantine area in Washington is specified by county name. The entire quarantine has been rewritten to clarify the purpose and the requirements of the quarantine. The proposed bean seed certification rule changes include a change in seed standards for blue tag certified

seed, virus testing of seed, and field inspection determinations.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South 1st Street, Yakima, WA 98903, (509) 575-2750.

Name of Proponent: Department of Agriculture, governmental.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Agriculture Service Center Conference Room, 2015 South First Street, Yakima, WA 98903, on March 12, 1991, at 10:00 a.m.

Submit Written Comments to: Max Long, 2015 South 1st Street, Yakima, WA 98903, by March 12, 1991.

Date of Intended Adoption: March 27, 1991.

February 5, 1991
William E. Brookreson
Assistant Director

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-280 FIELD TOLERANCES. Field tolerances shall be as follows:

(1)

	Field Producing		
	Found- ation	Regis- tered	Certi- fied
Other varieties or off-type plants	none	0.1%	0.2%
Other crops	none	0.1%	0.1%
Total seed-borne diseases	none	0.5%	1.5%
Bacterial bean blights and wilt	none	none	none
Anthraxnose	none	none	none
Mosaic seed-borne	none	0.5%	0.5%

(2) Snap beans and kidney beans grown under sprinkler irrigation will not be eligible for certification. Further snap and kidney beans shall be isolated by 1320 feet from known bacterial blight.

(3) Fields must be rogued of weeds, off-type plants, volunteer plants, and plants showing symptoms of seed-borne diseases. Excessive night-shade shall be a cause for rejection.

(4) A field to be eligible for certification must have clean, cultivated boundaries at least ten feet wide.

(5) Excessive weeds, poor stands, lack of vigor, or any other condition which is apt to make inspection inaccurate may be cause for rejection of the field.

(6) Bean fields showing virus-like mosaic symptoms will not be accepted as free of Bean Common Mosaic Virus until plant samples are tested serologically, and found to be free of Bean Common Mosaic Virus.

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-285 INSPECTION REQUIREMENTS. Inspection requirements shall be as follows: (1) When factors affecting certification are most evident. The 2nd inspection, when required, shall be a windrow inspection.

(2) A greenhouse test may be required if the certifying agency deems it necessary.

(3) A serology test for Bean Common Mosaic Virus or Adzuki Mosaic Virus disease is required to certify seed.

(4) The combined results of field inspections, laboratory test, and greenhouse test, when required, will determine final certification.

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-290 SEED STANDARDS. Seed standards shall be as follows:

(1)

Purity	Found- ation	Regis- tered	Blue Tag Certi- fied
Pure seed	(Min.) 98%	98%	98%
Other crops & varieties	(Max.) none	none	2/100 lbs.
Badly damaged seed	(Max.)	2%	2%
Inert matter	(Max.)	2%	2%
Splits & cracks	(Max.)	2%	2%
Weed seed	(Max.)	none	none
<u>Bean Common Mosaic Virus disease or Adzuki Mosaic Virus disease</u>	(Max.) none	none	0.0%
Germination (minimum)		85%	85%

(2) Total inert matter, splits and cracks, and badly damaged seed shall not exceed 2% except for foundation class.

(3) Test reports will show percent of discolored beans for information only.

(4) Rough handling of bean seed in the combine or cleaning plant reduces germination materially. Precautions must be taken against such treatment and the seed safeguarded against high drops.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-001 ESTABLISHING QUARANTINE. (~~Halo Blight Pseudomonas phaseolicola (Burk.) Dows., Common Bean Blight Xanthomonas phaseoli (E.F.Sm.) Dows., Fuscous Blight Xanthomonas phaseoli var. fuscans (Burk.), Bean anthracnose disease, Colletotrichum lindemuthianum (Sacc. & Magn.) Scrib., Brown spot disease, Pseudomonas syringae (Van Hall) (only strains virulently pathogenic to Phaseolus sp.), Bean Bacterial Wilt Corynebacterium flaccumfaciens (Hedges) Dows., and any new strains or variations of the above bacterial and fungus diseases are hereinafter referred to as diseases.)~~) The production of edible beans and bean seed is an important industry in the state of Washington. The economic well-being of that industry is threatened by the introduction of bean seed contaminated with viral, bacterial and fungal diseases not established in the commercial production areas in Washington. The director has determined that a quarantine will be effective in preventing the introduction of ~~((said))~~ these viral, bacterial and ~~((fungus))~~ fungal diseases of beans, and that control of ~~((the said bacterial and fungus))~~ these diseases of beans will provide the ~~((common))~~ bean growers of the state of Washington with a source of ~~((common))~~ seed beans for planting purposes which are ~~((disease free))~~ tested for the presence of these diseases.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-010 DEFINITIONS. (1) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. ~~((This term shall import either the singular or the plural as the case may be.))~~

(2) "Department" means the Washington state department of agriculture.

(3) "Director" means the director of the department of agriculture or ~~((his))~~ the director's duly authorized representative.

(4) "Common bean" means Phaseolus vulgaris L.

(5) ~~((Beans means Phaseolus sp.))~~ "Adzuki bean" means Vigna angularis.

(6) "Bean" means common beans and adzuki beans.

(7) "Origin" means the county within the state of Washington, or the state, territory or country where a specific seed lot was grown.

~~((7))~~ (8) "Approved trial grounds" means a specific parcel of land ~~((determined by mutual agreement between persons, and))~~ approved by the director for experimental or limited production or increase of bean seed.

(9) "University" means the Washington State University, college of agriculture and home economics.

(10) "Dominant I-gene cultivar" means a cultivar which has resistance to all known strains of Bean Common Mosaic Virus (B.C.M.V.) due to the presence of the dominant I-gene. Dominant I-gene cultivars will not show mosaic mottle symptoms or transmit the virus through seed when inoculated with any strain of B.C.M.V.

(11) "Recessive I-gene cultivar" means a cultivar which may be susceptible to some strains of Bean Common Mosaic Virus and may show mosaic mottle symptoms.

(12) "Diseases" means those viral, fungal and bacterial diseases of beans enumerated in WAC 16-494-013 and any new variations or strains of these identified in the future.

(13) "Serology" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry them.

(14) "Official certificate" means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps or similar documents certifying seed quality or condition.

(15) "Quarantine Area I" means all areas west of the Continental Divide except those counties within the state of Washington subject to internal quarantine and the states of Alaska and Hawaii.

(16) "Quarantine Area II" means areas east of the Continental Divide, the counties in the state of Washington subject to internal quarantine, the states of Alaska and Hawaii and foreign countries.

NEW SECTION

WAC 16-494-012 REGULATED ARTICLES. Seeds of common beans and adzuki beans intended for planting purposes, bean plants and parts of plants, and crop residue from the harvest of infected beans are regulated under the provisions of this chapter.

NEW SECTION

WAC 16-494-013 REGULATED DISEASES. The following viral, bacterial and fungal diseases of beans, and any new strains or variations of these identified in the future, of beans are regulated under the provisions of this chapter:

- Bean Common Mosaic Virus
- Adzuki Mosaic Virus
- Halo Blight (Pseudomonas phaseolicola (Burk.) Dows.)
- Common Bean Blight (Xanthomonas phaseoli (E.F.S.M.) Dows.)
- Fuscous Blight (Xanthomonas phaseoli var. fuscans (Burk.))
- Bean anthracnose disease (Colletotrichum lindemuthianum (Sacc. & Magn.) Scrib.)
- Brown spot disease (Pseudomonas syringae (Van Hall)) strains virulently pathogenic to Phaseolus
- Bean Bacterial Wilt (Corynebacterium flaccumfaciens (Hedges) Dows.)

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-020 BEAN SEED—QUARANTINED AREA. ~~((A))~~ The entire counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom in the state of Washington, ~~((except those counties east of the crest of the Cascade Mountains.))~~ and all areas outside the state of Washington are established as a quarantine area. The quarantine area is further divided into two portions defined in WAC 16-494-010 (15) and (16) for the purposes of regulation.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-030 BEAN SEED—REGULATED AREA. ~~((A))~~ counties east of the crest of the Cascade Mountains.)) The entire counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima in the state of Washington are established as a protected area within the state.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

~~WAC 16-494-042 ((CONDITIONS FOR PLANTING BEAN SEED IN WASHINGTON STATE)) GENERAL REQUIREMENTS FOR PLANTING BEAN SEED IN THE REGULATED AREA. ((†) No beans shall be planted in the regulated area listed in WAC 16-494-030 which are found to be or are known to be contaminated with the diseases listed in WAC 16-494-001.~~

~~(2) Requirements for planting Eastern Washington grown bean seed:~~

~~(a) Bean seed must have been entered into the Washington state bean phyto-sanitary certificate inspection program or the Washington state seed certification inspection program. See WAC 16-316-327 and 16-316-270.~~

~~(b) All commercial dry beans for seed, except kidney beans, are exempt from the above. PROVIDED, That the commercial dry beans pass a laboratory/greenhouse test approved by Washington State University, College of Agriculture and Home Economics, and they have not been shipped east of the Continental Divide.~~

~~(c) All commercial dry beans to be used only for dry edible purposes, except kidney beans, are exempt from (a) of this subsection. PROVIDED, That the seed has never been shipped outside the state.~~

~~(3) Requirements for planting imported bean seed originating in areas west of the Continental Divide, excluding the area west of the crest of the Cascade Mountains, Hawaii and Alaska:~~

~~(a) Imported bean seed shall not be shipped, transported or moved into the regulated area listed in WAC 16-494-030 for planting unless the beans are accompanied by an origin phyto-sanitary certificate showing that the beans are free from the diseases listed in WAC 16-494-001 on the basis of at least one field inspection and one windrow inspection. The windrow inspection portion of the phyto-sanitary certificate requirement may be waived when the bean seed is accompanied by an official certificate issued by an approved testing agency stating the seed is free from disease, based on an approved laboratory/greenhouse test of a five-pound sample from each ten thousand pounds or fraction thereof.~~

~~(b) The bean seed planted for seed increase or with intention of seed increase shall be planted in fields entered into either the Washington state bean seed phyto-sanitary certificate inspection program or the Washington state seed certification inspection program. See WAC 16-316-327 and 16-316-270.~~

~~(c) All commercial beans, except kidney beans, are exempt from (b) of this subsection. PROVIDED, That the seed is accompanied by a phyto-sanitary certificate or by an official certificate issued by an approved testing agency stating the bean seed is free from the diseases listed in WAC 16-494-001, based on an approved laboratory/greenhouse test.~~

~~(4) Requirements for planting imported bean seed originating from areas east of the Continental Divide or in foreign countries or otherwise ineligible for planting in regulated areas of Washington:~~

~~(a) Bean seed must first be planted into an approved trial ground that meets the requirements of the department.~~

~~(b) Bean seed up to a maximum of one pound per variety may be planted in an approved trial ground intended for research purposes, with no restrictions, except as noted in this rule to include notification to the department of intent to plant and inspection procedures to be complied with for trial grounds (see WAC 16-494-044).~~

~~(c) Bean seed over one pound intended for introduction or seed increase must first be planted in an approved trial ground not to exceed five acres for each variety. PROVIDED, That the bean seed must have first passed a laboratory/greenhouse test as approved by the Washington State University, College of Agriculture and Home Economics, notification has been given the department of intent to plant, and inspection procedures are to be complied with for trial grounds (see WAC 16-494-044).~~

~~(5) Bean seed planted for harvest as green beans for cannery or freezing that is in compliance with this quarantine is not required to be entered into an inspection program. PROVIDED, That the department reserves the right to request complete listing and location of all the plantings and other information the department may deem necessary. Further, if for any reason it is decided that the plantings are not to be harvested as green beans the Seed Branch of the Department, 2015 South 1st Street, Yakima, Washington 98903, shall be notified and the plantings placed under an inspection program.~~

~~(6) This quarantine shall not apply to the shipment, movement, or transportation of beans prepackaged in packages of eight ounces or less for home garden use in the regulated area if, as far as is known, the beans are free of diseases.~~

~~(7) The department shall be notified in writing prior to shipping, moving or transporting of any person's intent to ship, move or transport any common beans into the regulated area listed in WAC 16-494-030. The notice of intent shall be accompanied by a copy of the phyto-sanitary certificate issued for common beans:)) (1) No beans shall be planted, or sold, shipped, or transported for seed purposes in the regulated area which are found to be or are known to be contaminated with any disease listed in WAC 16-494-013.~~

~~(2) The department shall be notified in writing, prior to shipping, of any person's intent to ship, move, or transport any bean seed into the regulated area. This notice of intent shall be accompanied by a copy of the official certificate issued for that bean seed.~~

NEW SECTION

WAC 16-494-043 ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN THE REGULATED AREA. (1) Bean seed shall have been entered into the Washington state bean phyto-sanitary certificate inspection program or the Washington state seed certification inspection program as provided in WAC 16-316-270 and 16-316-327.

(2) When the director determines that an emergency condition exists because of a shortage of seed for planting purposes, beans grown for processing as edible beans may be accepted for planting purposes: PROVIDED, That the lot has been tested by means recommended by the university and approved by the director and found to be apparently free of regulated diseases.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

~~WAC 16-494-044 ((INSPECTION PROCEDURES FOR TRIAL GROUNDS)) ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN QUARANTINE AREA I. ((†) Applications for planting in a trial ground must be submitted to the department prior to May 15 of the growing year, and accompanied with detailed varietal planting plan.~~

~~(2) A minimum of three field inspections shall be made during the growing season and one windrow inspection.~~

~~(3) A disinfectant shall be applied to machinery used in the production of bean seed and footwear of personnel inspecting prior to movement to other bean fields.~~

~~(4) If any diseases listed in WAC 16-494-001 are detected by field inspections or subsequent laboratory/greenhouse tests, then none of the seed shall be released for general planting but shall again be planted in an approved trial ground for one additional year and undergo inspection procedures by the department:)) (1) Bean seed from quarantine area I shall not be shipped, transported, or moved into the regulated area for planting unless the beans are accompanied by an origin official certificate showing that the beans are apparently free from the regulated diseases. Such certification shall be on the basis of at least one growing season field inspection and one windrow inspection or on an approved laboratory/greenhouse test.~~

~~(2) Bean seed planted for seed increase or with intention of seed increase shall be planted in fields entered into either the Washington state bean seed phyto-sanitary certificate inspection program or the Washington state seed certification inspection program as provided in WAC 16-316-270 and 16-316-327.~~

NEW SECTION

WAC 16-494-045 ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN QUARANTINE AREA II.

(1) Bean seed shall first be planted into an approved trial ground that meets the requirements of the department.

(2) Bean seed, up to a maximum of one pound per variety, may be planted in an approved trial ground intended for research purposes, with notification to the department, plant certification program, of intent to plant and adherence to the inspection procedures in WAC 16-494-047 and such isolation and other requirements as the director may prescribe.

(3) Bean seed over one pound, intended for introduction or seed increase, shall first be planted in an approved trial ground not to exceed five acres for each variety. In addition, prior to planting, this bean seed shall have passed a laboratory/greenhouse test as recommended by the university, notification shall have been given the department, plant certification program, of intent to plant and inspection procedures in WAC 16-494-047 shall have been complied with for trial grounds.

NEW SECTION

WAC 16-494-046 QUARANTINE—EXCEPTIONS AND EXEMPTIONS. (1) Bean seed planted for harvest as green beans for cannery or freezing, otherwise in compliance with this quarantine, is not required to be entered into an inspection program: PROVIDED, That the department reserves the right to request complete listing and location of all the plantings and other information the department may deem necessary. Further, if at any time prior to harvest, the grower decides that the plantings are not to be harvested as green beans, the department shall be notified and the plantings placed under an inspection program.

(2) Bean varieties (cultivars) from a quarantine area that are known to be uniform for the dominant I-gene are exempt from the serology testing requirement for Bean Common Mosaic Virus. Documentation or evidence of uniformity must accompany the seed shipment.

Undocumented cultivars are subject to a serology test to determine freedom from seedborne Bean Common Mosaic Virus based on a one-pound, untreated bean seed sample for each fifty thousand pounds of bean seed or fraction thereof.

(3) This quarantine shall not apply to the shipment, movement, or transportation of beans prepackaged in packages of eight ounces or less for home garden use in the regulated area if the beans are free of diseases.

NEW SECTION

WAC 16-494-047 INSPECTION PROCEDURES FOR TRIAL GROUNDS. (1) Applications for planting in a trial ground must be submitted to the department prior to May 15 of the growing year, and must include a detailed varietal planting plan, a description of the exact location of the trial ground, and a description of any bean plantings within one quarter mile of the trial ground.

(2) A minimum of three field inspections shall be made during the growing season and one windrow inspection.

(3) A disinfectant shall be applied to machinery used in the production of bean seed and to footwear of personnel performing inspections prior to movement to other bean fields.

(4) If any regulated diseases are detected by field inspections or subsequent laboratory/greenhouse tests, none of the seed shall be released for general planting but shall again be planted in an approved trial ground for one additional year and undergo inspection procedures by the department.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-062 IDENTIFICATION AND DISPOSITION OF DISEASED BEAN SEED AND INFECTED BEAN FIELDS.

(1) ~~(Any bean seed found or known to be contaminated with disease shall not be planted in Washington state.)~~ Any bean field planted with seed in violation of the requirements of this quarantine shall be subject to destruction, in full or in part, or quarantined, as determined necessary by the director, to prevent the spread of regulated diseases at the option and the expense of the grower or their responsible agents.

(a) Fields that are placed under a quarantine order shall be entered into the Washington state bean seed phyto-sanitary inspection program as provided in WAC 16-316-327 with all costs of inspection to be borne by the grower or the grower's agent.

(b) Fields that are placed under a quarantine order may be subject to additional requirements for inspection, control or isolation, as deemed necessary by the director, to prevent the spread of regulated diseases.

(2) Any bean field determined to be infected with ~~(the diseases listed in WAC 16-494-001)~~ a regulated disease shall be reported within seventy-two hours after discovery to the department, plant certification program.

(3) The department encourages the aid of all interested parties, including growers and seed company representatives, in the prompt reporting of suspected infected bean fields in order that timely investigation may be made.

(4) Any bean fields within the boundaries of ~~(Washington state)~~ the regulated area which show contamination ~~(of)~~ by a regulated disease, as provided in subsection (5) of this section, shall be destroyed in part or in total as may be required to eliminate the disease, by or at the expense of the grower and/or landlord: PROVIDED, That the director may authorize any other method of control at the director's discretion. The director ~~(or representative of the director)~~ shall notify

the grower, seed company representatives and/or the grower's landlord of the method and extent of the destruction and safeguards against disease spread in order for the parties to comply.

(5) The ~~((true))~~ identity of a regulated disease on growing plants or plants in windrow will be based on ~~((a))~~ the observance of the visual symptoms of ~~((a-regulated))~~ the disease ~~((and (b) when))~~. If the department deems it necessary to establish true identity or pathogenicity, a laboratory and/or greenhouse ~~((tests to))~~ test may be conducted by the department in cooperation with ~~((Washington State University))~~ the university.

~~((ii))~~ (a) In cases of disagreement concerning the presence of a regulated disease between the department plant pathologist and a qualified plant pathologist representing the commercial company or grower, the definitive verification of identity or pathogenicity shall ~~((include))~~ be determined by isolation of the suspected pathogen and inoculation of seedlings of a known susceptible host using ~~((the Washington State University approved))~~ accepted scientific and professional techniques ~~((the verification to be conducted in cooperation with Washington State University, College of Agriculture and Home Economics))~~.

~~((iii))~~ (b) Until verification of the suspected pathogen as specified in this section is completed, the involved planting shall be placed under quarantine for a period of thirty days subject to conditions and review or extension as determined by the director. Entry into the quarantined area is to be restricted to the grower or grower's agents, department employees, ~~((Washington State University plant pathologists,))~~ and/or persons authorized in writing by the director. Persons granted entry into the quarantined area will be required to take all necessary sanitary precautions as prescribed by the director to safeguard against the possible spread of the suspected regulated disease.

(6) The true identity of the regulated disease when found in or on seed will be based on testing methods ~~((approved))~~ recommended by the ~~((Washington State University, College of Agriculture and Home Economics,))~~ university results of which, when positive, will be evidence to identify the disease as being subject to the department's requirements ~~((unless the))~~. The owner of the seed, at owner's expense, may request verification of pathogenicity. Such verification shall be made using accepted scientific and professional techniques.

(7) Exemptions and special situations:

(a) Any field of beans ~~((commercial or garden,))~~ first found infected during windrow inspection, is exempt from total destruction if the diseased portion and an ~~((appropriate))~~ area (not less than a fifty-foot radius) surrounding the infected site is promptly destroyed ~~((PROVIDED, That none of the remaining bean seed produced in the infected field may be replanted in Washington state))~~ or harvested with the beans from the infected area directed, under department supervision, to processing. Seed from the remainder of the field shall be tested by a serology test. Only seed apparently free from regulated diseases may be used for seed purposes in the regulated area.

(b) ~~((All commercial dry))~~ Any field of beans to be used only for dry edible purposes, except kidney beans, are exempt from destruction if the diseased portion of the field is destroyed ~~((and/or verification as provided in subsection (5) of this section))~~ and all the crop residue is promptly and completely destroyed after harvest.

(c) Beans for processing or fresh consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within ten days after first detection and/or verification as provided in subsection ~~((5))~~ (4) of this section and the crop residue is promptly and completely destroyed after harvest.

NEW SECTION

WAC 16-494-063 NOTICE OF DESTRUCTION. When the director finds personal property planted in violation of the terms of this quarantine or infected as described in WAC 16-494-062, the director shall issue a written notice of quarantine or destruction to the owners and occupants thereof. The notice shall identify the property under quarantine, order the destruction of infested plants or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

NEW SECTION

WAC 16-494-064 PENALTIES. In addition to actions specified in WAC 16-494-062, any grower violating the terms of this quarantine, shall be subject to civil and/or criminal penalties provided in law.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-494-015 VIOLATIONS AND PENALTY.

WSR 91-04-067
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed February 5, 1991, 3:11 p.m.]

Original Notice.

Title of Rule: Chapter 16-354 WAC, Certification of hop rootstock; and chapter 16-497 WAC, Hop disease quarantine.

Purpose: Certification of hop rootstock, the proposed revision would clarify the standards and tolerances for the production of certified rootstocks, and redefine plant disease terminology to conform to the currently accepted technology. Hop disease quarantine, proposed revision would clarify the intent of the quarantine, proposed stricter disease tolerance limits, and revised violation and penalty rules.

Statutory Authority for Adoption: Chapters 15.14 and 17.24 RCW.

Statute Being Implemented: Chapters 14.14 [15.14] and 17.24 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: Clarification of rules as requested by the industry, and to bring up to date standards and definitions currently accepted by the industry.

Name of Agency Personnel Responsible for Drafting: William E. Brookreson, 6120 Capitol Boulevard, Tumwater, (206) 586-5306; Implementation and Enforcement: Max Long, 2015 South 1st Street, Yakima, (509) 575-2750.

Name of Proponent: Department of Agriculture, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Agricultural Service Center Conference Room, 2015 South 1st Street, Yakima, WA 98903, on March 12, 1991, at 2:00 p.m.

Submit Written Comments to: Max Long, 2015 South 1st Street, Yakima, WA 98903, by March 12, 1991.

Date of Intended Adoption: March 27, 1991.

February 5, 1991
William E. Brookreson
Assistant Director

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-005 HOP ROOTSTOCK—GENERAL. (1) Rootstocks of hops (*Humulus Lupulus L.*) may be designated as foundation stock, registered stock and certified stock when inspected, tested and found to be (~~(true to name (not off-type) and~~) discernibly free from (~~(virus (prunus necrotic ringspot strains))~~) Ilar viruses and virus-like

diseases, downy mildew, verticillium wilt, crown gall, rootknot nematode, hop cyst nematode or other serious pests, by procedures and inspections outlined in this program.

(2) The issuance of a (~~(certified))~~ state of Washington certified plant tag or stamp under this chapter affirms (~~(society))~~ only that the tagged or stamped hop rootstock has been subjected to certification (~~(standards and))~~ procedures to determine compliance with standards by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(3) The department is not responsible for disease, genetic disorders, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(4) Participation in the hop rootstock certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-010 DEFINITIONS. (1) (~~("Virus-infected (affected)" means presence of virus(es) in a plant or plant part.))~~ "Ilar virus" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(2) "Virus-like" means a transmissible disorder of (~~(genetic or non-transmissible origin))~~ unknown cause.

(3) (~~("Off-type" means not true to name.~~

(~~4~~)) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

(~~(5))~~ (4) "Foundation rootstock" means slips or rhizomes, cuttings and rooted plants taken from hop stocks established and maintained by Washington State University, that are indexed, and believed to be free from known viruses and (~~(that are true to name))~~ which will be genetically uniform. Cuttings or rooted plants, which shall be used to establish (~~(registered))~~ certified mother blocks shall be furnished to the applicant for a fee determined by Washington State University.

(~~(6))~~ (~~(Registered))~~ (5) "Certified mother block" means a planting of hop stocks established from foundation rootstock.

(~~(7))~~ (6) "Certified rootstock" means rootstock produced from (~~(registered))~~ certified mother blocks and meeting the requirements as herein provided.

(~~(8))~~ (7) "Verticillium wilt" means the disease caused by *Verticillium albo-atrum* Reinke & Berth. or hop strains of this organism.

(~~(9))~~ (8) "Downy mildew and/or black rot" means the disease caused by *Pseudoperonospora humuli* Miy. & Tak., G. W. Wils. Black roots caused by this disease shall not be permitted.

(~~(10))~~ (9) "Crown gall" means the disease caused by *Agrobacterium tumefaciens* E. F. Sm. & Towns., Conn.

(~~(11))~~ (10) "Rootknot nematode" means the nematode (~~(Meloidogyne sp.))~~

(~~(12))~~ (11) "Hop cyst nematode" means the nematode (~~(Heterodera humuli))~~ Filipjev.

(~~(13))~~ (12) "Crown" means a slip or layered stem cutting with visible buds, that has been grown for one or two years.

(~~(14))~~ (13) "Fairly fresh" means that the roots or cuttings are not excessively wilted.

(~~(15))~~ (14) "Firm" means that the plant parts are not soft or spongy, although they may yield to slight pressure.

(~~(16))~~ (15) "Moist" means that the plant parts are reasonably turgid and not dried to a degree that would affect normal growth.

(~~(17))~~ (16) "Fairly clean" means that the plant parts are not matted or caked with dirt.

(~~(18))~~ (~~Mold~~) (17) "Free from damage caused by mold" means that the plants shall be free from excessive mold or decay. Plants slightly affected by mold shall be allowed.

(~~(19))~~ (~~Freezing~~) (18) "Free from damage caused by freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant.

(~~(20))~~ (19) "Broken or mutilated rootstock" means the breaking of the root section or splitting of the plant part or other mechanical injury that would affect the normal growth of the plant.

(20) "Department" means the Washington state department of agriculture.

(21) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-020 FIELD STANDARDS FOR PRODUCTION OF CERTIFIED HOP ROOTSTOCK. (1) Land requirements:

(a) ~~((A registered mother block to be eligible for the production of certified rootstock shall be planted in a site that has been out of hop production three years (poles and trellis removed):))~~ New land (land that has never grown hops), proposed for the establishment of certified mother blocks, shall be approved by the department prior to planting.

(b) ~~((New land (land that has never grown hops) proposed for the establishment of registered mother blocks shall be approved by the department prior to planting in respect to location, drainage and adaptability:))~~ A certified mother block to be eligible for the production of certified rootstock shall be planted in a site that has been out of hop production for three years (poles and trellis removed). The site shall be inspected the season prior to planting. Sites with residual hop plants or with hop hullings present shall be rejected.

(c) ~~((Old hop land proposed for the establishment of registered mother blocks shall be inspected the season prior to planting in order to determine the absence of holdover hop plants. PROVIDED, That a field is eligible to be replanted with the identical hop strain of equal standards:))~~

~~((d))~~ Hop hullings shall not be spread over proposed planting sites prior to and/or during certified rootstock production.

(2) Isolation requirements:

(a) A field to be eligible for production of certified hop rootstock shall be separated by a strip of ground at least twenty-one feet in width from any other hop plants.

(b) A grower of certified hop rootstocks may grow more than one hop variety or strain: PROVIDED, That each variety or strain is separated by a hop plant free buffer strip not less than twenty-one feet in width.

(3) Plant requirements:

(a) Only foundation rootstock shall be planted to establish a ~~((registered))~~ certified mother block for the production of certified rootstock.

(b) ~~((Registered))~~ Certified mother blocks shall remain in place no more than four growing seasons: PROVIDED, That after four years, rootstock to be certified may be moved ~~((to a new eligible site if approved by a Washington State University pathologist. PROVIDED FURTHER, That if male plants are found, the field will be disqualified in the year following discovery of the male plants)),~~ if approved by the department after consultation with a Washington State University pathologist, to a new approved site.

(c) If, during inspection, a male plant is found and that plant has pollinated female hop plants (seeded), the mother block site will be disqualified beginning in the year following discovery of the male plants. For the growing season in which the male plants are detected, the rootstock from that site may be dug and sold as certified while in the dormant stage.

(d) In roguing, growers shall dig and immediately destroy all low yielding, unhealthy appearing, ~~((off-type:))~~ diseased or otherwise abnormal plants.

~~((d))~~ (e) Plant pests and weeds shall be effectively controlled.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-030 HOP ROOTSTOCK INSPECTIONS. (1) The first inspection shall be for downy mildew, ~~((verticillium wilt))~~ and other diseases and pests. ~~((The presence of verticillium wilt shall disqualify the field:))~~

(2) The second inspection, depending on suitable weather conditions, shall be primarily for detection of Ilar viruses, and virus-like diseases.

(3) The presence of verticillium wilt, detected in any inspection, shall disqualify the field.

(4) Rootstocks. The planting material (slips or rhizomes, layered stem cuttings, or crowns) shall be inspected at digging and/or at planting time to determine freedom from serious pests.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-040 HOP ROOTSTOCK CERTIFICATION APPLICATION AND FEES. (1) The applicant grower shall furnish to

the department all information pertinent to the operation of the hop rootstock certification program and shall give his/her consent to the department to take material from ~~((registered))~~ certified mother blocks and/or greenhouses for examination and testing.

(2) Application for inspection and testing of ~~((registered))~~ certified mother blocks and certified stocks shall be filed with the department by April 1 of each year accompanied by a seventy-five dollar application fee.

(3) Inspection fees ~~((are))~~ shall be sixteen dollars for each acre per inspection with a minimum fee of eighty dollars for five acres or less per inspection.

(4) Payment for inspection of ~~((registered))~~ certified mother blocks and nursery stock for registration and certification shall be made upon completion of the inspection. Billing to the nursery stock grower shall be made by the ~~((chemical and))~~ plant services division.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-070 HOP ROOTSTOCK FIELD STANDARDS.

(1) The unit of certification shall be the entire lot within the field standing at the time of inspection.

(2) Specific requirements. (Percentage tolerances)

	Certified
Downy mildew	1%
Nematodes (visible)	1%
Verticillium wilt	0
((Virus (Prunus necrotic ringspot strains)) Ilar viruses	0

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-100 HOP ROOTSTOCK TOLERANCES. (1) In order to allow for variations incident to proper grading and packing, not more than a combined total of six percent, by count, of the rootstocks in any lot shall fail to meet the requirements of ~~((the above grade))~~ Washington No. 1, and not more than six percent of the rootstock shall have rhizomes or layered stem cuttings less than five inches in length.

(2) ~~((The contents of individual containers in the lot, based on sample inspection, are subject to the following limitation: PROVIDED, That the averages for the entire lot are within the tolerances specified: When a tolerance is six percent or more, individual containers in any lot shall have not more than one and one-half times the tolerance specified:))~~ In order to insure lot uniformity, no individual container within a lot may contain more than one and one-half times the established tolerance.

(3) Hop plants shall be packed to retain a fresh condition.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-001 ESTABLISHING QUARANTINE. The introduction of dangerous diseases of hops into the state of Washington would entail great losses to the horticultural interests of the state, and the most rigid examinations cannot determine the presence of disease on dormant hop plants or parts of plants; therefore this quarantine is established by the director of agriculture, pursuant to the authority provided in chapter 17.24 RCW, setting forth the rules for the importation of hop plants into the state of Washington.

NEW SECTION

WAC 16-497-005 HOP DISEASE QUARANTINE--DEFINITIONS. (1) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Ilar viruses" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(4) "Verticillium wilt" means the disease caused by Verticillium albo-atrum Reinke & Berth, or hop strains of this organism.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-020 (~~COMMODITIES COVERED~~) REGULATED ARTICLES. Plants and all parts thereof (except the kiln dried cone) of hops (*Humulus Lupulus L.*)

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-030 REGULATIONS—CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES. Hop plants and all parts thereof will be admitted into the state of Washington: PROVIDED, That the following provisions are complied with.

(1) The hop plant or parts thereof have been certified in accordance with the regulations of an official state agency, which certification program requires at least two field inspections during the growing season, and requires that certification tolerances shall not exceed: Verticillium wilt, (albo atrum (dm))(~~(-dahlia (ms))~~) and Iilar viruses, zero percent(~~(-and Virus, or virus-like symptoms one tenth of one percent)~~); AND PROVIDED FURTHER, That all shipments of such hop planting stock shall be apparently free of insect pests and shall be accompanied by a certificate issued by (~~(said)~~) an official (~~(state)~~) agency of the state of origin certifying that (~~(said)~~) the hop planting stock was produced under official certification regulations and meets official standards.

(2) All shipments of hop planting stock shall be plainly marked with the contents on the outside of the package or container.

(3) (~~All products admissible under the foregoing provisions must be held by common carrier agent and not delivered to consignee or agent until inspected and passed by the director of agriculture of the state of Washington or his designee.~~) Persons shipping or transporting regulated articles into this state from areas under quarantine shall notify the department's plant certification branch of the nature and quantity of each shipment, the expected date of arrival at destination, the name of the intended receiver and the destination. The person to whom the articles are shipped shall hold the same until they are inspected and/or released by the department.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-040 DISPOSITION OF MATERIAL SHIPPED IN VIOLATION OF THIS QUARANTINE. All (~~hop plants or parts thereof~~) regulated articles arriving in the state of Washington in violation of this quarantine shall be immediately sent out of the state or destroyed at the option and expense of the owner or owners, (~~or his~~) or their responsible agents.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-050 EXEMPTION. The (~~foregoing does not~~) restrictions on the movement of regulated articles set forth in this chapter shall not apply to (the experiments of) hop plants or parts of plants imported for experimental or trial purposes by the United States Department of Agriculture (and) or the state experiment stations in the state of Washington.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-060 VIOLATION AND PENALTY. (~~All violations of this order shall be dealt with as provided for in RCW 17.24-.100, as follows:~~

Penalties—Second and subsequent offenses. Every person who shall violate or fail to comply with any rule or regulation adopted and promulgated by the director of agriculture in accordance with and under the provision of RCW 17.24.020 through 17.24.100 shall be guilty of a misdemeanor, and for a second and each subsequent violation or failure to comply with the same rule or regulation, shall be punished by imprisonment in the county jail for not less than thirty days or more than one year, or by a fine of not less than one hundred dollars, or more than one thousand dollars or both such fine and imprisonment.) Violations of this quarantine shall be punishable by the criminal and/or civil penalties provided by law in addition to any other inspection costs that may be assessed.

WSR 91-04-068

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 5, 1991, 3:13 p.m.]

Original Notice.

Title of Rule: Chapter 16-333 WAC, Rules relating to garlic grown for production of certified seed.

Purpose: To establish certification procedures for garlic grown for seed purposes.

Statutory Authority for Adoption: Chapter 15.14 RCW, Planting stock.

Statute Being Implemented: Chapter 15.14 RCW, Planting stock.

Summary: The new sections establish conditions of approval and eligibility for planting stock and certified seed garlic. Planting, storage, and out-of-state movement requirements are also established. Applicable fees for service are listed as well.

Reasons Supporting Proposal: The proposed rules establish a procedure for identifying certified blocks, and to provide for certified pest and disease-free planting stock. The rules will facilitate sale and movement of certified stock.

Name of Agency Personnel Responsible for Drafting: William E. Brookreson, 6120 Capitol Boulevard, Tumwater, WA, (206) 586-5306; Implementation and Enforcement: Max Long, 2015 South 1st Street, Yakima, WA, (509) 575-2750.

Name of Proponent: Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules establish regulation of garlic grown for production of certified seed. It is anticipated that these rules will provide for pest and disease-free planting stock enabling Washington producers, enrolled in the certification program, to sell garlic seeds into markets from which they would be otherwise excluded. These rules were developed at industry request.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Agricultural Service Center Conference Room, 2015 South First Street, Yakima, WA 98903, on March 12, 1991, at 8:30 a.m.

Submit Written Comments to: William E. Brookreson, 406 General Administration Building, AX-41, Olympia, WA 98504, by March 12, 1991.

Date of Intended Adoption: March 27, 1991.

February 5, 1991
William E. Brookreson
Assistant Director

NEW SECTION

WAC 16-333-200 DEFINITIONS. (1) "Department" means the Washington state department of agriculture.

(2) "Director" means the director of the Washington state department of agriculture or the director's duly authorized representative.

(3) "Certified block" means a planting of plants, bulbs, or cloves of garlic which are propagated from foundation or registered stock and are used to increase certified planting stock or propagated from plants, bulbs, or cloves in another certified block.

- (4) "Certified planting stock" means bulbs or cloves of garlic which are:
 - (a) The first propagation of registered stock or foundation stock; or
 - (b) Progeny of certified stock which are grown in a certified block.
- (5) "Foundation stock" means:
 - (a) Bulbs or cloves of garlic which have been treated in a hot solution of formalin or other treatment approved by the director for stem and bulb nematode (*Ditylenchus dipsaci*) and inspected and found to be free of white rot fungus (*Sclerotium cepivorum*); or
 - (b) Obtained from planting stock which was inspected and found to be free from stem and bulb nematode and white rot fungus; or
 - (c) Maintained and certified by the University of California, or other approved sources, as foundation stock.
- (6) "Garlic" means the varieties of the plant *Allium sativum*.
- (7) "Registered stock" means bulbs or cloves of garlic which are:
 - (a) The propagation of foundation stock; or
 - (b) Propagated from registered stock grown in a block.
- (8) "Planting stock" includes certified stock, foundation stock, or registered stock.
- (9) Garlic "seed" means bulbs or cloves of garlic for planting purposes.

NEW SECTION

WAC 16-333-205 APPROVAL OF STOCK. The department does not produce or maintain foundation, registered, or certified class planting stock. Plants, bulbs, or cloves of garlic may be accepted as planting stock if the following conditions are met:

- (1) The stock has been:
 - (a) Treated with a hot solution of formalin or other treatment approved by the director for stem and bulb nematode, according to label requirements, prior to being shipped into Washington; or
 - (b) Inspected by the department, another official state inspection agency, a crop improvement association, or another organization deemed as equivalent by the director, as attested by an official certificate or other documentation, and found to be free from stem and bulb nematode;
- (2) The stock is free from white rot fungus;
- (3) The stock has been approved by the department.

NEW SECTION

WAC 16-333-210 SEED STOCK ELIGIBLE FOR CERTIFICATION. Only the progeny of garlic stock meeting the approval requirements of WAC 16-333-205 will be eligible for certification as certified garlic seed.

NEW SECTION

WAC 16-333-215 PLANTING REQUIREMENTS. (1) To assure that the identity of a certified block is maintained, each block shall be planted a minimum of twelve feet from another certified block or variety of garlic.

- (2) Garlic shall be planted in a planting area inspected and approved by the department. That planting area shall be one:
 - (a) Where stem and bulb nematode is not found;
 - (b) Where the spread of infestation of nematode by drainage, flooding, or irrigation is not likely;
 - (c) Where water for irrigation is directly from wells only;
 - (d) Which has not been found to be infested with white rot fungus (*Sclerotium cepivorum*); and
 - (e) Which has never been planted with gladiolus bulbs or with any *Allium* spp. except certified garlic.
- (3) Garlic shall be planted a minimum of five hundred feet from any garlic which is not being grown for certification as seed.

NEW SECTION

WAC 16-333-220 CONDITIONS UNDER WHICH CERTIFICATION MAY BE REFUSED. The department will conduct field inspections of certified garlic plantings. Any plants which appear to be growing abnormally or abnormal appearing bulbs will be collected and examined for the presence of pests or disease. The department may refuse to certify a planting of garlic or the harvested bulbs of garlic if:

- (1) The planting, bulbs or cloves, are found to be infested with stem or bulb nematode, white rot fungus, or any other pest of garlic and the

department determines that the infestation cannot be eliminated by treatment, rouging, or other procedure; or

- (2) The grower has failed to comply with any certification requirement in this chapter.

NEW SECTION

WAC 16-333-225 RESPONSIBILITIES OF THE GROWER. A grower of certified garlic shall:

- (1) Conduct an active program of garlic pest control;
- (2) Use suitable precautions when cultivating, irrigating, or moving or using of equipment to prevent the spread of soil-borne pests or disease;
- (3) Keep containers for the movement of harvested garlic free of dirt and residues of garlic, onions, or other *Allium* species: PROVIDED, That bins previously used for onions, potatoes, and gladiolus bulbs may not be used and bins used for other crops shall be steam cleaned;
- (4) Conform to white rot quarantine regulations in WAC 16-470-300 through 16-470-340.

NEW SECTION

WAC 16-333-230 STORAGE REQUIREMENTS FOR CERTIFIED SEED. Certified seed-garlic shall be stored in clean containers and in clean storage areas which have been approved by the department. Storage shall not be allowed in onion, potato, or gladiolus storage bins or areas. Certified garlic seed may be placed either in new bags, or bags that have been used only for certified garlic seed, or bags that have been sterilized in a manner approved by the department.

NEW SECTION

WAC 16-333-235 MOVEMENT OF SEED OUT-OF-STATE—PERMIT REQUIREMENT. (1) If a lot of certified seed-garlic is to be moved out of Washington for treatment, as provided in WAC 16-333-205 (1)(a), and for cracking, prior to that movement, the grower shall obtain a permit from the department. The number of the permit shall be used by the department to identify that lot.

- (2) The permit shall be affixed to the shipping container at all times. The permit number shall be referenced on the official certificate certifying that the prescribed treatment has been completed. A certificate and the attached permit is required for reentry of the treated seed into Washington as certified garlic seed. Unless the identity shall be maintained on all seed lots, such lots may not be certified.

NEW SECTION

WAC 16-333-240 FEES. The following fees are applicable to the garlic seed certification program:

- (1) An application fee \$200.00
- (2) Inspection fee, per hour \$ 20.00
- (3) Mileage, per mile..... \$.26
- (4) Laboratory analysis by the department to determine the presence of nematodes or disease, costs of materials and labor, per hour \$ 20.00
- (5) Laboratory analysis performed by Washington State University or other laboratories will be charged back at the actual cost to the department including shipping and any other directly related costs.

NEW SECTION

WAC 16-333-245 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a certified state of Washington seed tag or stamp under this chapter affirms solely that the tagged or stamped seed garlic has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all garlic plants, bulbs, or cloves under this chapter.

- (2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling or otherwise, in connection with this chapter. No grower, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

WSR 91-04-069

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 91-08—Filed February 5, 1991, 3:20 p.m.]

Original Notice.

Title of Rule: WAC 173-16-064 Ocean management.

Purpose: WAC 173-16-064 is being added to chapter 173-16 WAC to implement the Ocean Resources Management Act, RCW 43.143.005-[43.143.]040, relating to amending shoreline master programs to address ocean issues.

Other Identifying Information: This rule is identical to the rule that was filed previously with the Code Reviser and published in WSR 90-16-040. Because that rule was not adopted within 180 days of publication in the WSR, it was withdrawn and must be refiled. There have been no substantive changes to the rule currently being filed.

Statutory Authority for Adoption: RCW 90.58.195.

Statute Being Implemented: RCW 43.143.005-[43.143.]040.

Summary: RCW 90.58.195 requires the Department of Ecology to prepare and adopt ocean use guidelines to be used in reviewing and amending shoreline master programs of local governments that have coastal shorelines.

Reasons Supporting Proposal: To provide guidelines for the regulation of ocean uses to avoid and minimize adverse impacts on coastal and marine renewable resources and uses and the environment.

Name of Agency Personnel Responsible for Drafting: Paul Carr, Baran Hall, 438-7424; Implementation: Don Peterson, Baran Hall, 459-6778; and Enforcement: Tom Mark, Baran Hall, 459-6764.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides guidance for local governments in Clallam, Jefferson, Grays Harbor and Pacific counties in reviewing and amending their shoreline master programs and reviewing shoreline permits. The rule regulates new ocean uses such as oil development and establishes priority for those uses that do not adversely impact renewable resources over those that do. The anticipated effect of the rule is to provide more protection for the environment, coastal and marine renewable resources and uses.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Economic Analysis Compliance Document: The ocean use guidelines provide policies and criteria for ocean uses, activity, and development along the 160 mile Washington coastline and its coastal waters from Cape Disappointment north to Cape Flattery. The new rule will be used by local government in Clallam, Jefferson, Grays Harbor and Pacific counties in reviewing and

amending their shoreline master programs, and subsequently when reviewing applications for shoreline substantial development permits. It is being added to chapter 173-16 WAC: Shoreline Management Act guidelines for development of master programs. The rule implements the Ocean Resources Management Act (ORMA) sections of HB 2242 (1989) (RCW 43.143.005 through [43.143.]030). This rule and resultant local master program amendments will become a part of the state coastal zone management program.

Regulatory Fairness Act

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules that have an impact on more than 20 percent of all industry or 10 percent of the businesses in any one industry be reviewed and modified to minimize their impact on small business. This rule has been reviewed for any potential impact under chapter 19.85 RCW. The impacts of the rule are unlikely to be disproportionately large for small businesses and less than 10 percent of any 3 digit SIC coded industry will be affected. A small business economic impact statement is not required.

The rule affects ocean uses, activities and developments along Washington's shoreline and its coastal waters. Existing commercial uses and recreational uses are not regulated by this rule. The rule is intended to protect the renewable resources in Washington's coastal waters. Generally marine renewable resources are used by small businesses such as fishing. The main impact of this rule will be to impose costs on new uses of nonrenewable resources in Washington's coastal waters.

The three digit SIC code industries affected by the rule are oil and gas development (SIC 291 and SIC 492) and sand and gravel mining (SIC 144). There are no oil development companies in the state, only marketing and refining divisions of the major international petroleum companies, personal conversation with Del Fogelquist, Director of Western States Petroleum Association, May 23, 1990.

The three digit SIC code for sand and gravel extraction industries identifies 50 taxpayers but does not provide any information on the size of the firms. Records for surface mining permits indicate over 200 permits for private sand and gravel mining operations, Departments of Revenue and Employment Security data (SIC code printout), September 14, 1989. The permittees range in size from large companies with over 50 employees to individuals. No companies or individuals are conducting ocean mining at this time. Given the high cost of deep water mining, large international firms with deep water mining experience and/or the financial ability to make large expenditures would be the only firms likely to undertake such a venture today. Generally such companies have over 50 employees. Deep water ocean mining for sand or gravel is unlikely to occur within the next 15-20 years in Washington's coastal waters because of the higher cost of extraction and available lower cost upland deposits. At that time some companies may invest in the necessary equipment to undertake deep sea mining, personal conversations with Ray Lasmanis of the Department of Natural Resources, November 9, 1989, and

May 31, 1990; Troy Colley of Grays Harbor Conservation District, May 21, 1990; Bill Mote, Director of Northwest Mining Association, May 31, 1990; Bill Langley of Department of Natural Resources, June 20, 1990; Ron Summers of Lonestar Industries, June 20, 1990; and Valentin Tepordei of United States Bureau of Mines, June 21, 1990.

Applicants for shoreline permits in the coastal counties are required to pay a base application fee and usually an additional fee based on the fair market value of the project, with \$1350 the maximum fee charged in any of the counties, personal conversations with the Clallam, Jefferson, Grays Harbor and Pacific counties staff, June 12, 1990. Additional permit preparation costs for larger projects are usually for environmental analysis required under the State Environmental Policy Act. Recreational uses and currently existing commercial uses involving fishing or other renewable marine or ocean resources are not regulated by the rule. New ocean uses involving nonrenewable resources such as oil and gas and sand and gravel will be conducted by large companies, personal conversation with Del Fogelquist, Director of Western States Petroleum Association, May 23, 1990; and personal conversations with Ray Lasmanis of the Department of Natural Resources, November 9, 1989, and May 31, 1990; Troy Colley of Grays Harbor Conservation District, May 21, 1990; Bill Mote, Director of Northwest Mining Association, May 31, 1990; Bill Langley of Department of Natural Resources, June 20, 1990; Ron Summers of Lonestar Industries, June 20, 1990; and Valentin Tepordei of United States Bureau of Mines, June 21, 1990. The proposed rule does not require any additional permit fees. For the above reasons it should not cause a disproportionate burden on small businesses.

Regulatory penalties will not cause a disproportionate burden on small businesses. Shoreline substantial development permits are subject to civil penalties of up to \$1000 per day. During the last three years an average of less than one percent of the permits have been assessed a penalty and the most frequently assessed has been \$1000, unpublished Department of Ecology shorelands program records. The proposed rule does not require any additional penalties.

State Economic Policy Act

The State Economic Policy Act, RCW 43.231H.020 [43.21H.020], requires that economic values be given adequate consideration in the rule making process. The rule and the enabling legislation include consideration of economic values. The rule requires that priority is given to uses that will not adversely impact coastal and marine renewable resources over those that will. The proposed rule also requires that compensation be provided to coastal uses, such as crab fishing companies, that are adversely impacted by ocean uses such as oil development. The proposed rule does not contain new regulations for existing commercial uses on Washington's coastal waters.

Washington's potential coastal nonrenewable resources are primarily potential oil and natural gas deposits and sand and gravel. The United States Department of

Interior Minerals Management Service estimates that there are 58 million barrels of oil equivalent within the Washington/Oregon outer continental shelf leasing area contained in lease sale #132, with an estimated net economic value of \$130 to \$486 million in 1987 dollars depending upon the per barrel price and based upon a 35 year extraction period, final environmental impact statement, proposed 5-year outer continental shelf oil and gas leasing program mid-1987 to mid-1992 United States Department of the Interior Minerals Management Service 1987. Personal conversation with Fred White and John White of United States Minerals Management Service (MMS), June 21, 1990, confirming information contained in the environmental documents. There are currently no good estimates of the volume or value of the sand and gravel deposits on Washington's outer continental shelf although preliminary mapping indicates significant areas of the ocean floor are sand or gravel and other sources estimate the depths at three to fifteen feet, *Marine Minerals: Exploring Our New Ocean Frontier* Congress of the United States Office of Technology Assessment, July 1987, pp. 57,111. Personal conversations with Ed Clifton and Mark Holmes of United States Geological Survey, July 2, 1990, July 3, 1990.

Washington's coastal renewable resource provide a significant economic value to the state and local economies. The Willapa Bay and Grays Harbor estuaries produce about 12 percent of the nation's oyster production and in 1989 yielded over \$8.6 million in landed value. The coastal crab fishery yielded over \$20 million in landed value in 1989. The coastal shrimp fishery yielded over \$4.5 million in landed value in 1989. The coastal groundfish fishery yielded over \$13.1 million in landed value in 1989. The salmon fishery yielded \$2.3 million in landed value in 1989. The albacore fishery yielded \$0.4 million in landed value in 1989, unpublished Department of Ecology documents and personal conversation with Mel Stanley of Department of Fisheries, June 8, 1990. In 1988 tourists spent approximately \$70 million in Pacific and Grays Harbor counties while engaged in recreational activities which are highly dependent upon an unspoiled and unpolluted environment, unpublished data from the Washington Department of Trade and Economic Development; and personal conversation with David Tanner, June 19, 1990. Since renewable resource based industries are based upon the maturation of healthy living organisms adverse environmental impacts from nonrenewable resource based developments will have adverse economic impacts for a number of years.

Currently, our ability to predict or even determine all the economic impacts of adverse environmental impacts is limited. Predicting the impacts and magnitude of an ocean use related environmental disaster, such as an oil spill is difficult. The Clean Water Act makes spillers of oil liable for the costs of spill cleanup to the amount of \$150 per vessel ton or \$250,000, whichever is greater. The 1989 Exxon Valdez Alaskan oil spill was 242,000 barrels. Under the act the cleanup liability limit on Exxon would have been \$14.25 million. Newspaper reports estimate Exxon's cleanup costs to exceed \$1 billion, *The Exxon Valdez Oil Spill: A Management*

Analysis by Richard Townsend for the Center For Marine Conservation, September 1989, p. 239. These costs may not cover the value of habitat or commercial and noncommercial species damaged or destroyed by the spill. Preliminary estimates of damage to bird populations from the Nestucca oil spill off the coast of Washington run in the several millions of dollars. Currently the Washington Department of Wildlife is conducting studies to better determine the value of noncommercial species such as birds damaged by oil spills, personal conversation with John Carlton of the Department of Wildlife, July 6, 1990.

While adverse economic impact from chronic and cumulative degradation of the habitat and renewable resources by nonrenewable resource development may not be as dramatic as the single event disaster, it could adversely impact the industries and local economies of Washington's coast for a much longer time. Additionally, the economic impacts are more difficult to determine. Thus net loss or net gain determinations associated with the rule are difficult.

Nonetheless the department is undertaking projects that will make it easier to consider economic values in future decisions involving the state's coastal resources and uses. Pursuant to RCW 90.48.142, the Department of Ecology is developing the means to determine the economic impact to coastal resources from an oil spill. The department's resource damages assessment authority for the coastal area ranges from \$1 to \$50 per barrel of oil spilled depending upon local characteristics. The classification of coastal habitats and the economic analysis being used to determine oil spill related costs could be used to develop the economic damage to the coastal habitat from disasters involving other ocean uses such as sand and gravel mining.

Calculating the economic impact from chronic and cumulative degradation of renewable resources by nonrenewable resource development such as oil and gas extraction may require further modification of the department's work and additional baseline studies. The department is proposing a number of oceanographic and ecological studies in Washington's coastal waters as part of the Pacific Northwest outer continental shelf trask force relative to the federal Minerals Management Service's proposed oil and gas Lease Sale #132 off the coast of Oregon and Washington. The department is also involved with the Department of Natural Resources in an analysis of the potential positive and negative impacts of leasing state-owned lands for oil and gas development. These studies can be used in considering economic values.

Notwithstanding the difficulties, the rule reflects these economic considerations and was designed to use the information that is and will be generated. The rule identifies critical and sensitive environmental resources such as estuaries and breeding areas that ocean users should avoid and minimize their adverse impacts on. Impacts on those resources are required to be addressed in the rehabilitation bonds that are required by the legislation. The rehabilitation bonds are required to cover unplanned

closures as well as planned closures. Compensation is required to mitigate adverse impacts to noncommercial resources such as environmentally critical habitats to commercial resources such as the crab fishery and to coastal uses for such impacts as loss of equipment and loss of a fishing season. The rule also establishes the parameters of allocation so that compensation is related to the impact and the impacted resource and use.

The state legislature appropriated \$120,000 for local government in the coastal counties for the cost or reviewing and amending their master programs to comply with the proposed rules. The department has worked with the coastal counties and written the rules in a manner that makes it easier for local government to comply. The coastal counties have indicated that the money available is sufficient to complete the task.

Hearing Location: Baran Hall, St. Martins Campus, Lacey, Washington on March 12, 1991, at 3:00 p.m.

Submit Written Comments to: Therese Swanson, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, by March 13, 1991.

Date of Intended Adoption: April 16, 1991.

February 5, 1991

Fred Olson

Deputy Director

NEW SECTION

WAC 173-16-064 OCEAN MANAGEMENT. (1) Purpose and intent. This section implements the Ocean Resources Management Act, (RCW 43.143.005 through 43.143.030) enacted in 1989 by the Washington state legislature. The law requires the department of ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local shoreline management master programs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific counties. The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development and prepare state and local agencies for new ocean developments and activities.

(2) Geographical application. The guidelines apply to Washington's coastal waters from Cape Disappointment at the mouth of the Columbia River north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan De Fuca including the offshore ocean area, the near shore area under state ownership, shorelines of the state, and their adjacent uplands. Their broadest application would include an area seaward two hundred miles (RCW 43.143.020) and landward to include those uplands immediately adjacent to land under permit jurisdiction for which consistent planning is required under RCW 90.58.340. The guidelines address uses occurring in Washington's coastal waters, but not impacts generated from activities offshore of Oregon, Alaska, California, or British Columbia or impacts from Washington's offshore on the Strait of Juan de Fuca or other inland marine waters.

(3) Ocean uses defined. Ocean uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and includes their associated off shore, near shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.

(4) Relationship to existing management programs. These guidelines augment existing requirements of the Shoreline Management Act, chapter 90.58 RCW, and those chapters in Title 173 of the Washington Administrative Code that implement the act. They are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of commercial, recreational, and tribal

fisheries. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources. Every effort will be made to take into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Participation in the development of these guidelines and subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses, such as oil and gas development.

These and other statutes, documents, and regulations referred to or cited in these rules may be reviewed at the department of ecology, headquarters in Lacey, Washington, for which the mailing address is Mailstop PV-11, Olympia, WA 98504.

(5) Regional approach. The guidelines are intended to foster a regional perspective and consistent approach for the management of ocean uses. While local governments may have need to vary their programs to accommodate local circumstances, local government should attempt and the department will review local programs for compliance with these guidelines and chapter 173-16 WAC: Shoreline Management Act guidelines for development of master programs. It is recognized that further amendments to the master programs may be required to address new information on critical and sensitive habitats and environmental impacts of ocean uses or to address future activities, such as oil development. In addition to the criteria in RCW 43.143-.030, these guidelines apply to ocean uses until local master program amendments are adopted. The amended master program shall be the basis for review of an action that is either located exclusively in, or its environmental impacts confined to, one county. Where a proposal clearly involves more than one local jurisdiction, the guidelines shall be applied and remain in effect in addition to the provisions of the local master programs.

(6) Permit criteria: Local government and the department may permit ocean or coastal uses and activities as a substantial development, variance or conditional use only if the criteria of RCW 43.143.030(2) listed below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations.

(7) General ocean uses guidelines. The following guidelines apply to all ocean uses, their service, distribution, and supply activities and their associated facilities that require shoreline permits.

(a) Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.

(b) Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts.

(c) When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.

(d) The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.

(e) Chapter 197-11 WAC (SEPA rules) provides guidance in the application of the permit criteria and guidelines of this section. The

range of impacts to be considered should be consistent with WAC 197-11-060 (4)(e) and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent with WAC 197-11-330(3) and 197-11-794. The sequence of actions described in WAC 197-11-768 should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.

(f) Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.

(g) Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.

(h) Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.

(i) Local governments should evaluate their master programs and select the environment(s) for coastal waters that best meets the intent of chapter 173-16 WAC, these guidelines and chapter 90.58 RCW.

(j) Ocean uses and their associated coastal or upland facilities should be located, designed and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling and estuaries.

(k) Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.

(l) Ocean uses and their associated facilities should be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with chapter 27.34 RCW. Permits in general should contain special provisions that require permittees to comply with chapter 27.53 RCW if any archeological sites or archeological objects such as artifacts and shipwrecks are discovered.

(m) Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.

(n) Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

(o) In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities adequate protection from explosions, spills, and other disasters.

(p) Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.

(q) Onshore facilities associated with ocean uses should be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.

(r) Attention should be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.

(s) Special attention should be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.

(t) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.

(u) Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light,

temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.

(v) Preproject environmental baseline inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses and coastal communities or the technology involved is likely to change.

(w) Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.

(x) To the extent feasible, the location of oil and gas, and mining facilities should be chosen to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.

(y) Discontinuance or shutdown of oil and gas, mining or energy producing ocean uses should be done in a manner that minimizes impacts to renewable resource ocean uses such as fishing, and restores the seabed to a condition similar to its original state to the maximum extent feasible.

(8) Oil and gas uses and activities. Oil and gas uses and activities involve the extraction of oil and gas resources from beneath the ocean.

(a) Whenever feasible oil and gas facilities should be located and designed to permit joint use in order to minimize adverse impacts to coastal resources and uses and the environment.

(b) Special attention should be given to the availability and adequacy of general disaster response capabilities in reviewing ocean locations for oil and gas facilities.

(c) Because environmental damage is a very probable impact of oil and gas uses, the adequacy of plans, equipment, staffing, procedures, and demonstrated financial and performance capabilities for preventing, responding to, and mitigating the effects of accidents and disasters such as oil spills should be major considerations in the review of permits for their location and operation. If a permit is issued, it should ensure that adequate prevention, response, and mitigation can be provided before the use is initiated and throughout the life of the use.

(d) Special attention should be given to the response times for public safety services such as police, fire, emergency medical, and hazardous materials spill response services in providing and reviewing onshore locations for oil and gas facilities.

(e) Oil and gas facilities including pipelines should be located, designed, constructed, and maintained in conformance with applicable requirements but should at a minimum ensure adequate protection from geological hazards such as liquefaction, hazardous slopes, earthquakes, physical oceanographic processes, and natural disasters.

(f) Upland disposal of oil and gas construction and operation materials and waste products such as cuttings and drilling muds should be allowed only in sites that meet applicable requirements.

(9) Ocean mining. Ocean mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.

(a) Seafloor mining should be located and operated to avoid detrimental effects on ground fishing or other renewable resource uses.

(b) Seafloor mining should be located and operated to avoid detrimental effects on beach erosion or accretion processes.

(c) Special attention should be given to habitat recovery rates in the review of permits for seafloor mining.

(10) Energy production. Energy production uses involve the production of energy in a usable form directly in or on the ocean rather than extracting a raw material that is transported elsewhere to produce energy in a readily usable form. Examples of these ocean uses are facilities that use wave action or differences in water temperature to generate electricity.

(a) Energy-producing uses should be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.

(b) An assessment should be made of the effect of energy producing uses on upwelling, and other oceanographic and ecosystem processes.

(c) Associated energy distribution facilities and lines should be located in existing utility rights-of-way and corridors whenever feasible, rather than creating new corridors that would be detrimental to the aesthetic qualities of the shoreline area.

(11) Ocean disposal. Ocean disposal uses involve the deliberate deposition or release of material at sea, such as solid wastes, industrial waste, radioactive waste, incineration, incinerator residue, dredged materials, vessels, aircraft, ordnance, platforms, or other man-made structures.

(a) Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment.

(b) Ocean disposal shall be allowed only in sites that have been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers as appropriate.

(c) Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.

(12) Transportation. Ocean transportation includes such uses as: Shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports. The following guidelines address transportation activities that originate or conclude in Washington's coastal waters or are transporting a nonrenewable resource extracted from the outer continental shelf off Washington.

(a) An assessment should be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.

(b) When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.

(c) Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.

(13) Ocean research. Ocean research activities involve scientific investigation for the purpose of furthering knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels, that also occur in exploration and ocean uses or developments, a case by case determination of the applicable regulations may be necessary.

(a) Ocean research should be encouraged to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.

(b) Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC: Permits for oil or natural gas exploration activities conducted from state marine waters.

(c) Ocean research should be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.

(d) Ocean research should be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.

(e) Public dissemination of ocean research findings should be encouraged.

(14) Ocean salvage. Ocean salvage uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage which combines aspects of recreation, exploration, research, and mining is an example of such a use.

(a) Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.

(b) Nonemergency marine salvage and historic shipwreck salvage activities should not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

WSR 91-04-070
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 90-47—Filed February 5, 1991, 3:22 p.m.]

Date of Adoption: February 5, 1991.
Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.
Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3209 Twisp, town of.
Statutory Authority for Adoption: RCW 90.58.200.
Pursuant to notice filed as WSR 90-23-103 on November 21, 1990.
Changes Other than Editing from Proposed to Adopted Version: Permissible height for exempt single family residences raised from 30' to 35'.
Effective Date of Rule: Thirty-one days after filing.
February 5, 1991
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3209 TWISP, TOWN OF. Town of Twisp master program approved December 16, 1975. Revision approved March 9, 1976. Revision approved February 5, 1991.

WSR 91-04-071
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 90-48—Filed February 5, 1991, 3:24 p.m.]

Date of Adoption: February 5, 1991.
Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.
Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3210 Winthrop, town of.
Statutory Authority for Adoption: RCW 90.58.200.
Pursuant to notice filed as WSR 90-23-104 on November 21, 1990.
Changes Other than Editing from Proposed to Adopted Version: Permissible height for exempt single family residences raised from 30' to 35'.
Effective Date of Rule: Thirty-one days after filing.
February 5, 1991
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 86-22, filed 9/12/86)

WAC 173-19-3210 WINTHROP, TOWN OF. Town of Winthrop master program approved December 16, 1975. Revision approved March 9, 1976. Revision approved February 2, 1979. Revision approved November 23, 1981. Revision approved January 31,

1985. Revision approved March 28, 1985. Revision approved September 11, 1986. Revision approved February 5, 1991.

WSR 91-04-072
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 90-59—Filed February 5, 1991, 3:27 p.m.]

Date of Adoption: February 5, 1991.
Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.
Citation of Existing Rules Affected by this Order: Amending WAC 173-19-360.
Statutory Authority for Adoption: RCW 90.58.200.
Pursuant to notice filed as WSR 90-24-084 on December 19, 1990.
Effective Date of Rule: Thirty-one days after filing.
February 5, 1991
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Orders 90-03 and 90-03A, filed 5/16/90 and 6/20/90, effective 6/16/90 and 7/21/90)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved April 19, 1989. (~~Revision approved March 14, 1990.~~) [~~Revision approved May 15, 1990.~~] Revision approved March 14, 1990. Revision approved May 15, 1990. Revision approved June 19, 1990. Revision approved February 5, 1991.

WSR 91-04-073
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Order 91-07—Filed February 5, 1991, 3:29 p.m.]

Date of Adoption: February 5, 1991.
Purpose: This emergency rule amends WAC 173-548-050 and 173-160-040 to further restrict well drilling and establishment of new water uses in subbasins which were closed to further appropriation with the adoption in 1976 of chapter 173-548 WAC.
Citation of Existing Rules Affected by this Order: Amending chapters 173-548 and 173-160 WAC.
Statutory Authority for Adoption: Chapters 34.05, 90.54, 18.104, 90.03, and 90.44 RCW.
Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department has determined based on existing information that there are no surface waters or hydraulically connected ground waters available for appropriation in subbasins closed in the 1977 regulation. The department has identified these subbasins as requiring intensive control of ground water withdrawals. Specific situations in which wells may be approved are identified.

Effective Date of Rule: Immediately.

February 5, 1991
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending Order DE 76-37, filed 12/28/76)

WAC 173-548-050 STREAMS AND LAKES CLOSED TO FURTHER CONSUMPTIVE APPROPRIATIONS. The department, having determined based on existing information that there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the ((following)) streams and lakes listed in (a) and (b), and ground water hydraulically connected with these surface waters to further consumptive appropriation ((for the periods indicated, with exceptions as noted:)) This includes rights to use water consumptively established through permit procedures and ground water withdrawals otherwise exempted from permit under Chapter 90.44.050 RCW. Specific situations in which well construction may be approved are identified.

No wells shall be constructed for any purposes, including those exempt from permitting under RCW 90.44.050, unless one or more of the following conditions have been met and construction of the well has been approved in writing by the department prior to the beginning of well construction:

(1) The proponent has a valid water right permit recognized by the department. For an existing community domestic use, a water right permit must be held by a purveyor of an approved system. (For the purposes of this chapter, an approved water system is one in compliance with the state Drinking Water Regulations, Chapter 246-290 WAC and the state Surface and Ground Water Codes, Chapters 90.03 and 90.44 RCW); or

(2) The proponent has obtained a valid state surface or ground water right through a transfer approved by the department under the statutory authority of Chapter 90.03 RCW or Chapter 90.44 RCW; or

(3) The proponent is replacing or modifying an existing well developed under the exemption from permit clause of RCW 90.44.050 and this has been approved in writing by the department; or,

(4) If the ground water being sought for withdrawal has been determined by the department not to be hydraulically connected with surface waters listed as closed, the department may approve a withdrawal (e.g., the well is drilled into bedrock, with sealed casing and pressure grouted into bedrock, and video scans corroborate lack of continuity). Provided: that when insufficient evidence is available to the department to make a determination that ground and surface waters are not hydraulically connected, the department shall not approve

the construction of a well unless the person proposing to withdraw ground water provides additional information sufficient for the department to determine that hydraulic continuity does not exist and that water is available.

(a) STREAM CLOSURES

The following streams are closed all year, including all ground waters hydraulically connected to these streams.

Stream Name (Includes Tributaries)	((Affected Reach — Period Closure))
Wolf Creek	((Mouth to Headwaters — Closed all year**))
Bear Creek (Davis Lake)	((ⁿ — Closed all year))
Thompson Creek	((ⁿ — Closed all year**))
Beaver Creek	((ⁿ — Closed May 1 to Oct. 1**))
Alder Creek	((ⁿ — Closed all year))
Benson Creek	((ⁿ — Closed all year**))
Texas Creek	((ⁿ — Closed all year))
Libby Creek	((ⁿ — Closed May 1 to Oct. 1**))
Cow Creek	((ⁿ — Closed May 1 to Oct. 1))
Gold Creek	((ⁿ — Closed May 1 to Oct. 1*/**))
McFarland Creek	((ⁿ — Closed May 1 to Oct. 1))
Squaw Creek	((ⁿ — Closed May 1 to Oct. 1))
Black Canyon Creek	((ⁿ — Closed May 1 to Oct. 1))
French Creek	((Closed May 1 to Oct. 1*/**))

*Exception for single domestic and stock water.

**Exception for water developed solely from added storage capacity within the basin.)

(b) LAKE CLOSURES

((All lakes not listed below are restricted to rights to divert water for single domestic and stock watering purposes only, as appropriate:)) The following lakes are closed all year, including all ground waters hydraulically connected to these lakes:

Name	Location
Alta Lake	3 mi. SW of Pateros
Black Lake	25 mi. N of Winthrop
Black Pine Lake	9 mi. SW of Twisp
Crater Lake	10 mi. W of Carlton
Davis Lake	Bear Creek Drainage
Eagle Lake	11 mi. SW of Carlton
French Creek	Sec.28, T.31N., R.23E.
Libby Lake	10 mi. W of Carlton
((Louise)) Louis Lake	20 mi. W of Winthrop
Middle Oval Lake	16 mi. W of Carlton
North Lake	20 mi. W of Winthrop
Patterson Lake	Sec.8, T.34N., R.21E.
Perrygin Lake	Sec.36, T.35N., R.21E.
Slate Lake	14 mi. W of Winthrop
Sunrise Lake	16 mi. W of Methow
Upper Eagle Lake	12 mi. W of Carlton
West Oval Lake	16 mi. W of Carlton

((The development of future impoundments creating new lakes is provided for under WAC 173-548-050(a):))

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 88-58, filed 4/6/88)

WAC 173-160-040 PERMIT. As provided in RCW 90.44.050, no well shall be constructed if a withdrawal of more than five thousand gallons a day or irrigation of more than one-half acre of noncommercial lawn and garden is contemplated, unless an application to appropriate such waters has been made to the department and a permit has been granted.

As provided in WAC 173-548-050, no wells shall be constructed for any purposes in subbasins closed in the Methow water resources regulation, including those exempt from permitting under RCW 90.44.050, unless written approval has been obtained from the department prior to beginning well construction.

WSR 91-04-074
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed February 5, 1991, 4:22 p.m.]

Date of Adoption: January 28, 1991.

Purpose: To implement the Certified Real Estate Appraiser Act, chapter 18.140 RCW.

Statutory Authority for Adoption: RCW 18.140.030.

Pursuant to notice filed as WSR 90-23-094 on November 21, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-125-020(1) style change; and WAC 308-125-030(1), 308-125-140(1), 308-125-070(2), 308-125-200 and 308-125-210, capitalize references to Uniform Standards of Professional Appraisal Practice and Appraisal Foundation.

Effective Date of Rule: Thirty-one days after filing.

February 5, 1991

Mary Faulk
 Director

Chapter 308-125 WAC
REAL ESTATE APPRAISERS

NEW SECTION

WAC 308-125-010 DEFINITIONS. (1) Words and terms used in these rules shall have the same meaning as each has in the Certified Real Estate Appraiser Act, (chapter 18.140 RCW).

(2) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate for or in expectation of compensation. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

(3) "Appraisal report" means any communication, written or oral, of an appraisal.

(4) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or

would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(5) "Certified appraisal" means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(6) "Department" means the department of licensing.

(7) "Director" means the director of the department of licensing.

(8) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(9) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(10) "Specialized appraisal services" means all appraisal services which do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(11) "State-certified real estate appraiser" means a person who develops and communicates real estate appraisals, and who holds a valid certificate issued to him/her for either general or residential real estate under this chapter. A state-certified real estate appraiser may designate or identify an appraisal rendered by him/her as a "certified appraisal" and indicate which type of certification is held.

(12) "Advisory committee" means a committee of seven individuals, of whom at least five are real estate appraisers appointed by the director to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education, and examination requirements that are appropriate for each classification of state-certified real estate appraiser.

(13) "College degree" means a baccalaureate degree awarded by a college or university which has been accredited by the Council on Postsecondary Accreditation or an accrediting body approved by the United States Department of Education.

(14) "Classroom hour" means fifty minutes out of each sixty minute hour.

(15) "Full-time" means the equivalent twelve-month period in which an applicant works at least one thousand five hundred hours in real estate appraisal.

(16) "Residential real estate appraiser" classification applies to those individuals qualified to appraise one to four residential units.

(17) "General real estate appraiser" classification applies to those individuals qualified to appraise all types of real property.

(18) "Associate college degree" means a degree awarded by a college or university which has been accredited by the Council on Postsecondary Accreditation or an accrediting body approved by the United States Department of Education. The associate degree must be based upon a minimum two-year program.

NEW SECTION

WAC 308-125-020 APPLICATION PROCESS TO TAKE EXAMINATION. (1) Any person desiring to take an examination for certification as a state-certified residential real estate appraiser, or as a state-certified general real estate appraiser, must submit a completed examination application with supporting documents and appropriate fee to the department of licensing, professional licensing services, at its official address. After the qualifications for the examination have been verified by the department, the applicant shall submit the preapproved examination application, the request for examination and the appropriate fee to the testing service approved by the director.

(2) The applicant will be assigned to the first available examination subsequent to determination of eligibility. The cut-off date for eligibility for any specific examination is available to the applicant upon request.

(3) Dishonored checks will be considered as an incomplete application.

(4) An applicant shall forfeit all examination fees for any examination or examinations for which the applicant has applied and does not take for any reason, other than through the fault or mistake of the department of licensing or the approved testing agency.

NEW SECTION

WAC 308-125-030 EXAMINATION PREREQUISITE GENERAL CLASSIFICATION. The general real estate appraiser classification applies to the appraisal of all types of real property.

(1) As a prerequisite to taking the examination for certification as a state-certified general real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than one hundred sixty-five classroom hours of courses in subjects related to real estate appraisal approved by the director. Each applicant must have successfully completed not less than thirty classroom hours of study relating to the basic principles of real estate appraising and not less than fifteen classroom hours of study specifically relating to the Uniform Standards of Professional Appraisal Practice.

(2) An original certification as a state-certified general real estate appraiser shall not be issued to any person who does not possess two years of experience as a full-time real estate appraiser in Washington or in another state having comparable certification requirements within the five years immediately preceding the filing of the application for examination and certification. An applicant may accumulate the required experience over the preceding five years; however, no more than fifteen hundred hours may be credited in any twelve-month period.

(3) To fulfill the experience requirement, a candidate must have at least fifteen hundred hours, accumulated over the previous five years, of nonresidential appraisal experience.

(4) The content for courses required prerequisite to taking the examination for certification as a state-certified general real estate appraiser should include coverage of real estate appraisal related topics, such as:

- (a) Influences on real estate value.
- (b) Legal considerations in appraisal.
- (c) Types of value.
- (d) Economic principles.
- (e) Real estate markets and analysis.
- (f) Valuation process.
- (g) Property description.
- (h) Highest and best use analysis.
- (i) Appraisal math and statistics.
- (j) Sales comparison approach.
- (k) Site value.
- (l) Cost approach.
- (m) Income approach.
- (n) Valuation of partial interests.
- (o) Appraisal standards and ethics.

Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

NEW SECTION

WAC 308-125-040 EXAMINATION PREREQUISITE RESIDENTIAL CLASSIFICATION. The residential real estate appraiser classification applies to appraisals of one to four residential units.

(1) As a prerequisite to taking the examination for certification as a state-certified residential real estate appraiser, an applicant shall present evidence satisfactory to the director that he/she has successfully completed not less than seventy-five classroom hours of courses in subjects related to real estate appraisal approved by the director. Each applicant must have successfully completed not less than thirty classroom hours of study relating to the basic principles of real estate appraising and not less than fifteen classroom hours of studies specifically relating to Uniform Standards of Professional Appraisal Practice.

(2) An original certification as a state-certified residential real estate appraiser shall not be issued to any person who does not possess two years of experience as a full time real estate appraiser in Washington or in another state having comparable certification requirements within the five years immediately preceding the filing of the application for examination and certification. An applicant may accumulate the required experience over the preceding five years; however, no more than fifteen hundred hours may be credited in any twelve-month period.

(3) The content for courses required prerequisite to taking the examination for certification as a state-certified residential real estate appraiser should include coverage of real estate appraisal related topics, such as:

- (a) Influences on real estate value.
- (b) Legal considerations in appraisal.
- (c) Types of value.
- (d) Economic principles.

- (e) Real estate markets and analysis.
- (f) Valuation process.
- (g) Property description.
- (h) Highest and best use analysis.
- (i) Appraisal statistical concepts.
- (j) Sales comparison approach.
- (k) Site value.
- (l) Cost approach.
- (m) Income approach.
- (n) Valuation of partial interests.
- (o) Appraisal standards and ethics.

Preexamination review seminars or examination preparation seminars will not be approved for clock hour credit.

NEW SECTION

WAC 308-125-050 EDUCATIONAL COURSES—PREEXAMINATION. (1) In order for courses to be accepted under WAC 308-125-030(1) and 308-125-040(1), courses must:

- (a) Be a minimum of fifteen classroom hours in length;
 - (b) Include an examination; and
 - (c) Be directly related to real estate appraising.
- (2) For purposes of this section, prior to July 1, 1992, there will be no time limit on when credit may be obtained.

(3) For the purposes of this section, after July 1, 1992, only those courses completed within the ten years immediately preceding the date of application will be accepted for meeting educational requirements.

(4) Copies of official transcript of college records or certificates of course completion will be considered as satisfactory evidence for education requirements.

NEW SECTION

WAC 308-125-060 ALTERNATE TO CLASSROOM HOURS, REQUIREMENT PREEXAMINATION. Achievement of a passing score on an examination that is identical to that administered upon completion of an educational offering approved by the director and offered by a state approved provider. This refers to those instances where the examination is challenged without attendance at the offering. Credit for the examination must be obtained by July 1, 1990.

NEW SECTION

WAC 308-125-070 EXPERIENCE REQUIREMENTS. (1) A minimum of two years full time experience is required. To attain the requisite experience an applicant may accumulate hours worked during the preceding five years; however, no more than fifteen hundred hours may be credited in any twelve-month period.

(2) The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared.

(3) An appraiser applying for certification must verify his/her completion of the required experience via affidavit, under oath subject to penalty of perjury on a form provided by the department.

To demonstrate experience the department may require submission of a log which details hours claimed for experience credit. The department may also require an affidavit from an employer concerning the applicant's length of experience.

(4) An appraiser performing appraisal work enabling the appraiser to apply for appraisal experience on an hourly basis, includes, but is not limited to, the following:

Fee and staff appraisal, ad valorem tax appraisal, review appraisal, appraisal analyst, real estate counseling, highest and best use analysis, feasibility analysis/study, market analysis/study, teacher of appraisal courses.

(5) The department reserves the right to contact an employer for confirmation of experience claimed. This will require an employer to confirm via affidavit the experience of an applicant.

(6) The department may request submission of written reports or file memoranda claimed by the applicant in the applicant's application for experience credit.

NEW SECTION

WAC 308-125-080 APPLICATION FOR CERTIFICATION. Upon receipt of notice of passage of the examination, applicants must submit a complete original certification application with the certification fee to the department of licensing, professional licensing services at its official address. The department will verify qualifications under chapter 18.140 RCW and the rules promulgated thereunder.

NEW SECTION

WAC 308-125-090 CONTINUING EDUCATION REQUIRED. (1) As a prerequisite to renewal of certification as a state-certified real estate appraiser, the holder of a certificate shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification shall be the completion by the applicant of twenty classroom hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the two-year period immediately preceding renewal.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of four hours in length and be directly related to real estate appraising.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours.

(5) The requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials.

(6) Courses or seminars taken to satisfy the continuing education requirement for general real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations.
- (c) Business courses related to practice of real estate.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law.
- (l) Real estate litigation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Real estate feasibility and marketability studies.
- (q) Such other presentations approved by the director.

(7) Courses or seminars taken to satisfy the continuing education requirement for residential real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Business courses related to practice of real estate.
- (c) Construction estimation.
- (d) Ethics and standards of professional practice.
- (e) Land use planning, zoning, taxation.
- (f) Property development.
- (g) Real estate financing and investment.
- (h) Real estate law.
- (i) Real estate related computer applications.
- (j) Real estate securities and syndication.
- (k) Real property exchange.
- (l) Real estate feasibility and marketability studies.
- (m) Such other presentations approved by the director.

NEW SECTION

WAC 308-125-100 COURSE APPROVAL REQUIREMENTS. (1) For purpose of this section prior to July 1, 1992, the director will approve the following courses required prerequisite to sitting for the examination: PROVIDED, That courses must satisfy the requirements of WAC 308-125-050.

(a) Courses offered at college or universities, vocational-technical schools, community colleges, and other state or federal agencies will be accepted by the director;

(b) Courses offered by other providers such as real estate appraisal or real estate organizations or proprietary schools must be reviewed and approved by the director.

(2) For purposes of this section, after July 1, 1992, the director will approve the following courses required prerequisite to sitting for the examination and continuing education: PROVIDED, That courses must satisfy the requirements of WAC 308-125-030, 308-125-040, 308-125-050, and 308-125-090:

(a) Courses taken at colleges or universities, vocational-technical schools, community colleges, and state or federal agencies will be accepted by the director;

(b) Courses offered by other providers such as real estate appraisal or real estate organizations or proprietary schools must be reviewed and approved by the director: PROVIDED, That all courses offered by providers in this subdivision (b) after July 1, 1992, must be preapproved by the director in order to qualify.

(3) Copies of official transcripts of college records or certificates of completion will be considered as satisfactory evidence for education requirements.

NEW SECTION

WAC 308-125-110 ADDRESS CHANGE. It is the responsibility of each applicant and certified real estate appraiser to notify the department of licensing, real estate appraiser program unit, of a change of business address. Change of address notification shall be made within ten days of the change of address.

NEW SECTION

WAC 308-125-120 FEES AND CHARGES. The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1) Application for examination	\$175.00
(2) Examination	75.00
(3) Reexamination	75.00
(4) Original certification	100.00*
(5) Certification renewal	275.00*
(6) Late renewal penalty	35.00
(7) Duplicate certificate	25.00
(8) Certification history record	25.00
(9) Application for reciprocity	175.00
(10) Original certification via reciprocity	100.00*
(11) Walk-in for examination	25.00

* Proposed fees for these categories marked with an asterisk include an estimated \$25.00 to be submitted by the state to Federal Government. Title XI, SEC. 1109 requires each state to submit a roster listing of state certified appraisers to the Appraiser Subcommittee "no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions, an annual registry fee of "not more than \$50," such fees to be transmitted by the state to the federal government on an annual basis.

NEW SECTION

WAC 308-125-130 REEXAMINATION. (1) An applicant who has failed the examination, or failed to appear for a scheduled examination, may apply for re-examination provided the required reexamination fee is submitted.

(2) An applicant who has failed the examination, or failed to appear for a scheduled examination, may walk into an examination upon payment of the reexamination and walk-in fees if there are adequate space and booklets and upon presentation of the failure notice or examination admission ticket. The failure notice or examination admission ticket shall be valid for walk-in testing

for a period of no more than six months after date of issuance.

NEW SECTION

WAC 308-125-140 **PASSING EXAM SCORE.** A minimum scaled score of seventy is required to pass the state-certified real estate appraiser examination.

NEW SECTION

WAC 308-125-150 **EXAMINATION PROCEDURES.** (1) Each applicant will be required to present one piece of positive identification which bears a photograph of the applicant. In the event the applicant has no photo identification, the applicant will be required to make prior arrangements with the licensing unit not later than ten working days prior to the examination. Failure to produce the required identification will result in the applicant being refused admission to the examination.

(2) Applicants will be required to refrain from talking to other examinees during the examination unless specifically directed or permitted to do so by a test monitor. Any applicant observed talking or attempting to give or receive information, using unauthorized materials during any portion of the examination, or removing test booklets and/or notes from the testing room will be subject to denial of a certification.

(3) Applicants who participate in disruptive behavior during the examination will be required to turn in their test materials to the test monitor and leave the examination site. Their opportunity to sit for the examination will be forfeited. Their answer sheet will be voided. A voided answer sheet will not be scored and the examination fee will not be refunded. A candidate must then reapply to take the examination.

NEW SECTION

WAC 308-125-160 **WAIVER UNDER RCW 18.140.080.** The director will not waive clock hour requirements as provided in RCW 18.140.080(3).

NEW SECTION

WAC 308-125-170 **EXCEPTIONS TO CHAPTER 18.140 RCW.** No exceptions will be allowed to the requirements of chapter 18.140 RCW except as provided by statute or rule.

NEW SECTION

WAC 308-125-180 **RECIPROCITY.** A person licensed or certified as a real estate appraiser under the rules or laws of another state may obtain certification in the state of Washington when the following condition is met:

The state in which the appraiser is licensed or certified has an appraiser licensure or certification program which meets federal guidelines and the state has a written reciprocal agreement with the state of Washington.

A person seeking certification under this section must provide a notarized statement from the state in which

the person is licensed or certified establishing licensure or certification.

NEW SECTION

WAC 308-125-190 **EXAMINATION REQUIRED—SCOPE.** The director shall approve an examination for certification of real estate appraisers. This examination may be prepared and administered within a state agency, or the director may request bids for contracts to prepare and administer the exam. Such requests for proposals shall be done in accordance with the state law.

(1) The director will determine the scope of the examination and provide information concerning the scope of the examination to an individual upon request.

(2) If the director determines to seek proposals for testing services, the director will establish criteria for evaluating the proposals.

NEW SECTION

WAC 308-125-200 **STANDARDS OF PRACTICE.** The standard of practice governing real estate appraisal activities will be the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

NEW SECTION

WAC 308-125-210 **REQUIRED RECORDS—ACCESSIBILITY OF RECORDS TO THE DEPARTMENT OF LICENSING.** All certified appraisers certified under chapter 18.140 RCW must retain records required by the Uniform Standards of Professional Appraisal Practice for a minimum of five years. Such records will be subject to random audit by the department without notice and must be readily available for inspection by a representative of the department.

WSR 91-04-075

NOTICE OF PUBLIC MEETINGS TRANSPORTATION COMMISSION

[Memorandum—February 5, 1991]

The March Washington State Transportation Commission public meeting will be held on Wednesday, March 13, 1991, at 9 a.m. There will be no public meeting on March 12, 1991. The location for the March meeting is: Olympia, Washington, Transportation Building, Conference Room 1D2.

WSR 91-04-076

PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 6, 1991, 9:54 a.m.]

Original Notice.

Title of Rule: Aquaculture identification requirements.

Purpose: To adopt rules that would require that aquatic farm products be identified and labeled.

Statutory Authority for Adoption: RCW 15.85.040 and 15.85.060.

Statute Being Implemented: Chapter 15.85 RCW.

Summary: Requires that any sale or movement of private sector cultured aquatic products made by an aquatic farmer be accompanied by a shipping document and be properly labeled.

Reasons Supporting Proposal: There is a need to identify commercially-caught fisheries products from a farmed product. Wild-caught fish need to be identified from farmed fish.

Name of Agency Personnel Responsible for Drafting and Implementation: John Pitts, 406 General Administration Building, Olympia, 586-2777.

Name of Proponent: Washington State Departments of Agriculture, Fisheries and Wildlife, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule contains no enforcement provisions and will depend on voluntary compliance.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to be able to follow the product from the farm to the marketplace and to have it identified as a farmed product to allow fisheries officers of the Department of Fisheries to identify it and separate it from wild-capture fisheries, which would be identified in another manner. The rule is also necessary in order to identify a farmed fish from a poached fish which may be being transported illegally.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Washington State Department of Agriculture, Market Development Division, 6120 Capitol Boulevard, Tumwater, WA, on March 13, 1991, at 7:00 p.m.

Submit Written Comments to: John Pitts, by March 13, 1991.

Date of Intended Adoption: April 15, 1991.

February 5, 1991

Arthur C. Scheunemann
Assistant Director

Chapter 16-603 WAC
AQUACULTURE IDENTIFICATION REQUIREMENTS

NEW SECTION

WAC 16-603-010 AQUACULTURE IDENTIFICATION REQUIREMENTS. (1) Any sale or movement of private sector cultured aquatic products made by an aquatic farmer, other than retail sale for personal use by the purchaser, shall:

- (a) Be accompanied by a shipping document showing:
 - (i) The aquatic farmer's name;
 - (ii) The aquatic farm mailing address;
 - (iii) The aquatic farm registration number;
 - (iv) The date of sale or transfer by the aquatic farmer;
 - (v) The quantity of each species; and
- (b) Be labeled, showing the name of the aquatic farmer and the farmer's aquatic farm registration number on each container of cultured aquatic products.

(c) The shipping documents and labeling required under this section shall be retained and maintained by the purchaser while the private sector cultured aquatic products are under the purchaser's possession or control.

(2) The provisions of this section do not apply to shellfish if the shellfish comply with rules enacted under the labeling requirements for the Sanitary Control of Shellfish Act (WAC 248-58-070).

WSR 91-04-077

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Order 91-01—Filed February 6, 1991, 10:39 a.m.]

Original Notice.

Title of Rule: Chapter 296-24 WAC, General Safety and health standards; chapter 296-56 WAC, Safety standards for longshore, stevedore, and related waterfront operations; chapter 296-62 WAC, General occupational health standards; chapter 296-99 WAC, Safety standards for grain handling facilities; chapter 296-155 WAC, Safety standards for construction work; chapter 296-305 WAC, Safety standards for fire fighters; and chapter 296-306 WAC, Safety standards for agriculture code.

Purpose: Chapter 296-24 WAC, the purposes of the proposed federal-initiated amendments to this chapter are to make the existing state standards in Part A-4 at-least-as effective-as the federal final rule and incorporate corrections received in Federal Register Volume 55, Number 183, dated September 20, 1990. These are clarifications and housekeeping amendments to correct federal publication errors. The purpose of the proposed state-initiated amendments is to correct source references and provide a consistent definition of "potable water"; chapter 296-56 WAC, the purpose of the federal-initiated proposed amendment is to prohibit the use of 4 x 29 wire rope in any "running rigging." This proposed amendment is the result of OSHA Hazard Alert STD 2-1.9. The purpose of the state-initiated proposed change is to correct statement relating to running water; chapter 296-62 WAC, the purpose of the state-initiated proposed housekeeping amendments is to correct typographical errors, reflect current ANSI specifics and make narrative identical with federal materials; chapter 296-99 WAC, the purpose of this federal-initiated proposed amendment is to reinstate a 1/8 inch action level for priority housekeeping areas in grain handling facilities. This amendment will make the WISHA standard "identical" to 29 CFR 1910.272 (i)(2)(ii); chapter 296-155 WAC, the purposes of the federal-initiated proposed amendments are to cancel an exemption from wearing head protection to Old Order Amish and the Sikh Dharama Brotherhood, to delete two items, and add a new definition to be at-least-as effective as the federal rule. These changes are made to make the state standards at-least-as-effective-as or "identical" [to] the federal rule. The purpose of the state-initiated proposed amendment is to adopt the 1985 edition of ANSI A10.3, Safety requirements for powder actuated fastening systems. This proposed amendment will allow the use of powder loads regardless of the manufacturer, provided

they provide the same level of safety and performance as those recommended by the manufacturer of the tool being used; chapter 296-305 WAC, the purpose of this state-initiated proposed amendment relating to body protection, is to remove the 7.5 oz/yd² requirement for the outer shell fabric and require compliance with the requirements of NFPA 1971: WAC 296-305-06009. The amendment deletes the requirement that outer shell fabric shall not weight less than 7.5 oz.yd²; and chapter 296-396 WAC, the purposes of these state-initiated proposed amendments are to correct source reference numbers currently in the standard provide consistent definition of "potable water", and to make figure numbers and titles in ROPS sections identical with the comparable federal rule.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, and [49.17].060.

Summary: Proposed federal-initiated amendments to the following sections are made to make the state standards at-least-as-effective-as the federal final rule published in Federal Register Volume 55, Number 183, dated September 20, 1990, and respond to OSHA comments dated November 21, 1990, which identified areas judged to be "less than effective" than the federal standard: WAC 296-24-11001, 296-24-11003, 296-24-11005, 296-24-11007, 296-24-11009, 296-24-11011, 296-24-11013, 296-24-11015, 296-24-11017, and 296-24-119; proposed state-initiated change to the following section is to correct source references currently in the standard and provide a consistent definition of "potable water": WAC 296-24-12002; proposed federal-initiated amendment to the following section will prohibit the use of 4 x 29 wire rope in any "running rigging": WAC 296-56-60073; proposed state-initiated changes to the following section will correct a statement relating to running water: WAC 296-56-60229; proposed state-initiated housekeeping amendments to the following sections are to correct typographical errors, reflect current ANSI specifics and make narrative "identical" with federal materials: WAC 296-62-07515, 296-62-07540, 296-62-07544, 296-62-09007, 296-62-11011, 296-62-14503, 296-62-3050, and 296-62-3090; proposed federal-initiated amendment to the following statement reinstates a 1/8 inch action level for priority housekeeping areas in grain handling facilities: WAC 296-99-050; proposed federal-initiated amendment to the following section will cancel an exemption from wearing head protection to Old Order Amish and the Sikh Dharma Brotherhood: WAC 296-155-205; proposed state-initiated amendments to the following sections are to adopt the 1985 edition of ANSI A10.3, Safety requirements for powder actuated fastening systems: WAC 296-155-363 and 296-155-36313; proposed federal-initiated amendment to the following sections are to comply with the federal final rule published in Federal Register Volume 54, Number 105, dated June 2, 1989, and Federal Register Volume 55, Number 202, dated October 18, 1990: WAC 296-155-375, 296-155-675, 296-155-694 and 296-155-730; proposed state-initiated amendment to the following section relating to body protection, is to

remove the 7.5 oz/yd² requirement for the outer shell fabric and require compliance with the requirements of NFPA 1971: WAC 296-305-06009; and proposed state-initiated amendments to the following sections are to correct source reference numbers currently in the standard[,] provide consistent definition of "potable water", and to make figure numbers and titles in ROPS sections "identical" with the comparable federal rule: WAC 296-306-260, 296-306-265, 296-306-27095, 296-306-310 and 396-306-320.

Reasons Supporting Proposal: To ensure a safe and healthful workplace for all employees in Washington state.

Name of Agency Personnel Responsible for Drafting: Ray V. Wax, 805 Plum Street, Olympia, WA, 753-6381; Implementation and Enforcement: J. N. Kirchoff, 805 Plum Street, Olympia, WA, 753-6500.

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

Rule is necessary because of federal law, proposed federal-initiated amendments to the following sections are made to make the state standards at-least-as-effective-as the federal final rule published in Federal Register Volume 55, Number 183, dated September 20, 1990, and respond to OSHA comments dated November 21, 1990, which identified areas judged to be "less than effective" than the federal standard: WAC 296-24-11001, 296-24-11003, 296-24-11005, 296-24-11007, 296-24-11009, 296-24-11011, 296-24-11013, 296-24-11015, 296-24-11017 and 296-24-119; proposed federal-initiated amendment to the following section is made to be at-least-as-effective-as OSHA Instruction STD 2-1.9 published October 1, 1990: WAC 296-56-60073; proposed federal-initiated amendment to the following section is made to be at-least-as-effective-as the federal final rule published in Federal Register Volume 52, Number 251, dated December 31, 1987: WAC 296-99-050; proposed federal-initiated amendment to the following section is made to be at-least-as-effective-as OSHA Instruction Notice CPL 2, dated November 5, 1990: WAC 296-155-205; and proposed federal-initiated amendment to the following sections are to comply with the federal final rules published in Federal Register Volume 54, Number 105, dated June 2, 1989, and Federal Register Volume 55, Number 202, dated October 18, 1990: WAC 296-155-375, 296-155-675, 296-155-694, and 296-155-730.

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above and Small Business Economic Impact Statement below.

Proposal Changes the Following Existing Rules: See Summary above and Small Business Economic Impact Statement below.

Small Business Economic Impact Statement

The department has considered whether these rules are subject to the Regulatory Fairness Act and has determined that they are not for the following reasons:

Federal-initiated proposed changes: Proposed federal-initiated amendments to the following sections are made solely to conform to federal regulations: Chapter 296-24-WAC, WAC 296-24-11001, 296-24-11003, 296-

24-11005, 296-24-11007, 296-24-11009, 296-24-11011, 296-24-11013, 296-24-11015, 296-24-11017 and 296-24-119; chapter 296-56 WAC, WAC 296-56-60073; chapter 296-99 WAC, WAC 296-99-050; chapter 296-155 WAC, WAC 296-155-205, 296-155-375, 296-155-675, 296-155-694 and 296-155-730; chapter 296-305 WAC, WAC 296-305-06009.

State-initiated proposed changes: Chapter 296-24 WAC, proposed state-initiated change to WAC 296-24-12002 is to correct source references currently in the standard and provide a consistent definition of "potable water." The proposed amendment has no new compliance requirements and will have no economic impact on small business.

The department has considered whether these rules are subject to the Regulatory Fairness Act and has determined that they are not for the following reasons: Chapter 296-56 WAC, proposed state-initiated changes to WAC 296-56-60229 will correct statement relating to running water. The proposed amendment has no new compliance requirements and will have no economic impact on small business; chapter 296-62 WAC, proposed state-initiated housekeeping amendments to WAC 296-62-07515, 296-62-07540, 296-62-07544, 296-62-09007, 296-62-11011, 296-62-14503, 296-62-3050, and 296-62-3090 are correcting typographical errors, reflect current ANSI specifics and make narrative identical with federal materials. The proposed amendments have no new compliance requirements and will have no economic impact on small business; chapter 296-155 WAC, proposed state-initiated amendments to WAC 296-155-363 and 296-155-36313 are to adopt the 1985 edition of ANSI A10.3, Safety requirements for powder actuated fastening systems. The proposed amendments reduce compliance requirements and will have no economic impact on small business; chapter 296-305 WAC, proposed state-initiated amendment to WAC 296-305-06009 relating to body protection, is to remove the 7.5 oz/yd² requirement for the outer shell fabric and require compliance with the requirements of NFPA 1971. The amendment reduces impact on stakeholders and will have no economic impact on small business; and chapter 296-306 WAC, proposed state-initiated amendments to the following sections are to correct source reference numbers currently in the standard[,] provide consistent definition of "potable water", and to make figure numbers and titles in ROPS sections identical with the comparable federal rule: WAC 296-306-260, 296-306-265, 296-306-27095, 296-306-310, and 296-306-320. The proposed amendments have no new compliance requirements and will have no economic impact on small business.

Hearing Location: General Administration Building Auditorium, Olympia, Washington 98504, on March 21, 1991, at 9:30 a.m.

Submit Written Comments to: J. N. Kirchoff, Assistant Director, Division of Industrial Safety and Health, by March 21, 1991, 5:00 p.m.

Date of Intended Adoption: May 20, 1991.

February 6, 1991
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11001 SCOPE, APPLICATION, AND PURPOSE. (1) Scope. This standard covers the operation, servicing and maintenance of all machines, equipment and systems in which the start up, or release of stored energy could cause injury to employees. This standard establishes minimum performance requirements for the control of such hazardous energy.

(2) Application.

(a) This standard applies to the control of energy during servicing and/or maintenance of machines and equipment and systems.

(b) Normal production operations are not covered by this standard where no personnel exposure exists. Servicing and/or maintenance which takes place during normal production operations is covered by this standard when:

(i) An employee is required to remove or bypass a guard or other safety device; or

(ii) An employee is required to place any part of his or her body into an area on a machine or piece of equipment where work is actually performed upon the material being processed (point of operation) or where an associated danger zone exists during a machine operating cycle. Exception: Minor tool changes and adjustments, and other minor servicing activities, which take place during normal production operations, are not covered by this standard if they are routine, repetitive, and integral to the use of the equipment for production, provided that the work is performed using alternative measures which provide effective protection and/or personnel exposure does not exist. See Appendix B for running adjustment procedures.

(c) This standard does not apply to the following:

(i) When the (~~vertical standard in~~) Title 296 WAC vertical standard for an industry requires a lockout or tagout control program, the vertical standard shall be used for all requirements directly addressed by that standard. The horizontal requirements of this chapter shall supplement the vertical standards, including the details of issues such as the procedural and training requirements of this chapter.

(ii) Work on cord and plug connected electric equipment when exposure to the hazards of unexpected energization or start up of the equipment is controlled by the unplugging of the equipment from the energy source and by the plug being under the exclusive control of the employee performing the servicing or maintenance.

(iii) Hot tap operations involving transmission and distribution systems for substances such as gas, steam, water, or petroleum products when they are performed on pressurized pipelines, provided that the employer demonstrates that:

(A) Continuity of service is essential; and

(B) Shutdown of the system is impractical; and

(C) Documented procedures are followed, and special equipment is used which will provide proven effective protection for employees; and

(D) The employees involved are specifically trained and qualified on the equipment and procedures to be used.

(3) Purpose. This section requires employers to establish a written lockout/tagout program, train affected employees and ensure that adequate procedures are used for affixing appropriate lockout devices or tagout devices to energy isolating devices, and to otherwise disable machines, equipment or systems to prevent unexpected energization, start-up, or release of stored energy in order to prevent injury to employees.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11003 DEFINITIONS APPLICABLE TO THIS SECTION. (1) Affected employee. Any person whose job requires him/her to operate or use a machine or equipment on which servicing or maintenance is being performed under lockout or tagout, or whose job requires him/her to be in an area potentially influenced by the servicing or maintenance being performed.

(2) Authorized/designated individual shall mean an individual who is qualified by reason of training and to whom the authority and responsibility to perform a specific assignment has been given by the owner/management. With respect to the requirements of this Part A-4, such authority and responsibility shall include deactivating and locking or tagging out equipment and/or systems in compliance with the requirements of this chapter and the employers control program when servicing or maintenance activities could create exposure for the authorized person or other affected employee(s).

(3) Authorized employer representative shall mean an individual who is specifically qualified by reason of training and to whom owner/management has designated authority and responsibility for a specific assignment.

(4) Capable of being locked out. An energy isolating device (~~will be considered to be~~) is capable of being locked out (~~either~~) if it (~~is designed with~~) has a hasp or other attachment (~~or integral part~~) to which, or through which, a lock can be affixed, or (~~if~~) it has a locking mechanism built into it. Other energy isolating devices (~~will also be considered to be~~) are capable of being locked out, if lockout can be achieved without the need to dismantle, rebuild, or replace the energy isolating device or permanently alter its energy control capability.

(5) Energized. Connected to an energy source or containing residual or stored energy.

(6) Energy isolating device. A mechanical device that physically prevents the transmission or release of energy, including but not limited to the following: A manually operated electrical circuit breaker; a disconnect switch; a manually operated switch by which the conductors of a circuit can be disconnected from all ungrounded supply conductors and, in addition, no pole can be operated independently; a slide gate; a slip blind; a line valve; a block; and any similar device used to block or isolate energy. The term does not include a push button, selector switch, remote control switches, automatic circuit activating devices, and other control circuit type devices.

(7) Energy source. Any source of electrical, mechanical, hydraulic, pneumatic, chemical, thermal or other energy, including gravity.

(8) Hot tap. A procedure used in the repair, maintenance, and services activities on a piece of equipment (pipelines, vessels, or tanks) under pressure, in order to install connections or appurtenances. It is commonly used to replace or add sections of pipeline without the interruption of service for air, gas, water, steam, and petrochemical distribution systems.

(9) Lockout. The placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.

(10) Lockout device. A device that utilizes a lock, either key or combination type, to hold an energy isolating device in the safe position.

(11) Normal production operations. The utilization of a machine or equipment to perform its intended production function.

(12) Servicing and/or maintenance. Workplace activities such as constructing, installing, setting up, adjusting, inspecting, modifying, and maintaining and/or servicing machines or equipment. These activities include lubrication, cleaning, or unjamming of machines or equipment and making adjustments or tool changes, where the employee may be exposed to the unexpected energization or startup of the equipment or release of hazardous energy.

(13) Setting up. Any work performed to prepare a machine or equipment to perform its normal production operation.

(14) Tagout. The placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

(15) Tagout device. A prominent warning device, such as a tag and a means of attachment, which can be securely fastened to an energy isolating device in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed in accordance with approved company procedures.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11005 GENERAL REQUIREMENTS. Energy control program.

(1) The employer shall establish a written program consisting of an energy control procedure (~~and~~), employee training and periodic inspections to ensure that before any employee performs any servicing or maintenance on a machine or equipment where the unexpected energizing, start up, or release of stored energy could occur and cause injury, the machine, equipment, system, or process shall be isolated, and rendered inoperative, in accordance with this Part A-4.

(2) Lockout/tagout.

(a) If an energy isolating device is not capable of being locked out, the employer's energy control program shall utilize a tagout system.

(b) If an energy isolating device is capable of being locked out, the employer's energy control program shall utilize lockout unless the employer can demonstrate that the utilization of a tagout system will provide full employee protection as set forth in subsection (3) of this section.

(c) After the effective date of this section, whenever major replacement, repair, renovation, relocation, or modification of machines or equipment is performed, and whenever new machines or equipment are installed, energy isolating devices for such machines or equipment shall be designed to accept a lockout device.

(3) Full employee protection.

(a) When a tagout device is used on an energy isolating device which is capable of being locked out, the tagout device shall be attached at the same location that the lockout device would have been attached, and the employer shall demonstrate that the tagout program will provide a level of safety equivalent to that obtained by using a lockout program.

(b) In demonstrating that a level of safety is achieved in the tagout program which is equivalent to the level of safety obtained by using a lockout program, the employer shall demonstrate full compliance with all tagout-related provisions of this standard together with such additional elements as are necessary to provide the equivalent safety available from the use of a lockout device. Additional means to be considered as part of the demonstration of full employee protection shall include the implementation of additional safety measures such as the removal of an isolating circuit element, blocking of a controlling switch, opening of an extra disconnecting device, or the removal of a valve handle to reduce the likelihood of inadvertent energization.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11007 ENERGY CONTROL PROCEDURE. (1) Procedures shall be developed, documented, and utilized for the control of potentially hazardous energy when employees are engaged in the activities covered by this section. Exception: The employer need not document the required procedure for a particular machine or equipment when all of the following elements exist:

(a) The machine or equipment has no potential for stored or residual energy or reaccumulation of stored energy after shut down which could endanger employees;

(b) The machine or equipment has a single energy source which can be readily identified and isolated;

(c) The isolation and locking out of that energy source will completely deenergize and deactivate the machine or equipment;

(d) The machine or equipment is isolated from that energy source and locked out during servicing or maintenance;

(e) A single lockout device will achieve a locked-out condition;

(f) The lockout device is under the exclusive control of the authorized employee performing the servicing or maintenance;

(g) The servicing or maintenance does not create hazards for other employees;

(h) The employer, in utilizing this exception, has had no accidents involving the unexpected activation or reenergization of the machine or equipment during servicing or maintenance.

(2) The (~~written~~) procedures shall clearly and specifically outline the scope, purpose, authorization, rules, and techniques to be utilized for the control of hazardous energy, and the means to enforce compliance including, but not limited to, the following:

(a) A specific statement of the intended use of the procedure;

(b) Specific procedural steps for shutting down, isolating, blocking, and securing machines or equipment to control hazardous energy;

(c) Specific procedural steps for the placement, removal, and transfer of lockout devices or tagout devices and the responsibility for them; and

(d) Specific requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11009 PROTECTIVE MATERIALS AND HARDWARE. (1) Locks, tags, chains, wedges, key blocks, adapter pins, self-locking fasteners, or other hardware shall be provided by the employer for isolating, securing, or blocking of machines or equipment from energy sources.

(2) Lockout devices and tagout devices shall be singularly identified; shall be the only device(s) used for controlling energy; shall not be used for other purposes; and shall meet the following requirements:

(a) Durable.

(i) Lockout devices and tagout devices, including the attachment means, shall be capable of withstanding the environment to which they are exposed for the maximum period of time that exposure is expected.

(ii) Tagout devices shall be constructed and printed so that exposure to weather conditions or wet and damp locations will not cause the message on the tag to become illegible.

(iii) Tags shall not deteriorate when used in corrosive environments such as areas where acid and alkali chemicals are handled and stored.

(b) Standardized.

(i) Lockout and tagout devices shall be standardized within the facility in at least one of the following criteria: Color; shape; or size; and additionally, in the case of tagout devices, print and format shall be standardized.

((††)) (ii) Employers should be guided by WAC 296-24-140, Specifications for accident prevention signs and tags, when designing/ selecting the content and format of tagout devices.

(c) Substantial.

(i) Lockout devices. Lockout devices shall be substantial enough to prevent removal without the use of excessive force or unusual techniques, such as with the use of bolt cutters or other metal cutting tools.

(ii) Tagout devices. Tagout devices, including their means of attachment, shall be substantial enough to prevent inadvertent or accidental removal. Tagout device attachment means shall be of a nonreusable type, attachable by hand, self-locking, and nonreleasable with a minimum unlocking strength of no less than 50 pounds and having the general design and basic characteristics of being at least equivalent to a one-piece, all-environment-tolerant nylon cable tie.

(d) Identifiable. Lockout devices and tagout devices shall indicate the identity of the employee applying the device(s).

(3) Tagout devices shall warn against hazardous conditions if the machine or equipment is energized and shall include a legend such as the following: Do not start, do not open, do not close, do not energize, do not operate.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11011 PERIODIC INSPECTION. (1) The employer shall conduct a periodic inspection of the energy control procedure(s) at least annually to ensure that the procedure and the requirements of this standard are being followed.

(a) The periodic inspection shall be performed by an authorized employee other than the one(s) utilizing the energy control procedure being inspected.

(b) The periodic inspection shall be ~~((designed))~~ conducted to correct any deviations or inadequacies ~~((observed))~~ identified.

(c) Where lockout is used for energy control, the periodic inspection shall include a review, between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure being inspected.

(d) Where tagout is used for energy control, the periodic inspection shall include a review, between the inspector and each authorized and affected employee, of that employee's responsibilities under the energy control procedure being inspected, and the elements set forth in WAC 296-24-11013.

(2) The employer shall certify that the periodic inspections have been performed. The certification shall identify the machine or equipment on which the energy control procedure was being utilized, the date of the inspection, the employees included in the inspection, and the person performing the inspection.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11013 TRAINING AND COMMUNICATION.

(1) The employer shall provide training to ensure that the purpose and function of the energy control program are understood by employees and that the knowledge and skills required for the safe application, usage, and removal of the energy control((s)) devices are ~~((required))~~ acquired by employees. The training shall include the following:

(a) Each authorized employee shall receive training in the recognition of applicable hazardous energy sources, the type and magnitude of the energy available in the workplace, and the methods and means necessary for energy isolation and control.

(b) Each affected employee shall be instructed in the purpose and use of the energy control procedure.

(c) All other employees whose work operations are or may be in an area where energy control procedures may be utilized, shall be instructed about the procedure, and about the prohibition relating to attempts to restart or reenergize machines or equipment which are locked out or tagged out.

(2) When tagout systems are used, employees shall also be trained in the following limitations of tags:

(a) Tags are essentially warning devices affixed to energy isolating devices, and do not provide the physical restraint on those devices that is provided by a lock.

(b) When a tag is attached to an energy isolating means, it is not to be removed without authorization of the authorized person responsible for it, and it is never to be bypassed, ignored, or otherwise defeated.

(c) Tags must be legible and understandable by all authorized employees, affected employees, and all other employees whose work operations are or may be in the area, in order to be effective.

(d) Tags and their means of attachment must be made of materials which will withstand the environmental conditions encountered in the workplace.

(e) Tags may evoke a false sense of security, and their meaning needs to be understood as part of the overall energy control program.

(f) Tags must be securely attached to energy isolating devices so that they cannot be inadvertently or accidentally detached during use.

(3) Employee retraining.

(a) Retraining shall be provided for all authorized and affected employees whenever there is a change in their job assignments, a change in machines, equipment or processes that present a new hazard, or when there is a change in the energy control procedures.

(b) Additional retraining shall also be conducted whenever a periodic inspection reveals, or whenever the employer has reason to believe, that there are deviations from or inadequacies in the employee's knowledge or use of the energy control procedures.

(c) The retraining shall reestablish employee proficiency and introduce new or revised control methods and procedures, as necessary.

(4) The employer shall certify that employee training has been accomplished and is being kept up to date. The certification shall contain each employee's name and dates of training.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11015 SPECIFIC PROCEDURES. (1) Energy isolation. Implementation of lockout or the tagout system shall be performed only by authorized/designated employees.

(2) Notification of employees. Affected employees shall be notified by the authorized employer representative of the application and removal of lockout devices or tagout devices. Notification shall be given before the controls are applied, and after they are removed from the machine or equipment.

(3) Application of control. The established procedures for the application of energy control ~~((implementation-of))~~ the lockout or tagout ~~((system))~~ procedures shall cover the following elements and actions and shall be done in the following sequence:

(a) Preparation for shutdown. Before an authorized or affected employee turns off a machine or equipment, the authorized employee shall have knowledge of the type and magnitude of the energy, the hazards of the energy to be controlled, and the method or means to control the energy.

(b) Machine or equipment shutdown. The machine or equipment shall be turned off or shut down using the procedures ~~((required-by this standard))~~ established for the machine or equipment. An orderly shutdown must be utilized to avoid any additional or increased hazard(s) to employees as a result of equipment ~~((deenergization))~~ stoppage.

(c) Machine or equipment isolation. All energy isolating devices that are needed to control the energy to the machine or equipment shall be physically located and operated in such a manner as to isolate the machine or equipment from the energy source(s).

(4) Lockout or tagout device application.

(a) Lockout or tagout devices shall be affixed to each energy isolating device by authorized employees.

(b) Lockout devices, where used, shall be affixed in a manner to that will hold the energy isolating devices in a "safe" or "off" position.

(c) An information tag shall be attached to each lockout point. This tag shall comply with all minimum requirements for tagout devices, see WAC 296-24-11009.

(d) Tagout devices, where used, shall be affixed in such a manner as will clearly indicate that the operation or movement of energy isolating devices from the "safe" or "off" position is prohibited.

(i) Where tagout devices are used with energy isolating devices designed with the capability of being locked (~~but where padlocking is infeasible~~), the tag attachment shall be fastened at the same point at which the lock would have been attached. Note: See WAC 296-24-11005.

(ii) Where a tag cannot be affixed directly to the energy isolating device, the tag shall be located as close as safely possible to the device, in a position that will be immediately obvious to anyone attempting to operate the device.

(5) Stored energy.

(a) Following the application of lockout or tagout devices to energy isolating devices, all potentially hazardous stored or residual energy shall be relieved, disconnected, restrained, blocked, and otherwise rendered safe.

(b) If there is a possibility of reaccumulation of stored energy to a hazardous level, verification of isolation shall be continued until the servicing or maintenance is completed, or until the possibility of such accumulation no longer exists.

(6) Verification of isolation. Prior to starting work on machines or equipment that have been locked out or tagged out, the authorized employee shall verify that isolation and deenergization of the machine or equipment have been accomplished.

(7) Release from lockout or tagout. Before lockout or tagout devices are removed and energy is restored to the machine or equipment, procedures shall be followed and actions taken by the authorized employee(s) to ensure the following:

(a) The machine or equipment. The work area shall be inspected to ensure that nonessential items have been removed and to ensure that machine or equipment components and guards are operationally intact.

(b) Employees.

(i) The authorized employee representative shall ensure that the work area is checked to assure that all employees are safely positioned or removed.

(ii) ~~((Before))~~ After lockout or tagout devices ~~((are))~~ have been removed and before a machine(s) or equipment ~~((are))~~ is started or energized, affected employees shall be notified that the lockout or tagout device(s) have been removed.

(c) Lockout or tagout devices removal. Each lockout or tagout device shall be removed from each energy isolating device by the employee who applied the device. Exception: When the authorized employee who applied the lockout or tagout device is not available to remove it, that device may be removed under the direction of the employer, provided that specific procedures and training for such removal have been developed, documented, and incorporated into the employer's energy control program. The employer shall demonstrate that the specific procedure provides equivalent safety to the removal of the device by the authorized employee who applied it. The specific procedure shall include at least the following elements:

(i) Verification by the employer that the authorized employee who applied the device is not at the facility;

(ii) Making all reasonable efforts to contact the authorized employee to inform him/her that his/her lockout or tagout device has been removed; and

(iii) Ensuring that the authorized employee has this knowledge before he/she resumes work at that facility.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-11017 ADDITIONAL REQUIREMENTS. (1) Testing or positioning of machines, equipment, or components thereof.

In situations in which lockout or tagout devices must be temporarily removed from the energy isolating device and the machine or equipment energized to test or position the machine, equipment or component thereof, the following sequence of actions shall be followed:

(a) Clear the machine or equipment of tools and materials in accordance with WAC 296-24-11015;

(b) Remove employees from the machine or equipment area in accordance with WAC 296-24-11015;

(c) Remove the lockout or tagout devices as specified in WAC 296-24-11917;

(d) Energize and proceed with testing or positioning;

(e) Deenergize all systems and reapply energy control measures in accordance with this Part A-4 to continue the servicing and/or maintenance.

(2) Outside personnel (contractors, etc.).

(a) Whenever outside servicing personnel are to be engaged in activities covered by the scope and application of this standard, the on-site employer and the outside employer shall inform each other of their respective lockout or tagout procedures.

(b) The outside employer shall assure that all outside personnel shall comply with all requirements of the on-site employer's lockout/tagout control program.

(c) Deviations from the on-site employer's control program are not permissible without specific prior approval.

(3) Group lockout or tagout.

(a) When servicing and/or maintenance is performed by a crew, craft, department or other group, they shall utilize a procedure which affords the employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device.

(b) Group lockout or tagout devices shall be used in accordance with the procedures required by this section including, but not necessarily limited to, the following specific requirements:

(i) Primary responsibility is vested in an authorized employee for all employees working under the protection of a group lockout or tagout device (such as an operations lock); and

(ii) Provision for the authorized employee to ascertain the exposure status of individual group members with regard to the lockout or tagout of the machine or equipment; and

(iii) When more than one crew, craft, department, etc., is involved, job-associated lockout or tagout control responsibility shall be assigned to an authorized employee designated to coordinate affected work forces and ensure continuity of protection; and

(iv) Each authorized employee shall affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work, and shall remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

(4) Shift or personnel changes. Specific procedures shall be utilized during shift or personnel changes to ensure the continuity of lockout or tagout protection, including provision for the orderly transfer of lockout or tagout device(s) protection between off-going and oncoming employees, to minimize exposure to hazards from the unexpected energization(-) or start-up of the machine or equipment, or release of stored energy.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-24-119 APPENDICES.

APPENDIX A

Appendix A is a nonmandatory appendix intended as an illustrative example to assist employers in setting up the company's individual minimum deactivating and control program. Nothing in this appendix is intended to either add or detract from any requirements of this Part A-4.

(1) General.

~~(a) ((Lockout is the preferred method of isolating machines or equipment from energy sources. To assist employers in developing a procedure which meets the requirements of the standard, however, the following simple procedure is provided for use in both lockout or tagout programs. This procedure may be used when there are limited number or types of machines or equipment or there is a single power source. For more complex systems, a more comprehensive procedure will need to be developed, documented, and utilized.~~

Lockout (or Tagout) Procedure for (Name of Company):) The following simple lockout procedure is provided to assist employers in developing their procedures so they meet the requirements of this standard. When the energy isolating devices are not lockable, tagout may be used, provided the employer complies with the provisions of the standard which require additional training and more rigorous periodic inspections. When tagout is used and the energy isolating devices are lockable, the employer must provide full employee protection (see WAC 296-24-11005(3)) and additional training and more rigorous periodic inspections are required. For more complex systems, more comprehensive procedures may need to be developed, documented and utilized.

Lockout Procedure

Lockout procedure for

(Name of Company for single procedure or identification of equipment if multiple procedures are used.)

(2) Purpose.

(a) This procedure establishes the minimum requirements for the lockout ((or tagout of energy isolating devices. It shall be used to ensure that the machine or equipment are isolated from all potentially hazardous energy, and locked out or tagged out before employees perform any servicing or maintenance activities where the unexpected energization, start-up or release of stored energy could cause injury (Type(s) and Magnitude(s) of Energy and Hazards)) of energy isolating devices whenever maintenance or servicing is done on machines or equipment. It shall be used to ensure that the machine or equipment is stopped, isolated from all potentially hazardous energy sources and locked out before employees perform any servicing or maintenance where the unexpected energization or start-up of the machine or equipment or release of stored energy could cause injury.

(3) ((Responsibility)) Compliance with this program.

(a) ((Appropriate employees shall be instructed in the safety significance of the lockout (or tagout) procedure (Name(s)/Job Title(s) of employees authorized to lockout or tagout). Each new or transferred affected employee and other employees whose work operations are or may be in the area shall be instructed in the purpose and use of the lockout or tagout procedure (Name(s)/Job Title(s) of affected employees and how to notify).)) All employees are required to comply with the restrictions and limitations imposed upon them during the use of lockout. The authorized employees are required to perform the lockout in accordance with this procedure. All employees, upon observing a machine or piece of equipment which is locked out to perform servicing or maintenance shall not attempt to start, energize or use that machine or equipment.

(b) Type of compliance enforcement to be taken for violation of the above.

(4) ((Preparation for Lockout or Tagout)) Sequence of lockout.

(a) ((Make a survey to locate and identify all isolating devices to be certain which switch(s), valve(s) or other energy isolating devices apply to the equipment to be locked or tagged out. More than one energy source (electrical, mechanical, or others) may be involved. (Type(s) and Location(s) of energy isolating means.)) Notify all affected employees that servicing or maintenance is required on a machine or equipment and that the machine or equipment must be shut down and locked out to perform the servicing or maintenance.

Name(s)/job title(s) of affected employees and how to notify.

(b) The authorized employee shall refer to the company procedure to identify the type and magnitude of the energy that the machine or equipment utilizes, shall understand the hazards of the energy, and shall know the methods to control the energy.

Type(s) and magnitude(s) of energy, its hazards and the methods to control the energy.

(c) If the machine or equipment is operating, shut it down by the normal stopping procedure (depress stop button, open switch, close valve, etc.).

Type(s) and location(s) of machine or equipment operating controls.

(d) Deactivate the energy isolating device(s) so that the machine or equipment is isolated from the energy source(s).

Type(s) and location(s) of energy isolating devices.

(e) Lock out the energy isolating device(s) with assigned individual lock(s).

(f) Stored or residual energy (such as that in capacitors, springs, elevated machine members, rotating flywheels, hydraulic systems, and air, gas, steam, or water pressure, etc.) must be dissipated or restrained by methods such as grounding, repositioning, blocking, bleeding down, etc.

Type(s) of stored energy – methods to dissipate or restrain.

(g) Ensure that the equipment is disconnected from the energy source(s) by first checking that no personnel are exposed, then verify the isolation of the equipment by operating the push button or other normal operating control(s) or by testing to make certain the equipment will not operate.

CAUTION: Return operating control(s) to neutral or "off" position after verifying the isolation of the equipment.

Method of verifying the isolation of the equipment.

(h) The machine or equipment is now locked out.

(5) ((Sequence of Lockout or Tagout System Procedure.

(a) Notify all affected employees that a lockout or tagout system is going to be utilized and the reason therefor. The authorized employee shall know the type and magnitude of energy that the machine or equipment utilizes and shall understand the hazards thereof.

(b) If the machine or equipment is operating, shut it down by the normal stopping procedure (depress stop button, open toggle switch, etc.)

(c) Operate the switch, valve, or other energy isolating device(s) so that the equipment is isolated from its energy source(s). Stored energy (such as that in springs, elevated machine members, rotating flywheels, hydraulic systems, and air, gas, steam, or water pressure, etc.) must be dissipated or restrained by methods such as repositioning, blocking, bleeding down, etc. (Type(s) of Stored Energy—methods to dissipate or restrain):

(d) Lockout and/or tagout the energy isolating devices with assigned individual lock(s) or tag(s) (Method(s) Selected, i.e., locks tags, additional safety measures, etc.)

(e) After ensuring that no personnel are exposed, and as a check on having disconnected the energy sources, operate the push button or other normal operating controls to make certain the equipment will not operate (Type(s) of Equipment checked to ensure disconnections):

CAUTION: Return operating control(s) to "neutral" or "off" position after the test.

(f) The equipment is now locked out or tagged out.

(6) Restoring Machines or Equipment to Normal Production Operations:

(a) After the servicing and/or maintenance is complete and equipment is ready for normal production operations, check the area around the machines or equipment to ensure that no one is exposed.

(b) After all tools have been removed from the machine or equipment, guards have been reinstalled and employees are in the clear, remove all lockout or tagout devices. Operate the energy isolating devices to restore energy to the machine or equipment.

(7) Procedure Involving More Than One Person:

(a) In the preceding steps, if more than one individual is required to lockout or tagout equipment, each shall place his/her own personal lockout device or tagout device on the energy isolating device(s). When an energy isolating device cannot accept multiple locks or tags, a multiple lockout or tagout device (hasp) may be used. If lockout is used, a single lock may be used to lockout box or cabinet which allows the use of multiple locks to secure it. Each employee will then use his/her own lock to secure the box or cabinet. As each person no longer needs to maintain his or her lockout protection, that person will remove his/her lock from the box or cabinet (Name(s)/Job Title(s) of employees authorized for group lockout or tagout):

(8) Basic Rules for Using Lockout or Tagout System Procedure:

(a) All equipment shall be locked out or tagged out to protect against accidental or inadvertent operation when such operation could cause injury to personnel. Do not attempt to operate any switch, valve, or other energy isolating device when it is locked or tagged out:

LOCKOUT (OR TAGOUT) PROCEDURE

Entry No. (Description)

1. Name of Company
2. Type(s) and Magnitude(s) of energy and hazards
3. Name(s)/Job Title(s) of employees authorized to lockout or tagout

4. Name(s)/Job Title(s) of affected employees and how to notify

5. Type(s) and Location of energy isolating means

6. Type(s) of Stored Energy—method to dissipate or restrain

7. Method(s) Selected i.e., locks, tags, additional safety measures, etc.

8. Type(s) of Equipment checked to ensure disconnections

9. Name(s)/Job Title(s) of employees authorized for group lockout or tagout)) Restoring equipment to service.

(a) When the servicing or maintenance is completed and the machine or equipment is ready to return to normal operating condition, the following steps shall be taken.

(b) Check the machine or equipment and the immediate area around the machine or equipment to ensure that nonessential items have been removed and that the machine or equipment components are operationally intact.

(c) Check the work area to ensure that all employees have been safely positioned or removed from the area.

(d) Verify that the controls are in neutral.

(e) Remove the lockout devices and reenergize the machine or equipment.

Note: The removal of some forms of blocking may require reenergization of the machine before safe removal.

(f) Notify affected employees that the servicing or maintenance is completed and the machine or equipment is ready for use.

APPENDIX B

RUNNING ADJUSTMENT PROCEDURES – NONMANDATORY APPENDIX

(1) Running Adjustment Procedures are intended to be limited to applications which require energizing the equipment in order to complete a task which cannot be accomplished while the equipment is locked out. Typical examples could include:

(a) A machine which must be in motion to make final adjustments of moving elements;

(b) A machine which must be in motion to remove production materials;

(c) A machine which must be in motion to "thread on" new carrier ropes, belts or clothing elements;

(d) An electrical circuit which must be energized to test for continuity;

(e) A pipeline system which must be filled for testing or inspection purposes.

(2) When standard lockout procedures cannot be used to accomplish the necessary task, the following procedures shall be used to minimize the possibility of personnel exposure:

(a) The operating control(s) shall only be operated by a qualified operator/craftsman;

(b) The qualified operator/craftsman shall attend the control(s) at all times when the controls are not locked out;

(c) The equipment shall be operated at the slowest speed possible consistent with the task to be performed;

(d) All personnel shall remain in view of the person operating the controls or other means of communication shall be established;

(e) Extension tools which minimize personnel exposure shall be used where possible;

(f) All personnel shall be thoroughly trained in the exact procedure to be followed;

(g) All personnel shall be positioned beyond the reach of other machine elements or sections which are not locked out and may offer the potential for exposure. In any instance where a necessary work position offers exposure to other sections or elements of the machine, such other sections shall be locked out before exposure occurs;

(h) Anytime that communications are lost between the operator and work crews or anytime that established and authorized procedures cannot be followed, all work offering potential exposure shall be stopped until agreement is reached on exactly how to proceed.

APPENDIX C

GROUP LOCKOUT PROCEDURES
(aka. ganglock or lockbox procedures)
NONMANDATORY APPENDIX

(1) Application.

(a) Lockbox procedures are intended and must be designed to provide positive isolation at any identified worksite without the necessity for every workman to apply personal lockout devices on every control device which could otherwise influence his/her individual worksite(s). Lockbox procedures are most useful in applications such as (but not limited to) the following:

(i) Multiple crews/crafts or multiple employers working on same job/machine/system;

(ii) Complex machines/systems with multiple controls, particularly when control locations are broadly spaced out or remote from the actual worksite(s).

(b) The following appendix text is purposely detailed because it has been conclusively established that all items listed need to be addressed in the employer's lockbox control program if the procedure is going to be successful in achieving assured isolation for all potentially influenced personnel.

(2) Program requirements.

(a) The employer's detailed lockbox procedure must be formally produced, employees and supervisors trained and adequate equipment provided prior to permitting any personnel to work under any form of an alternative lockout procedure.

(b) Overall procedural authority and responsibility must be vested in a designated and specifically qualified area supervisor or job lockout coordinator for each shutdown conducted under lockbox procedures.

(c) Each lockbox shutdown shall be conducted with a shutdown checklist. Every control necessary to assure isolation at all permissible worksites must be listed on the checklist. Where numerical identification system is used, controls shall be listed by both identification system and common language name.

(i) The responsible area supervisor, with assistance as necessary, must review the job shutdown checklist to assure that it is accurate and complete before each shutdown.

(ii) Each item on the job shutdown checklist shall have boxes or space for the lockout crew to sign off when individual items are deactivated, locked out and tested.

(d) The minimum permissible lockout crew shall be not less than (2) two fully qualified employees.

(i) The job supervisor/designated lockout coordinator must participate as one member of the lockout crew which deactivates, secures and tests each control on the checklist. He/she must at least observe the test sequence on each control.

(ii) Additional qualified employees may be added to the lockout crew as job demands or special circumstances dictate.

(e) When the shutdown job will include work performed by personnel who are not within the owner's full-time employee group (typically service reps, contract mechanics, laborers or engineers), the lockout crew:

(i) Must be supplemented by a specifically designated and qualified supervisor or leadman from each outside employer; or

(ii) The designated control authority (item (2)(b)) must explain the delineated boundaries of the secured equipment to each person before that person can sign in, lock the control box and enter the job.

(f) All lockbox shutdown jobs must be conducted with an everyman control requirement. Each person entering the job must sign the sign-in sheet and apply a personal lockout device on the lockbox before he/she enters the job. Each person must also sign back out and remove their own lockout device when they leave the job for the last time each day.

(i) The designated control authority may leave his/her lock on the lockbox until the job is completed if desired.

(g) Lockbox.

(i) The job lockbox must be constructed so that the lockout keys are visible within the box but cannot be removed without opening the lockbox cover.

(ii) The lockbox cover must be constructed so that any single lock installed on the cover will prevent the keys inside from being removed.

(3) Procedure Sequence.

(a) The sign-in/sign-out sheet(s) shall remain in the possession of the job supervisor/lockout coordinator until the deactivating is complete, the controls locked out and the control keys are securely locked up inside the lockbox.

(b) The lockout crew shall deactivate, lockout and test each control on the job shutdown checklist in full compliance with the standard lockout procedures of this section.

(c) The lockout crew shall individually sign off for each item on the checklist when each item is locked and again when each item has passed the required test sequence to assure that deactivation is complete.

(d) Each listed control shall be locked in the deactivated position by a minimum of two members of the lockout crew except that when the lockout crew is required by this section to be supplemented by a foreman for each outside contractor, each contractor foreman shall also apply an additional lock on each control.

(e) Each person on the lockout crew shall use differently keyed padlocks not combination locks, to implement the lockbox procedures. Series locks may be used provided that no key is available which will open more than one lock on any given control.

(f) Padlocks used shall be individually identified or an information tag identifying the user, shall be attached to the lock.

(g) When all items on the job lockout checklist are deactivated, locked out, tested and signed off, all keys which will open any control padlock used shall be placed inside the job lockbox.

(4) The job supervisor shall then effect the following procedures in the sequence specified:

(a) Review the checklist to ascertain that lockout is complete;

(b) Assure that all keys for the control locks are placed in the lockbox;

(c) Apply a personal identified padlock on the lockbox in a manner to secure all control keys inside;

(d) Sign the checklist approving that the lockout is complete;

(e) Sign and release the sign-in/sign-out sheets to approve personnel entry;

(f) The sign-in/sign-out sheet(s) shall be kept with the job shutdown checkoff list(s) until the job is completed, all personnel have signed out and the equipment/system is authorized for restarting. The

checklist and sign-in sheets shall then be returned to the area supervisors office and retained as a record for not less than two (2) years.

(5) Workcrew personnel may only enter the job in accordance with the following procedures:

(a) Each person must apply a personally identified padlock on the lockbox in such a manner that the control keys inside are not removable until your lock is removed;

(b) Review the checklist to assure that the controls influencing your intended work position are locked out and tested;

(c) Individually sign in on the job sign-in sheet;

(d) Work crew personnel must each remove their individual padlocks and personally sign back out when they leave the job.

(6) On locked out jobs which will continue into succeeding shifts, the lockout crew and job supervisor/coordinator shall be relieved in accordance with the following:

(a) When individually keyed and personally identified locks are used on individual machine/system controls, every person on the sign-in sheet must clear the job, sign-out and remove their individual locks off the lockbox. Nobody shall be permitted to re-enter the job until the on-coming lockout crew has locked out all controls in accordance with all requirements of this section, then has provided a new completed checklist and sign-in sheet. Personnel may then lock the new control keys in the lockbox, sign-in and resume work.

(b) When series locks with information tags are used in lieu of personally identified locks on individual machine/system controls, the relief lockout crew and job supervisor/coordinator may relieve their individual counterpart person at the lockbox in accordance with the following procedure:

(i) Sign-in on the existing job checklist including the date and time;

(ii) Install a personally identified lock on the lockbox;

(iii) Each off-going individual shall then line out their name on the checklist, initial the change and record the time. He/she then stands relieved and may remove the time. He/she then stands relieved and may remove their personal lock from the lockbox.

CRITERIA: The lockbox must be locked at all times securing all keys for individual controls.

(iv) When the requirements of this item (6)(b) have been complied with, the locks and information tags on the individual machine/system controls shall not be required to be changed or amended. Retesting individual controls shall not be required and is not recommended.

(c) The on-coming job supervisor shall sign both the checklist(s) and personnel sign-in sheet(s) indicating the date and time when supervision authority changed.

(7) When all personal padlocks have been removed from the lockbox and all personnel have signed back out, the job supervisor must sign the checklist(s) and sign-in sheet(s) to authorize reactivating the equipment/system. The supervisors signature shall include the date and time when authorization was granted.

AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-12002 **DEFINITIONS.** The following definitions are applicable to all sections of this chapter which include WAC 296-24-120 in the section number.

(1) "Lavatory" means a basin or similar vessel used exclusively for washing of the hands, arms, face and head.

(2) "Nonwater carriage toilet facility" means a toilet facility not connected to a sewer.

(3) "Number of employees" means, unless otherwise specified, the maximum number of employees present at any one time on a regular shift.

(4) "Personal service room" means a room used for activities not directly connected with the production or service function performed by the establishment. Such activities include but are not limited to, first aid, medical services, dressing, showering, toilet use, washing, and eating.

(5) "Potable water" means water which meets the quality standards ~~((prescribed in the U.S. Public Health Service Drinking Water Standards, published in 42 CFR part 72, or water which is approved for drinking purposes by the state or local authority having jurisdiction))~~ for drinking purposes of state or local authority having jurisdiction or water that meets the quality standards prescribed by the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141, and 40 CFR 147.2400.

(6) "Toilet facility" means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

(7) "Toilet room" means a room maintained within or on the premises of any place of employment, containing toilet facilities for use by employees.

(8) "Toxic material" means a material in concentration or amount which exceeds the applicable limit established by a standard, such as chapter 296-62 WAC or, in the absence of an applicable standard, which is of such toxicity so as to constitute a recognized hazard that is causing or is likely to cause death or serious physical harm.

(9) "Urinal" means a toilet facility maintained within a toilet room for the sole purpose of urination.

(10) "Water closet" means a toilet facility maintained within a toilet room for the purpose of both defecation and urination and which is flushed with water.

(11) "Wet process" means any process or operation in a workroom which normally results in surfaces upon which employees may walk or stand becoming wet.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

WAC 296-56-60073 **MISCELLANEOUS AUXILIARY GEAR.** (1) Routine inspection.

(a) At the completion of each use, loose gear such as slings, chains, bridles, blocks, and hooks shall be so placed as to avoid damage to the gear. Loose gear shall be inspected and any defects corrected before re-use.

(b) All loose gear shall be inspected by the employer or his authorized representative before each use and, when necessary, at intervals during its use, to ensure that it is safe. Any gear which is found upon inspection to be unsafe shall not be used until it is made safe.

(c) Defective gear shall not be used. Distorted hooks, shackles, or similar gear shall be discarded.

(d) Chains or other gear which have been lengthened, altered, or repaired by welding shall be properly heat treated, and before again being put into use, shall be tested and reexamined in the manner set forth in WAC 296-56-60097 and 296-56-60098.

(2) The employer shall maintain a record of the dates and results of the tests with each unit of gear concerned clearly identified. The records shall be available for examination by division of industrial safety and health personnel and the employee safety committee.

(3) Wire rope and wire rope slings.

(a) Four by twenty-nine (4 x 29) wire rope shall not be used in any running rigging.

(b) The employer shall ascertain and adhere to the manufacturer's recommended ratings for wire rope and wire rope slings and shall have such ratings available at the terminal. When the manufacturer is unable to supply such ratings, the employer shall use the tables for wire rope and wire rope slings found in American National Safety Standard for Slings, ANSI B30.9. A design safety factor of at least five shall be maintained for the common sizes of running wire used as falls, in purchases or in such uses as light load slings. Wire rope with a safety factor of less than five may be used only:

(i) In specialized equipment, such as cranes designed to be used with lesser wire rope safety factors;

(ii) In accordance with design factors in standing rigging applications; or

(iii) For heavy lifts or other purposes for which a safety factor of five is impractical and for which the employer can demonstrate that equivalent safety is ensured.

~~((b))~~ (c) Wire rope or wire rope slings exhibiting any of the following conditions shall not be used:

(i) Ten randomly distributed broken wires in one rope lay or three or more broken wires in one strand in one rope lay;

(ii) Kinking, crushing, bird caging, or other damage resulting in distortion of the wire rope structure;

(iii) Evidence of heat damage;

(iv) Excessive wear, corrosion, deformation or other defect in the wire or attachments, including cracks in attachments;

(v) Any indication of strand or wire slippage in end attachments; or

(vi) More than one broken wire in the close vicinity of a socket or swaged fitting.

~~((c))~~ (d) Protruding ends of strands in splices on slings and bridles shall be covered or blunted. Coverings shall be removable so that splices can be examined. Means used to cover blunt ends shall not damage the wire.

~~((d))~~ (e) Where wire rope clips are used to form eyes, the employer shall adhere to the manufacturer's recommendations, which shall be available at the terminal. If "U" bolt clips are used and the manufacturer's recommendations are not available, Table C-1 shall be

used to determine the number and spacing of clips. "U" bolts shall be applied with the "U" section in contact with the dead end of the rope.

Improved Plow Steel, Rope Diameter (Inches/cm)	Minimum Number of Clips		Minimum Spacing (Inches/cm)
	Drop Forged	Other Material	
1/2 or less (1.3)	3	4	3 (7.6)
5/8 (1.6)	3	4	3 3/4 (9.5)
3/4 (1.9)	4	5	4 1/2 (11.4)
7/8 (2.2)	4	5	5 1/4 (13.3)
1 (2.5)	4	6	6 (15.2)
1 1/8 (2.7)	5	6	6 3/4 (17.1)
1 1/4 (3.2)	5	7	7 1/2 (18.1)
1 3/8 (3.5)	6	7	8 1/4 (21.0)
1 1/2 (3.8)	6	8	9 (22.9)

- ((f)) (j) Wire rope shall not be secured by knots.
- ((f)) (g) Eyes in wire rope bridles, slings, bull wires, or in single parts used for hoisting shall not be formed by wire rope clips or knots.
- ((f)) (h) Eye splices in wire ropes shall have at least three tucks with a whole strand of the rope and two tucks with one-half of the wire cut from each strand. Other forms of splices or connections which are demonstrated to be equally safe may be used.
- ((f)) (i) Except for eye splices in the ends of wires and for endless rope slings, each wire rope used in hoisting or lowering, or in bulling cargo, shall consist of one continuous piece without knot or splice.

- (4) Natural fiber rope.
 - (a) The employer shall ascertain the manufacturer's ratings for the specific natural fiber rope used and have such ratings available at the terminal. The manufacturer's ratings shall be adhered to and a minimum design safety factor of five maintained.
 - (b) Eye splices shall consist of at least three full tucks. Short splices shall consist of at least six full tucks, three on each side of the center line.
- (5) Synthetic rope.
 - (a) The employer shall adhere to the manufacturer's ratings and use recommendations for the specific synthetic fiber rope used and shall have such ratings available at the terminal.
 - (b) Unless otherwise recommended by the manufacturer, when synthetic fiber ropes are substituted for manila ropes of less than three inches (7.62 cm) circumference, the substitute shall be of equal size. Where substituted for manila rope of three inches or more in circumference, the size of the synthetic rope shall be determined from the formula:

$$C = \sqrt{.6(C_s^2) + .4(C_m^2)}$$

Where C = the required circumference of the synthetic rope in inches, C_s = the circumference to the nearest one-quarter inch of a synthetic rope having a breaking strength not less than that of the size manila rope that would be required by subsection (4) of this section, and C_m = the circumference of manila rope in inches which would be required by subsection (4) of this section. In making such substitution, it shall be ascertained that the inherent characteristics of the synthetic fiber are suitable for hoisting.

- (6) Removal of natural and synthetic rope from service. Natural or synthetic rope having any of the following defects shall be removed from service:
 - (a) Abnormal wear;
 - (b) Powdered fiber between strands;
 - (c) Sufficient cut or broken fibers to affect the capacity of the rope;
 - (d) Variations in the size or roundness of strands;
 - (e) Discolorations other than stains not associated with rope damage;
 - (f) Rotting; or
 - (g) Distortion or other damage to attached hardware.
- (7) Thimbles. Properly fitting thimbles shall be used where any rope is secured permanently to a ring, shackle or attachment, where practical.
- (8) Synthetic web slings.
 - (a) Slings and nets or other combinations of more than one piece of synthetic webbing assembled and used as a single unit (synthetic web slings) shall not be used to hoist loads in excess of the sling's rated capacity.
 - (b) Synthetic web slings shall be removed from service if they exhibit any of the following defects:
 - (i) Acid or caustic burns;

- (ii) Melting or charring of any part of the sling surface;
- (iii) Snags, punctures, tears or cuts;
- (iv) Broken or worn stitches; or
- (v) Distortion or damage to fittings.
- (c) Defective synthetic web slings removed from service shall not be returned to service unless repaired by a sling manufacturer or similar entity. Each repaired sling shall be proof tested by the repairer to twice the slings' rated capacity prior to its return to service. The employer shall retain a certificate of the proof test and make it available for examination.
- (d) Synthetic web slings provided by the employer shall only be used in accordance with the manufacturer's recommendations, which shall be made available upon request.
- (e) Fittings shall have a breaking strength at least equal to that of the sling to which they are attached and shall be free of sharp edges.
- (9) Chains and chain slings used for hoisting.
 - (a) The employer shall adhere to the manufacturer's recommended ratings for safe working loads for the sizes of alloy steel chains and chain slings and shall have such ratings available. When the manufacturer is unable to provide such ratings, the employer shall use the tables for chains and chain slings found in American National Safety Standard for Slings, ANSI B30.9-1971.
 - (b) Proof coil steel chain, also known as common or hardware chain, and other chain not recommended by the manufacturer for slinging or hoisting shall not be used for slinging or hoisting.
 - (c)(i) Sling chains, including end fastenings, shall be inspected for visible defects before each day's use and as often as necessary during use to ensure integrity of the sling.
 - (ii) Thorough inspections of chains in use shall be made quarterly to detect wear, defective welds, deformation, increase in length or stretch. The month of inspection shall be indicated on each chain by color of paint on a link or by other effective means.
 - (iii) Chains shall be removed from service when maximum allowable wear, as indicated in Table C-2, is reached at any point of link.
 - (iv) Chain slings shall be removed from service when stretch has increased the length of a measured section by more than five percent; when a link is bent, twisted or otherwise damaged; or when a link has a raised scarf or defective weld.
 - (v) Only designated persons shall inspect chains used for slinging and hoisting.

CHAIN SIZE		MAXIMUM ALLOWABLE WEAR	
Inches	(cm)	Inches	(cm)
1/4 (9/32)	(0.6)	3/64	(0.1)
3/8	(1.0)	5/64	(0.2)
1/2	(1.3)	7/64	(0.3)
5/8	(1.6)	9/64	(0.4)
3/4	(1.9)	5/32	(0.4)
7/8	(2.2)	1 1/64	(0.4)
1	(2.5)	3/16	(0.5)
1 1/8	(2.9)	7/32	(0.6)
1 1/4	(3.2)	1/4	(0.6)
1 3/8	(3.5)	3/32	(0.7)
1 1/2	(3.8)	5/16	(0.8)
1 3/4	(4.4)	1 1/32	(0.9)

- (d) Chains shall only be repaired under qualified supervision. Links or portions of chain defective under any of the criteria of WAC 296-56-60073 (9)(c) shall be replaced with properly dimensioned links or connections of material similar to that of the original chain. Before repaired chains are returned to service, they shall be tested to the proof test load recommended by the manufacturer for the original chain. Tests shall be performed by the manufacturer or shall be certified by an agency accredited for the purpose under WAC 296-56-60093. Test certificates shall be available at the terminal.
- (e) Alloy chains shall not be annealed.
- (f) Kinked or knotted chains shall not be used for lifting. Chains shall not be shortened by bolting, wiring or knotting. Makeshift links or fasteners such as wire, bolts or rods shall not be used.
- (g) Hooks, rings, links and attachments affixed to sling chains shall have rated capacities at least equal to that of the chains to which they are attached.
- (h) Chain slings shall bear identification of size, grade and rated capacity.
- (10) Shackles.
 - (a) If available, the manufacturer's recommended safe working loads for shackles shall not be exceeded. In the absence of manufacturer's recommendations, Table C-3 shall apply.

(b) Screw pin shackles used aloft in house fall or other gear, except in cargo hook assemblies, shall have their pins moused or otherwise effectively secured.

MATERIAL SIZE		PIN DIAMETER		SAFE WORKING LOAD IN 2,000 LB TONS
Inches	(cm)	Inches	(cm)	
1/4	(1.3)	5/8	(1.6)	1.4
5/8	(1.6)	3/4	(1.9)	2.2
3/4	(1.9)	7/8	(2.2)	3.2
7/8	(2.2)	1	(2.5)	4.3
1	(2.5)	1 1/8	(2.9)	5.6
1 1/8	(2.9)	1 1/4	(3.2)	6.7
1 1/4	(3.2)	1 3/8	(3.5)	8.2
1 3/8	(3.5)	1 1/2	(3.8)	10.0
1 1/2	(3.8)	1 5/8	(4.1)	11.9
1 3/4	(4.4)	2	(5.0)	16.2
2	(5.0)	2 1/4	(5.7)	21.2

(c) Tables G-2 through G-5 shall be used to determine the safe working loads of various sizes and classifications of improved plow steel wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, however, a safety factor of not less than five shall be maintained.

Circumferences	Diameter in inches	Single Leg	60 Degrees	45 Degrees	30 Degrees
		Lbs.	Lbs.	Lbs.	Lbs.
3/4	1/4	120	204	170	120
1	5/16	200	346	282	200
1 1/8	3/8	270	467	380	270
1 1/4	7/16	350	605	493	350
1 3/8	15/32	450	775	635	450
1 1/2	1/2	530	915	798	530
1 3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2 1/4	3/4	1080	1870	1520	1080
2 1/2	13/16	1300	2250	1830	1300
2 3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
		Tons	Tons	Tons	Tons
3 1/4	1-1/16	1.0	1.7	1.4	1.0
3 1/2	1-1/8	1.2	2.1	1.7	1.2
3 3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4 1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5 1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6 1/2	2-1/8	3.6	6.2	5.1	3.6

In making such a substitution it should be ascertained that the inherent characteristics of the synthetic fiber are suitable for the intended service of the rope.

Rope Diameter Inches	Single Leg					
	Vertical			Choker		
	A	B	C	A	B	C
6 x 19 Classification						
1/4"	.39	.56	.73	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11	10	9.0	8.5	7.8	6.8
6 x 37 Classification						
1-1/4"	13	12	10	9.9	9.2	7.9
1-3/8"	16	15	13	12	11	9.4
1-1/2"	19	17	15	14	13	11
1-3/4"	26	24	20	19	18	15
2"	33	30	26	25	23	20
2-1/4"	41	38	33	31	29	25

(A) - Socket or Swaged Terminal attachment
(B) - Mechanical Sleeve attachment
(C) - Hand Tucked Splice attachment

Rope dia. inches	Two-leg bridle or basket hitch											
	Vertical			60 degree bridle			45 degree bridle			30 degree bridle		
	A	B	C	A	B	C	A	B	C	A	B	C
6 x 19 Classification												
1/4"	1.2	1.1	1.0	1.0	.97	.91	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.6	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.9	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	14	13	11	12	11	9.4	9.3	9.3	7.8	6.9	6.6	5.5
1"	18	17	14	15	15	12	13	12	10	9.0	8.5	7.2
1-1/8"	23	21	18	19	18	14	16	15	13	11	10	9.0
6 x 37 Classification												
1-1/4"	26	24	21	23	21	18	19	17	15	13	12	10
1-3/8"	32	29	25	28	25	22	22	21	18	16	15	13
1-1/2"	38	35	30	33	30	26	27	25	21	19	17	15
1-3/4"	51	47	41	44	41	35	36	33	29	26	24	20
2"	66	61	53	57	53	46	47	43	37	33	30	26
2-1/4"	83	76	66	72	66	57	58	54	47	41	38	33

(A) - Socket or Swaged Terminal Attachment
(B) - Mechanical Sleeve Attachment
(C) - Hand Tucked Splice Attachment





Rope dia. inches	Single leg					
	Vertical			Choker		
	A	B	C	A	B	C
6 x 19 Classification						
1/4	.35	.31	.29	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8	10	9.5	8.4	7.9	7.1	6.3
6 x 37 Classification						
1-1/4	12	11	9.8	9.2	8.3	7.4
1-3/8	15	13	12	11	10	8.9
1-1/2	17	16	14	13	12	10
1-3/4	24	21	19	18	16	14
2	31	28	25	23	21	18

(A) - Socket or Swaged Terminal attachment
(B) - Mechanical Sleeve attachment
(C) - Hand Tucked Splice attachment

Rope dia.	Two-leg bridle or basket hitch											
	Vertical			60 Degree			45 Degree			30 degree		
	A	B	C	A	B	C	A	B	C	A	B	C
6 x 19 Classification												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.72	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	6.7	6.2	5.6	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8	6.7	6.2	5.8	4.8	4.4	3.9
7/8	13	12	10	11	10	8.9	9.1	8.4	7.3	6.4	5.9	5.1
1	17	15	13	14	13	11	12	11	9.4	8.4	7.7	6.7
1-1/2	21	19	17	18	16	14	15	13	12	10	9.5	8.4
6 x 37 Classification												
1-1/4	25	23	20	21	19	17	17	16	14	12	11	9.5
1-3/8	30	27	24	26	23	20	21	19	17	15	13	12
1-1/2	35	32	28	30	27	24	25	22	20	17	16	14
1-3/4	48	43	38	41	37	33	34	30	27	24	21	19
2	62	55	49	53	48	43	43	39	35	31	28	25

(A) - Socket or Swaged Terminal attachment
(B) - Mechanical Sleeve attachment
(C) - Hand Tucked Splice attachment

TABLE G-8 ALLOY STEEL CHAIN
(In Tons of 2,000 Pounds)

Nominal size chain stock Inch.	Single leg 	60 degree bridle 	45 degree bridle 	30 degree bridle 
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
	47.9	81.5	62.0	47.0

(11) Hooks other than hand hooks.

(a) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain a record of the dates and results of such tests.

(b) Loads shall be applied to the throat of the hook since loading the point may overstress, bend, or spring the hook.

(c) Hooks shall be inspected once a month to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

(d) Crane hooks. Magnetic particle or other suitable crack detecting inspection shall be performed at least once each year. When testing by x-ray, the pertinent provisions of the Nuclear Regulatory Commission's standards for protection against radiation, relating to protection against occupational radiation exposure, shall apply.

(e) Any activity which involves the use of radioactive materials or x-rays, whether or not under license from the Nuclear Regulatory Commission, shall be performed by competent persons specially trained in the proper and safe operation of such equipment. In the case of materials used under commission license, only persons actually licensed, or competent persons under direction and supervision of the licensee, shall perform such work.

(f) Teeth of case hooks shall not be split, cracked, or deformed.

(g) Jaws of patent clamp type plate hooks shall be kept in safe condition so that they will grip plates securely.

(12) Pallets.

(a) Pallets shall be made and maintained to safely support and carry loads being handled. Fastenings of reusable pallets used for hoisting shall be bolts and nuts, drive screws (helically threaded nails), annular threaded nails or fastenings, or equivalent holding strength.

(b) Damaged pallets shall be stored in designated areas and identified.

(c) Reusable wing or lip-type pallets shall be hoisted by bar bridles or other suitable gear and shall have an overhanging wing or lip of at least three inches (76.2 mm). They shall not be hoisted by wire slings alone.

(d) Loaded pallets that do not meet the requirements of this paragraph shall be hoisted only after being placed on pallets meeting such requirements or shall be handled by other means providing equivalent protection.

(e) Bridles for handling flush end or box-type pallets shall be designed to prevent disengagement from the pallet under load.

(f) Pallets shall be stacked or placed to prevent falling, collapsing or otherwise causing a hazard under standard operating conditions.

(g) Disposable pallets intended only for one use shall not be re-used for hoisting.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

WAC 296-56-60229 SANITATION. (1) Washing and toilet facilities.

(a) The employer shall provide accessible washing and toilet facilities sufficient for the sanitary requirements of employees. The facilities shall have:

(i) Running water, including hot, and cold or tepid water (when cargo handling is conducted at locations without permanent facilities, containers of potable water may be provided in lieu of running water);

(ii) Soap;

(iii) Individual hand towels, clean individual sections of continuous toweling or warm air blowers; and

(iv) Fixed or portable toilets in separate compartments with latch-equipped doors.

(b) Separate toilet facilities shall be provided for male and female employees except when toilet rooms are occupied by only one person at a time. A means of locking shall be provided.

(c) Washing and toilet facilities shall be regularly cleaned and maintained in good order.

(2) Drinking water.

(a) Potable drinking water shall be accessible to employees at all times.

(b) Potable drinking water containers shall be clean, containing only water and ice, and shall be fitted with covers.

(c) Common drinking cups are prohibited.

(3) Prohibited eating areas. Consumption of food or beverages in areas where hazardous materials are being stored or handled shall be prohibited.

(4) Garbage and overboard discharges. Work shall not be conducted in the immediate vicinity of uncovered garbage or in the area of overboard discharges from the vessel's sanitary lines unless employees are protected from the garbage or discharge by a baffle or splash boards.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-62-07515 CONTROL OF CHEMICAL AGENTS. Chemical agents shall be controlled in such a manner that the workers exposure shall not exceed the applicable limits in WAC 296-62-075 through 296-62-07515.

HT/PEL
TABLE2-1

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Abate, see Temephos	---	---	---	---	---	---	---	---
Acetaldehyde	75-07-0	100	180	150	270	---	---	---
Acetic acid	64-19-7	10	25	---	---	---	---	---
Acetic anhydride	100-24-7	---	---	---	---	5.0	20	---
Acetone	67-64-1	750	1800	1000	2400	---	---	---
Acetonitrile	75-05-8	40	70	60	105	---	---	---
2-Acetylaminofluorene (see WAC 296-62-073)	53-96-3	---	---	---	---	---	---	---
Acetylene	74-86-2	Simple	Asphyxiant	---	---	---	---	---
Acetylene dichloride (see 1,2-Dichloroethylene)	---	---	---	---	---	---	---	---
Acetylene tetrabromide	79-27-6	1.0	14	---	---	---	---	---
Acetylsalicylic acid (Aspirin)	50-78-2	---	5.0	---	---	---	---	---
Acrolein	107-02-8	0.1	0.25	0.3	0.8	---	---	---
Acrylamide	79-06-1	---	0.03	---	---	---	---	X
Acrylic acid	79-10-7	10	30	---	---	---	---	X
Acrylonitrile (see WAC 296-62-07341)	107-13-1	---	---	---	---	---	---	---
Aldrin	309-00-2	---	0.25	---	---	---	---	X
Allyl alcohol	107-10-6	2.0	5.0	4.0	10	---	---	X
Allyl Chloride	107-05-1	1.0	3.0	2.0	6.0	---	---	---
Allyl glycidyl ether (AGE)	106-92-3	5.0	22	10	44	---	---	---
Allyl propyl disulfide	2179-59-1	2.0	12	3.0	18	---	---	---
alpha-Alumina (see Aluminum oxide)	1344-28-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

HT/PEL
TABLE2-2

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Aluminum, metal and oxide (as Al)	7429-90-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
pyro powders	---	---	5.0	---	---	---	---	---
welding fumes ^{f/}	---	---	5.0	---	---	---	---	---
soluble salts	---	---	2.0	---	---	---	---	---
alkyls (HOC)	---	---	2.0	---	---	---	---	---
Alundum (see Aluminum oxide)	---	---	---	---	---	---	---	---
4-Aminodiphenyl (see WAC 296-62-073)	92-67-1	---	---	---	---	---	---	---
2-Aminoethanol (see Ethanolamine)	---	---	---	---	---	---	---	---
2-Aminopyridine	504-29-0	0.5	2.0	---	---	---	---	---
Amtrone	61-82-5	---	0.2	---	---	---	---	---
Ammonia	7664-41-7	25	18	35	27	---	---	---
Ammonium chloride, fume	12125-02-9	---	10	---	20	---	---	---
Ammonium sulfate (Ammate)	7773-06-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
n-Amyl acetate	628-63-7	100	525	---	---	---	---	---
sec-Amyl acetate	626-38-0	125	650	---	---	---	---	---
Aniline and homologues	62-53-3	2.0	8.0	---	---	---	---	X
Anisidine (o, p-Isomers)	29191-52-4	0.1	0.5	---	---	---	---	X
Antimony and Compounds (as Sb)	7440-36-0	---	0.5	---	---	---	---	---
ANTU (alpha Naphthyl thiourea)	86-88-4	---	0.3	---	---	---	---	---
Argon	7440-37-1	Simple	Asphyxiant	---	---	---	---	---
Arsenic, Organic compounds (as As)	7440-38-2	---	0.2	---	---	---	---	---

HI/PEL
TABLE2-3

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Arsenic, Inorganic compounds, (as As) (see WAC 296-62-07347 for applications and exclusions)	7440-30-2	---	0.2	---	---	---	---	---
Arsine	7784-42-1	0.05	0.2	---	---	---	---	---
Asbestos (see WAC 296-62-077 through 62-07753)	---	---	---	---	---	---	---	---
Asphalt (Petroleum fumes)	8052-42-4	---	5.0	---	---	---	---	---
Atrazine	1912-24-9	---	5.0	---	---	---	---	---
Azinphos methyl	86-50-0	---	0.2	---	---	---	---	X
Barium, soluble compounds (as Ba)	7440-39-3	---	0.5	---	---	---	---	---
Barium Sulfate	7727-43-7	---	---	---	---	---	---	---
Total dust	---	---	10.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benomyl	17804-35-2	---	---	---	---	---	---	---
Total dust	---	0.0	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benzene, (see WAC 296-62-07523) ^{d/}	71-43-2	1.0	---	5.0	---	---	---	---
Benzidine, (see WAC 296-62-073)	92-87-5	---	---	---	---	---	---	---
p-Benzoquinone, (see Quinone)	---	---	---	---	---	---	---	---
Benzo(a) pyrene; (see Coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Benzoyl peroxide	94-36-0	---	5.0	---	---	---	---	---
Benzyl chloride	100-44-7	1.0	5.0	---	---	---	---	---
Beryllium and beryllium compounds (as Be)	7440-41-7	0.002	---	0.005 (30 min.)	---	0.025	---	---

HI/PEL
TABLE2-4

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Biphenyl (see Diphenyl)	---	---	---	---	---	---	---	---
Bismuth telluride, Undoped	1304-82-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Bismuth telluride, Se-doped	---	---	5.0	---	---	---	---	---
Borates, tetra, sodium salts:	---	---	---	---	---	---	---	---
Anhydrous	1330-43-4	---	1.0	---	---	---	---	---
Decahydrate	1303-96-4	---	5.0	---	---	---	---	---
Pentahydrate	12179-04-3	---	1.0	---	---	---	---	---
Boron oxide	1303-86-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Boron tribromide	10294-33-4	---	---	---	---	1.0	10	---
Boron trifluoride	7637-07-2	---	---	---	---	1.0	3.0	---
Bromacil	314-40-9	1.0	10	---	---	---	---	---
Bromine	7726-95-6	0.1	0.7	0.3	2.0	---	---	---
Bromine pentafluoride	7789-30-2	0.1	0.7	---	---	---	---	---
Bromochloromethane, (see Chlorobromomethane)	---	---	---	---	---	---	---	X
Bromoform	15-25-2	0.5	5.0	---	---	---	---	---
Butadiene (1,3-butadiene)	106-99-0	10	22	---	---	---	---	---
Butane	106-97-8	800	1,900	---	---	---	---	---
Butanethiol (see Butyl mercaptan)	---	---	---	---	---	---	---	---
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	885	---	---	---
2-Butoxy ethanol (Butyl Cellosolve)	111-76-2	25	120	---	---	---	---	X
n-Butyl acetate	123-86-4	150	710	200	950	---	---	---

HT/PEL
TABLE2-5

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL $\frac{c}{f}$		CEILING		Skin Design- nation
		ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	
sec-Butyl acetate	105-46-4	200	950	---	---	---	---	---
tert-Butyl acetate	540-88-5	200	950	---	---	---	---	---
Butyl acrylate	141-32-2	10	55	---	---	---	---	---
n-Butyl alcohol	71-36-3	---	---	---	---	50	150	X
sec-Butyl alcohol	78-92-2	100	305	---	---	---	---	---
tert-Butyl alcohol	75-65-0	100	300	150	450	---	---	---
Butylamine	109-73-9	---	---	---	---	5.0	15	X
tert-Butyl chromate (see C ₇ O ₃)	1189-85-1	---	---	---	---	---	0.1	X
n-Butyl glycidyl ether (BGE)	2426-08-6	25	135	---	---	---	---	---
n-Butyl lactate	138-22-7	5.0	25	---	---	---	---	---
Butyl mercaptan	109-79-5	0.5	1.5	---	---	---	---	---
o-sec-Butylphenol	89-72-5	5.0	30	---	---	---	---	X
p-tert-Butyl-toluene	98-51-1	10	60	20	120	---	---	---
Cadmium oxide fume, (as Cd)	1306-19-0	---	---	---	---	---	0.05	---
Cadmium dust and salts (as Cd)	7440-43-9	---	0.05	---	---	---	---	---
Calcium arsenate (see WAC 296-62-07347)	-----	---	---	---	---	---	---	---
Calcium carbonate	1317-65-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium cyanamide	156-62-7	---	0.5	---	---	---	---	---
Calcium hydroxide	1305-62-0	---	5.0	---	---	---	---	---
Calcium oxide	1305-78-8	---	2.0	---	---	---	---	---
Calcium silicate	1344-95-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium sulfate	7778-18-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

HT/PEL
TABLE2-6

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL $\frac{c}{f}$		CEILING		Skin Design- nation
		ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	ppm $\frac{a}{f}$	mg/m ³ $\frac{b}{f}$	
Camphor(synthetic)	76-22-2	---	2.0	---	---	---	---	---
Caprolactam;	105-60-2	---	---	---	---	---	---	---
Dust	---	---	1.0	---	3.0	---	---	---
Vapor	---	5.0	20	10	40	---	---	---
Captan	2425-06-1	---	0.1	---	---	---	---	X
(Difolatan®)	---	---	---	---	---	---	---	---
Captan	133-06-2	---	5.0	---	---	---	---	---
Carbaryl (Sevin®)	63-25-2	---	5.0	---	---	---	---	---
Carbofuran (Furadon®)	1563-66-2	---	0.1	---	---	---	---	---
Carbon black	1333-86-4	---	3.5	---	---	---	---	---
Carbon dioxide	124-38-9	5,000	9,000	30,00	54,000	---	---	---
Carbon disulfide	75-15-0	4.0	12	12	36	---	---	X
Carbon monoxide	630-00-0	35	40	---	---	200	229	---
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4.0	---	---	---
Carbon tetrachloride	56-23-5	2.0	12.6	---	---	---	---	---
Carbonyl chloride (see Phosgene)	---	---	---	---	---	---	---	---
Carbonyl fluoride	353-50-4	2.0	5.0	5.0	15	---	---	---
Catechol (Pyrocatechol)	120-80-9	5.0	20	---	---	---	---	X
Cellulose (paper fiber)	9004-34-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Cesium hydroxide	21351-79-1	---	2.0	---	---	---	---	---
Chlordane	57-74-9	---	0.5	---	---	---	---	X
Chlorinated camphene	8001-35-2	---	0.5	---	1.0	---	---	X
Chlorinated diphenyl oxide	55720-99-5	---	0.5	---	---	---	---	---
Chlorine	7782-50-5	0.5	1.5	1.0	3.0	1.0	3.0	---
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	---	---	---
Chlorine trifluoride	7790-91-2	---	---	---	---	0.1	0.4	---
Chloroacetaldehyde	107-20-0	---	---	---	---	1.0	3.0	---

HT/PEL
TABLE2-7

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
a-Chloroacetophenone (Phenacyl chloride)	532-21-4	0.05	0.3	---	---	---	---	---
Chloroacetyl chloride	79-04-9	0.05	0.2	---	---	---	---	---
Chlorobenzene (Monochlorobenzene)	108-90-7	75	350	---	---	---	---	---
o-Chlorobenzylidene malonitrile (OCBM)	2698-41-1	---	---	---	---	0.05	0.4	X
Chlorobromomethane	74-97-5	200	1,050	---	---	---	---	---
2-Chloro-1, 3-butadiene (see beta-Chloroprene)	---	---	---	---	---	---	---	---
Chlorodifluoromethane	75-45-6	1,000	3,500	---	---	---	---	X
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9	---	1.0	---	---	---	---	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1	---	0.5	---	---	---	---	X
1-Chloro-2, 3-epoxypropane, (see Epichlorhydrin)	---	---	---	---	---	---	---	---
2-Chloroethanol (see Ethylene chlorhydrin)	---	---	---	---	---	---	---	---
Chloroethylene (see vinyl chloride)	---	---	---	---	---	---	---	---
Chloroform (Trichloromethane)	67-66-3	2.0	9.78	---	---	---	---	---
1-Chloro-1-nitropropane	600-25-9	2.0	10	---	---	---	---	---
bis-Chloromethyl ether (see WAC 296-62-073)	542-88-1	---	---	---	---	---	---	---
Chloromethyl methyl ether (See Methyl carbomethyl ether)	107-30-2	---	---	---	---	---	---	---
Chloropentafluoroethane	76-15-3	1,000	6,320	---	---	---	---	---
Chloropicrin	76-06-2	0.1	0.7	---	---	---	---	X
beta-Chloroprene	126-99-8	10	35	---	---	---	---	---

HT/PEL
TABLE2-8

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
o-Chlorostyrene	2039-87-4	50	285	75	428	---	---	---
o-Chlorotoluene	95-49-8	50	250	---	---	---	---	---
2-Chloro-6-trichloromethyl pyridine (see Nitrapyrin)	1929-82-4	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Chlorpyrifos	2921-88-2	---	0.2	---	---	---	0.1	X
Chromic acid and chromates (as CrO ₃)	Varies w/compounds	---	---	---	---	---	---	---
Chromium (II) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (III) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (VI) compounds (as Cr)	---	---	0.05	---	---	---	---	---
Chromium Metal	7440-47-3	---	0.5	---	---	---	---	---
Chromyl chloride	14977-61-8	0.025	0.15	---	---	---	---	---
Chrysene: (see Coal tar, pitch volatiles)	---	---	---	---	---	---	---	---
Clopidol	2971-90-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Coal Dust (less than 5% SiO ₂) Respirable fraction	---	---	2.0	---	---	---	---	---
Coal dust (greater than or equal to 5% SiO ₂) Respirable fraction	---	---	0.1	---	---	---	---	---
Coal tar pitch volatiles (benzene soluble fraction anthracene, BaP, phenanthrene, acridine, chrysene, pyrene)	65996-93-2	---	0.2	---	---	---	---	---

HT/PEL
TABLE2-9

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cobalt, metal fume & dust, (as Co)	7440-48-4	---	0.05	---	---	---	---	---
Cobalt carbonyl (as Co)	10210-68-1	---	0.1	---	---	---	---	---
Cobalt hydrocarbonyl (as Co)	16842-03-8	---	0.1	---	---	---	---	---
Coke oven emissions (see WAC 296-62-200)	---	---	---	---	---	---	---	---
Copper fume (as Cu)	7440-50-8	---	0.1	---	---	---	---	---
Dusts and mists (as Cu)	---	---	1.0	---	---	---	---	---
Cotton dust (raw) ^{e/}	---	---	1.0	---	---	---	---	---
Corundum, (see Aluminum oxide)	---	---	---	---	---	---	---	---
Crag® herbicide (Sesone)	136-78-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Cresol (all isomers)	1319-77-3	5.0	22	---	---	---	---	X
Crotonaldehyde	123-73-9; 4170-30-3	2.0	6.0	---	---	---	---	---
Crufomate	299-86-5	---	5.0	---	---	---	---	---
Cumene	98-82-8	50	245	---	---	---	---	X
Cyanamide	420-04-2	---	2.0	---	---	---	---	---
Cyanide (as CN)	Varies with Compound	---	5.0	---	---	---	---	X
Cyanogen	460-19-5	10	20	---	---	---	---	---
Cyanogen chloride	506-77-4	---	---	---	---	0.3	0.6	---
Cyclohexane	110-82-7	300	1,050	---	---	---	---	---
Cyclohexanol	108-93-0	50	200	---	---	---	---	X
Cyclohexanone	108-94-1	25	100	---	---	---	---	X
Cyclohexene	110-83-8	300	1,015	---	---	---	---	---
Cyclohexylamine	108-91-8	10	40	---	---	---	---	---
Cyclonite (see RDX)	121-82-4	---	1.5	---	---	---	---	X
Cyclopentadiene	542-92-7	75	200	---	---	---	---	---

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TABLE2-10

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cyclopentane	287-92-3	600	1,720	---	---	---	---	---
Cyhexatin	13121-70-5	---	5.0	---	---	---	---	---
2,4-D (Dichlorophenoxy-acetic acid)	94-75-7	---	10	---	---	---	---	---
DDT (Dichlorodiphenyltri-chloroethane)	50-29-3	---	1.0	---	---	---	---	X
DDVP, Dichlorvos	62-73-7	0.1	1.0	---	---	---	---	X
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	---	---	X
Demeton®	8065-48-3	0.01	0.1	---	---	---	---	X
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	---	---	---	---	---
1, 2-Diaminoethane (see Ethylenediamine)	---	---	---	---	---	---	---	---
Diazinon	333-41-5	---	0.1	---	---	---	---	X
Diazomethane	334-88-3	0.2	0.4	---	---	---	---	---
Diborane	19287-45-7	0.1	0.1	---	---	---	---	---
Dibrom®, (see Naled)	---	---	---	---	---	---	---	---
1, 2-Dibromo-3-chloropropane (see WAC 296-62-07345)	96-12-3	---	---	---	---	---	---	---
2-N-Dibutylamino ethanol	102-81-8	2.0	14	---	---	---	---	X
Dibutyl phosphate	107-66-4	1.0	5.0	2.0	10	---	---	---
Dibutyl phthalate	84-74-2	---	5.0	---	---	---	---	---
Dichloroacetylene	7572-29-4	---	---	---	---	0.1	0.4	---
o-Dichlorobenzene	95-50-1	---	---	---	---	50	300	---
p-Dichlorobenzene	106-46-7	75	450	110	675	---	---	---
3, 3'-Dichlorobenzidine (see WAC 296-62-073)	91-94-1	---	---	---	---	---	---	---
Dichlorodifluoromethane	75-71-8	1,000	4,950	---	---	---	---	---
1, 3-Dichloro-5, 5-dimethyl hydantoin	118-52-5	---	0.2	---	0.4	---	---	---

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TABLE2-11

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- ation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
1, 1-Dichloroethane	75-34-3	100	400	---	---	---	---	---
1, 2-Dichloroethane (see Ethylene dichloride)	---	---	---	---	---	---	---	---
1, 2-Dichloroethylene	540-59-0	200	790	---	---	---	---	---
1, 1-Dichloroethylene (see Vinylidene chloride)	---	---	---	---	---	---	---	---
Dichloroethyl ether	111-44-4	5.0	30	10	60	---	---	X
Dichlorofluoromethane	75-43-4	10	40	---	---	---	---	---
Dichloromethane (see Methylene chloride)	---	---	---	---	---	---	---	---
1, 1-Dichloro-1-nitroethane	594-72-9	2.0	10.	10.	---	---	---	---
1, 2-Dichloropropane (see Propylene dichloride)	---	---	---	---	---	---	---	---
Dichloropropene	542-75-6	1.0	5.0	---	---	---	---	X
2, 2-Dichloropropionic acid	75-99-0	1.0	6.0	---	---	---	---	---
Dichlorotetrafluoroethane	76-14-2	1,000	7,000	---	---	---	---	---
Dichlorvos (DDVP)	62-73-7	0.1	1.0	---	---	---	---	X
Dicrotophos	141-66-2	---	0.25	---	---	---	---	X
Dicyclopentadiene	77-73-6	5.0	30	---	---	---	---	---
Dicyclopentadienyl iron	102-54-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Dieldrin	60-57-1	---	0.25	---	---	---	---	X
Diethanolamine	111-42-2	3.0	15	---	---	---	---	---
Diethylamine	109-89-7	10	30	25	75	---	---	---
2-Diethylaminoethanol	100-37-8	10	50	---	---	---	---	X
Diethylene triamine	111-40-0	1.0	4.0	---	---	---	---	X
Diethyl ether (see Ethyl ether)	---	---	---	---	---	---	---	---
Diethyl ketone	96-22-0	200	705	---	---	---	---	---
Diethyl phthalate	84-66-2	---	5.0	---	---	---	---	---

HT/PEL
TABLE2-12

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- ation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Difluorodibromomethane	75-61-6	100	860	---	---	---	---	---
Diglycidyl ether (DGE)	2238-07-5	0.1	0.5	---	---	---	---	---
Dihydroxybenzene (see Hydroquinone)	---	---	---	---	---	---	---	---
Diisobutyl ketone	108-83-8	25	150	---	---	---	---	X
Diisopropylamine	108-18-9	5.0	20	---	---	---	---	---
Dimethoxymethane (see Methylal)	---	---	---	---	---	---	---	X
Dimethyl acetamide	127-19-5	10	35	---	---	---	---	---
Dimethylamine	124-40-3	10	18	---	---	---	---	---
4-Dimethylaminoazobenzene (see WAC 296-62-073)	60-11-7	---	---	---	---	---	---	---
Dimethylaminobenzene (see Xylidene)	---	---	---	---	---	---	---	---
Dimethylaniline (see N, N-Dimethylaniline)	121-69-7	5.0	25	10	50	---	---	X
Dimethylbenzene (see Xylene)	---	---	---	---	---	---	---	---
Dimethyl-1, 2-dibromo-2, 2-dichloroethyl phosphate (see Naled)	300-76-5	---	3.0	---	---	---	---	X
Dimethylformamide	68-12-2	10	30	---	---	---	---	---
2, 6-Dimethylheptanone (see Diisobutyl ketone)	---	---	---	---	---	---	---	---
1, 1-Dimethylhydrazine	57-14-7	0.5	1.0	---	---	---	---	X
Dimethyl phthalate	131-11-3	---	5.0	---	---	---	---	---
Dimethyl sulfate	77-78-1	0.1	0.5	---	---	---	---	X
Dinitolmide	148-01-6	---	5.0	---	---	---	---	---
(3, 5-Dinitro-o-toluamide)	---	---	5.0	---	---	---	---	---
Dinitrobenzene (all isomers)	(alpha) 528-29-0; (meta) 99-65-0; (para) 100-25-4	0.15	1.0	---	---	---	---	X

HT/PEL
TABLE2-13

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dinitro-o-cresol	534-52-1	---	0.2	---	---	---	---	X
Dinitrotoluene	25321-14-6	---	1.5	---	---	---	---	X
Dioxane (Diethylene dioxide)	123-91-1	25	90	---	---	---	---	X
Dioxathion	78-34-2	---	0.2	---	---	---	---	X
Diphenyl (Biphenyl)	92-52-4	0.2	1.0	---	---	---	---	---
Diphenylamine	122-39-4	---	10	---	---	---	---	---
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MOI))	---	---	---	---	---	---	---	---
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	---	---	X
Dipropyl ketone	123-19-3	50	235	---	---	---	---	---
Diquat	85-00-7	---	0.5	---	---	---	---	---
Dl-sec, Octyl phthalate (Dl-2-ethylhexylphthalate)	117-81-7	---	5.0	---	10	---	---	---
Disulfiram	97-77-8	---	2.0	---	---	---	---	---
Disulfoton	298-04-4	---	0.1	---	---	---	---	X
2, 6-Dl-tert-butyl-p-cresol	128-37-0	---	10	---	---	---	---	---
Diuron	330-54-1	---	10	---	---	---	---	---
Divinyl benzene	1321-74-0	10	50	---	---	---	---	---
Emery	112-62-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Endosulfan (Thiodan®)	115-29-7	---	0.1	---	---	---	---	X
Endrin	72-20-8	---	0.1	---	---	---	---	X
Epichlorohydrin	106-89-8	2.0	8.0	---	---	---	---	X
EPN	2104-64-5	---	0.5	---	---	---	---	X
1, 2-Epoxypropane (see Propylene oxide)	---	---	---	---	---	---	---	---
2, 3-Epoxy-1-propanol (see Glycidol)	---	---	---	---	---	---	---	---

HT/PEL
TABLE2-14

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethane	---	Simple	Asphyxiant	---	---	---	---	---
Ethanol	---	---	---	---	---	---	---	---
(see Ethyl mercaptan)	---	---	---	---	---	---	---	---
Ethanolamine	141-43-5	3.0	8.0	6.0	15	---	---	---
Ethlon	563-12-2	---	0.4	---	---	---	---	X
2-Ethoxyethanol	110-80-5	5.0	19	---	---	---	---	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	5.0	27	---	---	---	---	X
Ethyl acetate	141-78-6	400	1,400	---	---	---	---	---
Ethyl acrylate	140-88-5	5.0	20	25	100	---	---	X
Ethyl alcohol (ethanol)	64-17-5	1,000	1,900	---	---	---	---	---
Ethylamine	75-04-07	10	18	---	---	---	---	---
Ethyl amyl ketone (5-Methyl-3-heptanone)	541-85-5	25	130	---	---	---	---	---
Ethyl benzene	100-41-4	100	435	125	545	---	---	---
Ethyl bromide	74-96-4	200	890	250	1,110	---	---	---
Ethyl butyl ketone (3-Heptanone)	106-35-4	50	230	---	---	---	---	---
Ethyl chloride	75-00-3	1,000	2,600	---	---	---	---	---
Ethylene	74-85-1	Simple	Asphyxiant	---	---	---	---	---
Ethylene chlorohydrin	107-07-3	---	---	---	---	1.0	3.0	X
Ethylenediamine	107-15-3	10	25	---	---	---	---	X
Ethylene dibromide	106-93-4	0.1	---	0.5	---	---	---	---
Ethylene dichloride	107-06-2	1.0	4.0	2.0	8.0	---	---	---
Ethylene glycol	107-21-1	---	---	---	---	50	125	---
Ethylene glycol dinitrate	628-96-6	---	---	---	0.1	---	---	X
Ethylene glycol monomethyl ether acetate (Methyl cellosolve acetate)	---	5.0	24	---	---	---	---	X
Ethyleneimine (see WAC 296-62-073)	151-56-4	---	---	---	---	---	---	X

HT/PEL
TABLE2-15

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethylene oxide (see WAC 296-62-07353)	75-21-8	1.0	2.0	---	---	---	---	---
Ethyl ether	60-29-7	400	1,200	500	1,500	---	---	---
Ethyl formate	109-94-4	100	300	---	---	---	---	---
Ethylidene chloride (see 1, 1-Dichloroethane)	---	---	---	---	---	---	---	---
Ethylidene norbornene	16219-75-3	---	---	---	---	5.0	25	---
Ethyl mercaptan	75-08-1	0.5	1.0	---	---	---	---	---
n-Ethylmorpholine	100-74-3	5.0	23	---	---	---	---	X
Ethyl sec-aryl ketone (5-methyl-3-heptanone)	---	25	130	---	---	---	---	---
Ethyl silicate	78-10-4	10	85	---	---	---	---	---
Fenamiphos	22224-92-6	---	0.1	---	---	---	---	X
Fensulfothion (Dasanit)	115-90-2	---	0.1	---	---	---	---	---
Fenthion	55-38-9	---	0.2	---	---	---	---	X
Ferbam	14484-64-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Ferrovandium dust	12604-58-9	---	1.0	---	3.0	---	---	---
Fluorides (as F)	Varies w/compound	---	2.5	---	---	---	---	---
Fluorine	7782-41-4	0.1	0.2	---	---	1,000	5,600	---
Fluorotrichloromethane (see Trichlorofluoro methane)	75-69-4	---	---	---	---	---	---	---
Fonofos	944-22-9	---	0.1	---	---	---	---	X
Formaldehyde (see WAC 296-62-07540)	50-00-0	1.0	---	2.0	---	---	---	---
Formamide	75-12-7	20	30	30	45	---	---	---
Formic acid	64-18-6	5.0	9.0	---	---	---	---	---
Furfural	98-01-1	2.0	8.0	---	---	---	---	X
Furfuryl alcohol	98-00-0	10	40	15	60	---	---	X
Gasoline	8006-61-9	300	900	500	1,500	---	---	---
Germanium tetrahydride	7782-65-2	0.2	0.6	---	---	---	---	---

HT/PEL
TABLE2-16

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Glass, fibrous or dust	---	---	10	---	---	---	---	---
Gluteraldehyde	111-30-8	---	---	---	---	0.2	0.8	---
Glycerin mist	56-81-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Glycidol (2, 3-Epoxy-1- propanol)	556-52-5	25	75	---	---	---	---	---
Glycol monoethyl ether (see 2-Ethoxyethanol)	---	---	---	---	---	---	---	---
Grain dust (oat, wheat, barley)	---	---	10	---	---	---	---	---
Graphite, natural	7782-42-5	---	---	---	---	---	---	---
Respirable dust	---	---	2.5	---	---	---	---	---
Graphite, Synthetic	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Guthlon® (see Azinphosmethyl)	---	---	---	---	---	---	---	---
Gypsum	13397-24-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Hafnium	7440-58-6	---	0.5	---	---	---	---	---
Helium	---	Simple	Asphyxiant	---	---	---	---	---
Heptachlor	76-44-8	---	0.5	---	---	---	---	X
Heptane (n-heptane)	142-82-5	400	1,600	500	2,000	---	---	---
2-Heptanone, (see Methyl n-aryl ketone)	---	---	---	---	---	---	---	---
3-Heptanone (see Ethyl butyl ketone)	---	---	---	---	---	---	---	---
Hexachlorobutadiene	87-68-3	0.02	0.24	---	---	---	---	X
Hexachlorocyclopentadiene	77-47-4	0.01	0.1	---	---	---	---	---

HT/PEL
TABLE 2-17

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{2/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Hexachloroethane	67-72-1	1.0	10	---	---	---	---	X
Hexachloronaphthalene	1335-87-1	---	0.2	---	---	---	---	X
Hexafluoroacetone	604-16-2	0.1	0.7	---	---	---	---	X
Hexane	---	---	---	---	---	---	---	---
n-hexane	110-54-3	50	180	---	---	---	---	---
other Isomers	Varies w/compound	500	1,000	1,000	3,600	---	---	---
2-Hexanone (Methyl-n-butyl ketone)	591-70-6	5.0	20	---	---	---	---	---
Hexone (Methyl isobutyl ketone)	108-10-1	50	205	75	300	---	---	---
sec-Hexyl acetate	108-04-9	50	300	---	---	---	---	---
Hexylene Glycol	107-41-5	---	---	---	---	25	125	---
Hydrazine	302-01-2	0.1	0.1	---	---	---	---	X
Hydrogen	---	Simple	Asphyxiant	---	---	---	---	---
Hydrogenated terphenyls	61700-32-7	0.5	5.0	---	---	---	---	---
Hydrogen bromide	10035-10-6	---	---	---	---	3.0	10	---
Hydrogen chloride	7647-01-0	---	---	---	---	5.0	7.0	---
Hydrogen cyanide	74-90-8	---	---	4.7	5.0	---	---	X
Hydrogen fluoride	7664-39-3	---	---	---	---	3.0	2.5	---
Hydrogen peroxide	7722-84-1	1.0	1.4	---	---	---	---	---
Hydrogen selenide (as Se)	7783-07-5	0.05	0.2	---	---	---	---	---
Hydrogen Sulfide	7783-06-4	10	14	15	21	---	---	---
Hydroquinone	123-31-9	---	2.0	---	---	---	---	---
4-Hydroxy-4-methyl-2-pentanone (see Diacetone alcohol)	---	---	---	---	---	---	---	---
2-Hydroxypropyl acrylate	999-61-1	0.5	3.0	---	---	---	---	X
Indene	95-13-6	10	45	---	---	---	---	---
Indium and compounds (as In)	7440-74-6	---	0.1	---	---	---	---	---
Iodine	7553-56-2	---	---	---	---	0.1	1.0	---
Iodoform	75-47-8	0.6	10	---	---	---	---	---
Iron oxide dust and fume (as Fe) Total particulate	1309-37-1 ---	---	5.0	---	---	---	---	---

HT/PEL
TABLE 1B

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{2/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	---	---	---
Iron salts, soluble (as Fe)	Varies w/compound	---	1.0	---	---	---	---	---
Isoamyl acetate	123-92-2	100	525	---	---	---	---	---
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450	---	---	---
Isobutyl acetate	110-19-0	150	700	---	---	---	---	---
Isobutyl alcohol	78-83-1	50	150	---	---	---	---	---
Isooctyl alcohol	26952-21-6	50	270	---	---	---	---	X
Isophorone	78-59-1	4.0	23	---	---	5.0	25	---
Isophorone diisocyanate	4098-71-9	0.005	0.045	0.02	---	---	---	X
Isopropoxyethanol	109-59-1	25	105	---	---	---	---	---
Isopropyl acetate	108-21-4	250	950	310	1,185	---	---	---
Isopropyl alcohol	67-63-0	400	980	500	1,225	---	---	---
Isopropylamine	75-31-0	5.0	12	10	24	---	---	---
N-Isopropylaniline	760-52-5	2.0	10	---	---	---	---	X
Isopropyl ether	108-20-3	250	1,050	---	---	---	---	---
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	---	---	---
Kaolin	---	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Ketene	463-51-4	0.5	0.9	1.5	3.0	---	---	---
Lead inorganic (as Pb) (see WAC 296-62-07521)	7439-92-1	---	0.15	---	---	---	---	---
Lead arsenate (see WAC 296-62-07347)	3687-31-8	---	0.15	---	---	---	---	---
Lead chromate	7758-97-6	---	0.05	---	---	---	---	---
Limestone	1317-65-3	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Lindane	58-89-9	---	0.5	---	---	---	---	X

HT/PEL
TABLE 2-18

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{2/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	---	---	---
Iron salts, soluble (as Fe)	Varies w/compound	---	1.0	---	---	---	---	---
Isoamyl acetate	123-92-2	100	525	---	---	---	---	---
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450	---	---	---
Isobutyl acetate	110-19-0	150	700	---	---	---	---	---
Isobutyl alcohol	78-83-1	50	150	---	---	---	---	---
Isooctyl alcohol	26952-21-6	50	270	---	---	---	---	X
Isophorone	78-59-1	4.0	23	---	---	5.0	25	---
Isophorone diisocyanate	4098-71-9	0.005	0.045	0.02	---	---	---	X
Isopropoxyethanol	109-59-1	25	105	---	---	---	---	---
Isopropyl acetate	108-21-4	250	950	310	1,185	---	---	---
Isopropyl alcohol	67-63-0	400	980	500	1,225	---	---	---
Isopropylamine	75-31-0	5.0	12	10	24	---	---	---
N-Isopropylaniline	768-52-5	2.0	10	---	---	---	---	X
Isopropyl ether	108-20-3	250	1,050	---	---	---	---	---
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	---	---	---
Kaolin	---	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	0.9	1.5	3.0	---	---	---
Ketene	463-51-4	0.5	0.05	---	---	---	---	---
Lead inorganic (as Pb) (see WAC 296-62-07521)	7439-92-1	---	0.05{(0-15)}	---	---	---	---	---
Lead arsenate (see WAC 296-62-07347)	3687-31-8	---	0.05{(0-15)}	---	---	---	---	---
Lead chromate	7750-97-6	---	0.05	---	---	---	---	---
Limestone	1317-65-3	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	0.5	---	---	---	---	X
Lindane	58-89-9	---	---	---	---	---	---	---

HT/PEL
TABLE 2-19

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{2/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Lithium hydride	7580-67-8	---	0.025	---	---	---	---	---
L.P.G. (liquefied petroleum gas)	68476-85-7	1,000	1,800	---	---	---	---	---
Magnesite	546-93-0	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Magnesium oxide fume	1309-48-4	---	10	---	---	---	---	---
Total particulate	---	---	---	---	---	---	---	---
Malathion	121-75-5	---	10	---	---	---	---	X
Total dust	---	---	1.0	---	---	---	---	---
Maleic anhydride	108-31-6	0.25	1.0	---	---	---	5.0	---
Manganese and compound (as Mn)	7439-96-5	---	1.0	---	3.0	---	---	---
Manganese tetroxide and fume (as Mn)	7439-96-5	---	0.1	---	---	---	---	X
Manganese cyclopentadienyl tricarbonyl (as Mn)	12079-65-1	---	1.0	---	---	---	---	---
Manganese tetroxide (as Mn)	1317-35-7	---	1.0	---	---	---	---	---
Marble	1317-65-3	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	0.1	---	X
Mercury (aryl and inorganic) (as Hg)	7439-97-6	---	0.01	---	0.03	---	---	X
Mercury (organo-alkyl compounds) (as Hg)	7439-97-6	---	0.05	---	---	---	---	X
Mercury (vapor) (as Hg)	7439-97-6	---	60	25	100	---	---	---
Mesityl oxide	141-79-7	15	70	---	---	---	---	X
Methacrylic acid	79-41-4	20	70	---	---	---	---	---
Methane	---	Simple	Asphyxiant	---	---	---	---	---
Methanethiol (see Methyl mercaptan)	---	---	---	---	---	---	---	---
Methomyl (lannate)	16752-77-5	---	2.5	---	---	---	---	---
Methoxychlor	72-43-5	---	10	---	---	---	---	---
Total dust	---	---	---	---	---	---	---	---

HT/PEL
TABLE 2-20

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2-Methoxyethanol (Methyl cellosolve)	109-86-4	5.0	16	---	---	---	---	X
4-Methoxyphenol	150-76-5	---	5.0	---	---	---	---	---
Methyl acetate	79-20-9	200	610	250	760	---	---	---
Methyl acetylene (propyne)	74-99-7	1,000	1,650	---	---	---	---	---
Methyl acetylene-propadiene mixture (HAPP)	---	1,000	1,000	1,250	2,250	---	---	---
Methyl acrylate	96-33-3	10	35	---	---	---	---	X
Methylacrylonitrile	126-90-7	1.0	3.0	---	---	---	---	X
Methylal (Dimethoxy-methane)	109-87-5	1,000	3,100	---	---	---	---	---
Methyl alcohol (methanol)	67-56-1	200	260	250	325	---	---	X
Methylamine	74-89-5	10	12	---	---	---	---	---
Methyl amyl alcohol (see Methyl isobutyl carbinol)	---	---	---	---	---	---	---	---
Methyl n-amyl ketone (2-Heptanone)	110-43-0	50	235	---	---	---	---	---
N-Methyl aniline (see Monomethyl aniline)	---	---	---	---	---	---	---	---
Methyl bromide	74-83-9	5.0	20	---	---	---	---	X
Methyl butyl ketone (see 2-Hexanone)	---	---	---	---	---	---	---	---
Methyl cellosolve (see 2-Methoxyethanol)	109-86-4	5.0	16	---	---	---	---	X
Methyl cellosolve acetate (2-Methoxyethyl acetate)	110-49-6	5.0	24	---	---	---	---	X
Methyl chloride	74-87-3	50	105	100	210	---	---	---
Methyl chloroform (1, 1, 1-trichloroethane)	71-55-6	350	1,900	450	2,450	---	---	---
Methyl chloromethyl ether (see WAC 296-62-073)	107-30-2	---	---	---	---	---	---	---

HT/PEL
TABLE 2-21

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl 2-cyanoacrylate	137-05-3	2.0	8.0	4.0	16	---	---	---
Methylcyclohexane	108-87-2	400	1,600	---	---	---	---	---
Methylcyclohexanol	25639-42-3	50	235	---	---	---	---	---
Methylcyclohexanone	583-60-8	50	230	75	345	---	---	X
Methylcyclopentadienyl manganese tricarbonyl (as Mn)	12108-13-3	---	0.2	---	---	---	---	X
Methyl demeton	8022-00-2	---	0.5	---	---	---	---	X
Methylene bisphenyl isocyanate (MOI)	101-68-8	---	---	---	---	0.02	0.2	---
4, 4'-Methylene bis (2-chloroaniline (MBOCA)) (see WAC 296-62-073)	101-14-4	0.02	0.22	---	---	---	---	X
Methylene bis (4-cyclohexylisocyanate)	5124-30-1	---	---	---	---	0.01	0.11	---
Methylene chloride	75-09-2	100	---	500	---	---	---	---
4, 4-Methylene dianiline	101-77-9	0.1	0.8	---	---	---	---	X
Methyl ethyl ketone (MEK) (see 2-Butanone)	78-93-3	---	---	---	---	---	---	---
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	---	---	---	---	0.2	1.5	---
Methyl formate	107-31-3	100	250	150	375	---	---	---
5-Methyl-3-heptanone (see Ethyl amyl ketone)	---	---	---	---	---	---	---	---
Methyl hydrazine (see Monomethyl hydrazine)	60-34-4	---	---	---	---	0.2	0.35	X
Methyl iodide	74-88-4	2.0	10	---	---	---	---	X
Methyl isoamyl ketone	110-12-3	50	240	---	---	---	---	---
Methyl isobutyl carbinol	108-11-2	25	100	40	165	---	---	X
Methyl isobutyl ketone (see Hexone)	---	---	---	---	---	---	---	---

HT/PEL
TABLE 2-22

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl isocyanate	624-83-9	0.02	0.05	---	---	---	---	X
Methyl isopropyl ketone	563-80-4	200	705	---	---	---	---	---
Methyl mercaptan	74-93-1	0.5	1.0	---	---	---	---	---
Methyl methacrylate	80-62-6	100	410	---	---	---	---	---
Methyl parathion	298-00-0	---	0.2	---	---	---	---	X
Methyl propyl ketone (see 2-Pentanone)	---	---	---	---	---	---	---	---
Methyl silicate	604-84-5	1.0	6.0	---	---	---	---	---
alpha-Methyl styrene	90-83-9	50	240	100	485	---	---	---
Methylene bisphenyl isocyanate (MOI)	101-68-8	---	---	---	---	0.02	0.2	---
Hevinphos® (see Phosdrin)	---	---	---	---	---	---	---	---
Metribuzin	21087-64-9	---	5.0	---	---	---	---	---
Mica (see Silicates)	---	---	---	---	---	---	---	---
Molybdenum (as Mo) Soluble compounds	7439-98-7	---	5.0	---	---	---	---	---
Insoluble compounds	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Monocrotophos (Azodrin®)	6923-22-4	---	0.25	---	---	---	---	---
Monomethyl aniline	100-61-8	0.5	2.0	---	---	---	---	X
Monomethyl hydrazine	---	---	---	---	---	0.2	0.35	---
Morpholine	110-91-8	20	78	30	105	---	---	X
Naled	300-76-5	---	3.0	---	---	---	---	X
Naphtha (Coal tar)	8030-30-6	100	400	---	---	---	---	X
Naphthalene	91-20-3	10	50	15	75	---	---	---
alpha-Naphthylamine (see WAC 296-62-073)	134-32-7	---	---	---	---	---	---	---
beta-Naphthylamine (see WAC 296-62-073)	91-59-8	---	---	---	---	---	---	---

HT/PEL
TABLE 2-23

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Neon	7440-01-9	Simple	Asphyxiant	---	---	---	---	---
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	---	---	---	---	---
Nickel, (as Ni) Metal and insoluble compounds	7440-02-0	---	1.0	---	---	---	---	---
Soluble compounds	---	---	0.1	---	---	---	---	---
Nicotine	54-11-5	---	0.5	---	---	---	---	X
Nitrapyrin (see 2-Chloro-6 trichloromethyl pyridine)	1929-02-4	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Nitric acid	7697-37-2	2.0	5.0	4.0	10	---	---	---
Nitric oxide	10102-43-9	25	30	---	---	---	---	---
p-Nitroaniline	100-01-6	---	3.0	---	---	---	---	X
Nitrobenzene	98-95-3	1.0	5.0	---	---	---	---	---
4-Nitrophenyl (see WAC 296-62-073)	92-93-3	---	---	---	---	---	---	---
p-Nitrochlorobenzene	100-00-5	---	0.5	---	---	---	---	X
4-Nitrodiphenyl (see WAC 296-62-073)	---	---	---	---	---	---	---	---
Nitroethane	79-24-3	100	310	---	---	---	---	---
Nitrogen	7727-37-9	Simple	Asphyxiant	---	---	---	---	---
Nitrogen dioxide	10102-44-0	---	---	1.0	1.8	---	---	---
Nitrogen trifluoride	7703-54-2	10	29	---	---	---	---	---
Nitroglycerin	55-63-0	---	---	---	0.1	---	---	X
Nitromethane	75-52-5	100	250	---	---	---	---	---
1-Nitropropane	108-03-2	25	90	---	---	---	---	---
2-Nitropropane	79-46-9	10	35	---	---	---	---	---
N-Nitrosodimethylamine (see WAC 296-62-073)	62-75-9	---	---	---	---	---	---	---

HT/PEL
TABLE2-24

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Nitrotoluene:								
o-isomer	88-72-2	2.0	11	---	---	---	---	X
m-isomer	98-00-2	2.0	11	---	---	---	---	X
p-isomer	99-99-0	2.0	11	---	---	---	---	X
Nitrotetrachloromethane (see Chloropicrin)	---	---	---	---	---	---	---	---
Nitrous Oxide (Nitrogen oxide)	10024-97-2	30	54	---	---	---	---	---
Nonane	111-84-2	200	1,050	---	---	---	---	---
Octachloronaphthalene	2234-13-1	---	0.1	---	0.3	---	---	X
Octane	111-65-9	300	1,450	375	1,800	---	---	---
Oil mist, mineral (particulate)	8012-95-1	---	5.0	---	---	---	---	---
Osmium tetroxide (as Os)	20816-12-0	0.0002	0.002	0.0006	0.006	---	---	---
Oxalic acid	144-62-7	---	1.0	---	2.0	---	---	---
Oxygen difluoride	7783-41-7	---	---	---	---	0.05	0.1	---
Ozone	10028-15-6	0.1	0.2	0.3	0.6	---	---	---
Paraffin wax fume	8002-74-2	---	2.0	---	---	---	---	---
Paraquat (Respirable dust)	4685-14-7 1910-42-5 2074-50-2	---	0.1	---	---	---	---	X
Parathion	56-38-2	---	0.1	---	---	---	---	X
Particulate polycyclic aromatic hydrocarbons (see coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Particulates not otherwise regulated (see WAC 296-62-07510)	---	---	---	---	---	---	---	---
Total Dust	---	---	10	---	---	---	---	---
Respirable Fraction	---	---	5.0	---	---	---	---	---
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	---	---	---
Pentachloronaphthalene	1321-64-8	---	0.5	---	---	---	---	X
Pentachloropheno1	87-86-5	---	0.5	---	---	---	---	X

HT/PEL
TABLE2-25

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Pentaerythritol	115-77-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Pentane	109-66-0	600	1,800	750	2,250	---	---	---
2-Pentanone (methyl propyl ketone)	107-07-9	200	700	250	875	---	---	---
Perchloroethylene (tetrachloroethylene)	127-18-4	25	170	---	---	---	---	---
Perchloromethyl mercaptan	594-42-3	0.1	0.8	---	---	---	---	---
Perchloryl fluoride	7616-94-6	3.0	14	6.0	28	---	---	---
Perlite	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Petroleum distillates (Naphtha)	---	100	400	---	---	---	---	---
Phenol	108-95-2	5.0	19	---	---	---	---	X
Phenothiazine	92-84-2	---	5.0	---	---	---	---	X
p-Phenylene diamine	106-50-3	---	0.1	---	---	---	---	X
Phenyl ether (vapor)	101-84-8	1.0	7.0	---	---	---	---	---
Phenyl ether-diphenyl mixture (vapor)	---	1.0	7.0	---	---	---	---	---
Phenylethylene, (see Styrene)	---	---	---	---	---	---	---	---
Phenyl glycidyl ether (PGE)	122-60-1	1.0	6.0	---	---	---	---	---
Phenylhydrazine	100-63-0	5.0	20	10	45	---	---	X
Phenyl mercaptan	108-98-5	0.5	2.0	---	---	---	---	---
Phenylphosphine	638-21-1	---	---	---	---	0.05	0.25	---
Phorate	298-02-2	---	0.05	---	0.2	---	---	X
Phosdrin (Mevinphos®)	7786-34-7	0.01	0.1	0.03	0.3	---	---	X
Phosgene (carbonyl chloride)	75-44-5	0.1	0.4	---	---	---	---	---
Phosphine	7803-51-2	0.3	0.4	1.0	1.0	---	---	---
Phosphoric acid	7664-38-2	---	1.0	---	3.0	---	---	---
Phosphorus (yellow)	7723-14-0	---	0.1	---	---	---	---	---

HT/PEL
TABLE2-26

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Phosphorous oxychloride	10025-87-3	0.1	0.6	---	---	---	---	---
Phosphorus pentachloride	10026-13-B	0.1	1.0	---	---	---	---	---
Phosphorus pentasulfide	1314-80-3	---	1.0	---	3.0	---	---	---
Phosphorus trichloride	7719-12-2	0.2	1.5	0.5	3.0	---	---	---
Phthalic anhydride	85-44-9	1.0	6.0	---	---	---	---	---
m-Phthalodinitrile	626-17-5	---	5.0	---	---	---	---	---
Picloram	1918-02-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Picric acid	88-09-1	---	0.1	---	---	---	---	X
Pindone (see Pival) (2-Pivalyl-1, 3-indandione)	83-26-1	---	0.1	---	---	---	---	---
Piperazine dihydrochloride	142-64-3	---	5.0	---	---	---	---	---
Pival® (see Pindone)	-----	---	---	---	---	---	---	---
Plaster of Paris	26499-65-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Platinum (as Pt)	7440-06-4	---	---	---	---	---	---	---
Metal	---	---	1.0	---	---	---	---	---
Soluble salts	---	---	0.002	---	---	---	---	---
Polychlorobiphenyls (see Chlorodiphenyls)	---	---	---	---	---	---	---	---
Portland cement	65997-15-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Potassium hydroxide	1310-58-3	---	---	---	---	---	2.0	---
Propane	74-98-6	1,000	1,800	---	---	---	---	---
Propargyl alcohol	107-19-7	1.0	2.0	---	---	---	---	X
beta-Propiolactone (see WAC 296-62-073)	57-57-8	---	---	---	---	---	---	---
Propionic acid	79-09-4	10	30	---	---	---	---	---

HT/PEL
TABLE2-27

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Propoxur (Baygon)	114-26-1	---	0.5	---	---	---	---	---
n-Propyl acetate	109-60-4	200	840	250	1,050	---	---	---
n-Propyl alcohol	71-23-8	200	500	250	625	---	---	X
n-Propyl nitrate	627-13-4	25	105	40	170	---	---	---
Propylene	---	Simple	Asphyxtant	---	---	---	---	---
Propylene dichloride (1, 2-Dichloropropane)	78-07-5	75	350	110	510	---	---	---
Propylene glycol dinitrate	6423-43-4	0.05	0.3	---	---	---	---	X
Propylene glycol monomethyl ether	107-98-2	100	360	150	540	---	---	---
Propylene imine	75-55-8	2.0	5.0	---	---	---	---	X
Propylene oxide	75-56-9	20	50	---	---	---	---	---
Propyne, (see Methyl acetylene)	---	---	---	---	---	---	---	---
Pyrethrum	8003-34-7	---	5.0	---	---	---	---	---
Pyridine	110-86-1	5.0	15	---	---	---	---	---
Quinone	106-51-4	0.1	0.4	---	---	---	---	---
ROX (See Cyclonite)	---	---	1.5	---	---	---	---	X
Resorcinol	108-46-3	10	45	20	90	---	---	---
Rhodium (as Rh)	7440-16-6	---	---	---	---	---	---	---
Insoluble compounds, Metal fumes and dusts	---	---	0.1	---	---	---	---	---
Soluble compounds, salts	---	---	0.001	---	---	---	---	---
Ronnel	299-84-3	---	10	---	---	---	---	---
Rosin core solder, pyrolysis products (as formaldehyde)	---	---	0.1	---	---	---	---	---
Rotenone	83-79-4	---	5.0	---	---	---	---	---
Rouge	---	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Rubber solvent (naphtha)	8002-05-9	100	400	---	---	---	---	---
Selenium compounds (as Se)	7702-49-2	---	0.2	---	---	---	---	---

HT/PEL
TABLE2-28

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	PEL ^{c/}						Skin Design- nation
		TWA		STEL		CEILING		
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Selenium hexafluoride (as Se)	7783-79-1	0.05	0.2	---	---	---	---	---
Sesone (see Crag herbicide)	---	---	---	---	---	---	---	---
Silane (see Silicon tetrahydride)	---	---	---	---	---	---	---	---
Silica, amorphous, precipitated and gel	112926-00-0	---	6.0	---	---	---	---	---
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2	---	6.0	---	---	---	---	---
Total dust	---	---	6.0	---	---	---	---	---
Respirable fraction	---	---	3.0	---	---	---	---	---
Silica, crystalline cristobalite (as quartz) respirable dust	14464-46-1	---	0.05	---	---	---	---	---
Silica, crystalline quartz (as quartz), respirable dust	14800-60-7	---	0.1 ^{g/ h/}	---	---	---	---	---
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	---	0.1	---	---	---	---	---
Silica, crystalline tridymite (as quartz), respirable dust	15460-32-3	---	0.05	---	---	---	---	---
Silica, fused, respirable dust	60676-06-0	---	0.1	---	---	---	---	---
Silicates (less than 1% crystalline silica):								
Mica (Respirable dust)	12001-26-2	---	3.0	---	---	---	---	---
Soapstone, Total dust	---	---	6.0	---	---	---	---	---
Soapstone, Respirable dust	---	---	3.0	---	---	---	---	---
Talc (containing asbestos): use asbestos limit (see WAC 296-62-07517)	---	---	---	---	---	---	---	---

HT/PEL
TABLE2-29

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	PEL ^{c/}						Skin Design- nation
		TWA		STEL		CEILING		
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Talc (containing no asbestos), Respirable dust	14807-96-6	---	2.0	---	---	---	---	---
Tremolite (see WAC 296-62-07517)	---	---	---	---	---	---	---	---
Silicon	7440-21-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Silicon Carbide	409-21-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Silicon tetrahydride	7803-62-5	5.0	7.0	---	---	---	---	---
Silver, metal dust and soluble compounds (as Ag)	7440-22-4	---	0.01	---	---	---	---	---
Soapstone (see Silicates)	---	---	---	---	---	---	---	---
Sodium azide (as NaN ₃)	26628-22-8	---	---	---	---	0.1	0.3	X
(as NaN ₃)	---	---	---	---	---	0.1	0.3	X
Sodium bisulfite	7631-90-5	---	5.0	---	---	---	---	---
Sodium-2, 4-dichlorophenoxyethyl sulfate (see Crag herbicide)	---	---	---	---	---	---	---	---
Sodium fluoroacetate	62-74-0	---	0.05	---	0.15	---	---	X
Sodium hydroxide	1310-73-2	---	---	---	---	---	2.0	---
Sodium metabisulfite	7681-57-4	---	5.0	---	---	---	---	---
Starch	9005-25-8	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Stibine	7803-52-3	0.1	0.5	---	---	---	---	---
Stoddard solvent	8052-41-3	100	525	---	---	---	---	---
Strychnine	57-24-9	---	0.15	---	---	---	---	---
Styrene	100-42-5	50	215	100	425	---	---	---

HI/PEL
TABLE2-30

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Subtilisins	9014-01-1	---	---	---	0.00006 (60 min.) ^{d/}	---	---	---
Sucrose	57-50-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	X
Sulfotep (see TEOP)	---	---	---	---	---	---	---	---
Sulfur dioxide	7446-09-5	2.0	5.0	5.0	10	---	---	---
Sulfur hexafluoride	2551-62-4	1,000	6,000	---	---	---	---	---
Sulfuric acid	7664-93-9	---	1.0	---	---	1.0	6.0	---
Sulfur monochloride	10025-67-9	---	---	---	---	0.01	0.1	---
Sulfur pentafluoride	5714-22-1	---	---	---	---	0.1	0.4	---
Sulfur tetrafluoride	7783-60-0	---	---	---	---	---	---	---
Sulfuryl fluoride	2699-79-8	5.0	20	10	40	---	---	---
Sulprofos	35400-43-2	---	1.0	---	---	---	---	---
Systox (see Demeton [®])	---	---	---	---	---	---	---	---
2, 4, 5-T	93-76-5	---	10	---	---	---	---	---
Talc (see Silicates)	---	---	---	---	---	---	---	---
Tantalum	7440-25-7	---	5.0	---	---	---	---	---
Metal and oxide dusts	---	---	---	---	---	---	---	---
TEOP (Sulfotep)	3609-24-5	---	0.2	---	---	---	---	X
Tellurium and compounds (as Te)	13494-80-9	---	0.1	---	---	---	---	---
Tellurium hexafluoride (as Te)	7703-80-4	0.02	0.2	---	---	---	---	---
Temephos	3303-96-8	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
TEPP	107-49-3	0.004	0.05	---	---	---	---	X
Terphenyls	26140-60-3	---	---	---	---	0.5	5.0	---
1, 1, 1, 2-Tetrachloro-2, 2-difluoroethane	76-11-0	500	4,170	---	---	---	---	---
1, 1, 2, 2-Tetrachloro-1, 2-difluoroethane	76-12-0	500	4,170	---	---	---	---	---

HI/PEL
TABLE2-31

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS #/ Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
1, 1, 2, 2-Tetrachloroethane	79-34-5	1.0	7.0	---	---	---	---	X
Tetrachloroethylene (see Perchloroethylene)	---	---	---	---	---	---	---	---
Tetrachloromethane (see Carbon tetrachloride)	---	---	---	---	---	---	---	X
Tetrachloronaphthalene	1335-88-2	---	2.0	---	---	---	---	X
Tetraethyl lead (as Pb)	78-00-2	---	0.075	---	---	---	---	---
Tetrahydrofuran	109-99-9	200	590	250	735	---	---	---
Tetramethyl lead (as Pb)	75-74-1	---	0.075	---	---	---	---	X
Tetramethyl succinonitrile	3333-52-6	0.5	3.0	---	---	---	---	---
Tetranitromethane	509-14-8	1.0	8.0	---	---	---	---	---
Tetrasodium pyrophosphate	7722-80-5	---	5.0	---	---	---	---	X
Tetryl (2, 4, 6-trinitrophenyl- methylnitramine)	479-45-8	---	1.5	---	---	---	---	X
Thallium (soluble compounds) (as Tl)	7440-20-0	---	0.1	---	---	---	---	---
4, 4-Thiobis (6-tert-butyl-m-cresol)	96-69-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	X
Thioglycolic acid	68-11-1	1.0	4.0	---	---	1.0	5.0	---
Thionyl chloride	7719-09-7	---	---	---	---	---	---	---
Thiram [®] (see WAC 296-62-07519)	137-26-8	---	5.0	---	---	---	---	---
Tin (as Sn)	7440-31-5	---	2.0	---	---	---	---	---
Inorganic compounds (except oxides)	---	---	---	---	---	---	---	X
Tin, Organic compounds (as Sn)	7440-31-5	---	0.1	---	---	---	---	---
Tin Oxide (as Sn)	21651-19-4	---	2.0	---	---	---	---	---
Titanium dioxide	13463-67-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Toluene	108-88-3	100	375	150	560	---	---	---

HT/PEL
TABLE2-32TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Toluene-2, 4-dithiocyanate (TDI)	584-84-9	0.005	0.04	0.02	0.15	---	---	---
m-Toluidine	100-44-1	2.0	9.0	---	---	---	---	X
o-Toluidine	95-53-4	2.0	9.0	---	---	---	---	X
p-Toluidine	106-49-0	2.0	9.0	---	---	---	---	X
Toxaphene (see Chlorinated camphene)	---	---	---	---	---	---	---	---
Tremolite (see Silicates)	---	---	---	---	---	---	---	---
Tributyl phosphate	126-73-8	0.2	2.5	---	---	---	---	---
Trichloroacetic acid	76-03-9	1.0	7.0	---	---	---	---	---
1, 2, 4-Trichlorobenzene	120-82-1	---	---	---	---	5.0	40	---
1, 1, 1-Trichloroethane (see Methyl chloroform)	---	---	---	---	---	---	---	---
1, 1, 2-Trichloroethane	79-00-5	10	45	---	---	---	---	---
Trichloroethylene	79-01-6	50	270	200	1,080	---	---	---
Trichlorofluoromethane	75-69-4	---	---	---	---	1,000	5,600	---
Trichloromethane (see Chloroform)	---	---	---	---	---	---	---	---
Trichloronaphthalene	1321-65-9	---	5.0	---	---	---	---	X
1, 2, 3-Trichloropropane	96-18-4	10	60	---	---	---	---	X
1, 1, 2-Trichloro-1, 2, 2-trifluoroethane	76-13-1	1,000	7,600	1,250	9,500	---	---	---
Tricyclohexyltin hydroxide (see Cyhexatin)	---	---	---	---	---	---	---	---
Triethylamine	121-44-8	10	40	15	60	---	---	---
Trifluorobromomethane	75-63-8	1,000	6,100	---	---	---	---	---
Trimellitic anhydride	552-30-7	0.005	0.04	---	---	---	---	---
Trimethylamine	75-50-3	10	24	15	36	---	---	---
Trimethyl benzene	25551-13-7	25	125	---	---	---	---	---
Trimethyl phosphite	121-45-9	2.0	10	---	---	---	---	---
2, 4, 6-Trinitrophenol (see Picric acid)	---	---	---	---	---	---	---	---

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TABLE2-33TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2, 4, 6-Trinitrophenyl- methylamine (see Tetryl)	---	---	---	---	---	---	---	---
2, 4, 6-Trinitrotoluene (TNT)	118-96-7	---	0.5	---	---	---	---	X
Triorthocresyl phosphate	78-30-8	---	0.1	---	---	---	---	X
Triphenyl amine	603-34-9	---	5.0	---	---	---	---	---
Triphenyl phosphate	115-86-6	---	3.0	---	---	---	---	---
Tungsten (as W)	7440-33-7	---	---	---	---	---	---	---
Soluble compounds	---	---	1.0	---	3.0	---	---	---
Insoluble compounds	---	---	5.0	---	10	---	---	---
Turpentine	8006-64-2	100	560	---	---	---	---	---
Uranium (as U)	7440-61-1	---	---	---	---	---	---	---
Soluble compounds	---	---	0.05	---	---	---	---	---
Insoluble compounds	---	---	0.2	---	0.6	---	---	---
n-Valeraldehyde	110-62-3	50	175	---	---	---	---	---
Vanadium (as V ₂ O ₅) Respirable dust and fume	1314-62-1	---	0.05	---	---	---	---	---
Vegetable oil mist	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Vinyl acetate	108-05-1	10	30	20	60	---	---	---
Vinyl benzene (see Styrene)	---	---	---	---	---	---	---	---
Vinyl bromide	593-60-2	5.0	20	---	---	---	---	---
Vinyl chloride (see WAC 296-62-07329)	75-01-4	---	---	---	---	---	---	---
Vinyl cyanid (see Acrylonitrile)	---	---	---	---	---	---	---	---
Vinyl cyclohexene dioxide	106-87-6	10	60	---	---	---	---	X
Vinyl toluene	25013-15-4	50	240	---	---	---	---	---
Vinylidene chloride (1, 1-Dichloroethylene)	75-35-4	1.0	4.0	---	---	---	---	---

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TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
YM & P Naphtha	8032-32-4	300	1,350	400	1,800	---	---	---
Warfarin	81-81-2	---	0.1	---	---	---	---	---
Welding fumes ^{f/} (total particulate)	---	---	5.0	---	---	---	---	---
Wood dust:	---	---	---	---	---	---	---	---
Nonallergenic; All soft woods and hard woods except allergenics	---	---	5.0	---	10	---	---	---
Allergenics; (e.g. cedar, mahogany and teak)	---	---	2.5	---	---	---	---	---
Xylenes(Xylo1)	1330-20-7	100	435	150	655	---	---	---
(o-, m-, p-isomers)	---	---	---	---	---	---	0.1	X
m-Xylene alpha, alpha-diamine	1477-55-0	---	---	---	---	---	---	X
Xylidine	1300-73-8	2.0	10	---	---	---	---	---
Yttrium	7440-65-5	---	1.0	---	---	---	---	---
Zinc chloride fume	7646-85-7	---	1.0	---	2.0	---	---	---
Zinc chromate (as CrO ₃)	Varies w/compound	---	0.05	---	---	---	0.1	---
Zinc oxide	1314-13-2	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	10	---	---	---
Zinc oxide fume	1314-13-2	---	5.0	---	---	---	---	---
Zinc stearate	557-05-1	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	10	---	---	---
Zirconium compounds (as Zr)	7440-67-2	---	5.0	---	---	---	---	---

Notes: ^{a/} Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm. Hg. pressure (torr.).
^{b/} Approximate milligrams of substance per cubic meter of air.
^{c/} Duration is for 15 minutes, unless otherwise noted.
^{d/} The final benzene standard in WAC 296-62-0752J applies to all occupational exposures to benzene except some sub-segments of industry where exposures are consistently under the action level (i.e., distribution and sale of fuels, sealed containers and pipelines, coke production, oil and gas drilling and production, natural gas processing, and the percentage exclusion for liquid mixtures).

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TABLE2-35

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

- ^{e/} This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time-weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning, and willowing) and garretting. See also WAC 296-62-1453J for cotton dust limits applicable to other sectors.
- ^{f/} As determined from breathing-zone air samples.
- ^{g/} Total dust formula for Silica (as quartz) is: $\frac{30 \text{ mg/m}^3}{\% \text{ SiO}_2 + 3}$
- ^{h/} Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

containing less than 1% quartz if 1% quartz,
use quartz limit.

The measurements under this note refer to the use of an AEC (now HRC) instrument. The respirable fraction of coal dust is determined with an HRE the figure corresponding to that of 2.4 mg/m³ in the table for coal dust is 4.5 mg/m³.

- Notes: ^{1/} The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound measured as the metal, the CAS number for the metal is given -- not CAS numbers for the individual compounds.
- ^{2/} Compliance with the substitutins PEL is assessed by sampling with a high volume sampler (600-800 liters per minute) for at least 60 minutes.

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TABLE2-1TABLE 2
TRANSITIONAL LIMITS

The transitional limits listed are in effect until December 31, 1992. These limits require the use of engineering controls, where feasible, the additional protection to achieve the more protective limits listed in Table 1 may be achieved using protective control measures as set forth in WAC 296-62-07501(3).

Substance	PEL		Acceptable Ceiling Concentration	
	ppm	mg/m ³	ppm	mg/m ³
Carbon disulfide	10	---	15	---
Carbon monoxide	50	55	---	---
Carbon tetrachloride	5.0	---	20	---
Chloroform (Trichloromethane)	10	50	50	240
Coal dust-respirable (less than 5% SiO ₂)	---	2.4	---	---
Cobalt metal, dust and fume (as Co)	---	0.1	---	---
Ethylene dichloride	10	---	15	---
Ethylene glycol dinitrate	0.05	0.3	0.2	1.0
Nitrogen dioxide	---	---	5.0	9.0
Nitroglycerin	0.05	0.5	0.2	2.0
Perchloroethylene (Tetrachloroethylene)	50	---	200	---
Styrene	100	---	200	---

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-62-07540 FORMALDEHYDE. (1) Scope and application. This standard applies to all occupational exposures to formaldehyde, i.e., from formaldehyde gas, its solutions, and materials that release formaldehyde.

(2) Definitions. For purposes of this standard, the following definitions shall apply:

(a) "Action level" means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an 8-hour time-weighted average (TWA) concentration.

(b) "Approved" means approved by the director of the department of labor and industries or his authorized representative: PROVIDED, HOWEVER, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provision of WAC 296-24-006 shall apply.

(c) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(d) "Director" means the director of the department of labor and industries, or his designated representative.

(e) "Emergency" is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

(f) "Employee exposure" means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

(g) "Formaldehyde" means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(3) Permissible exposure limit (PEL).

(a) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds one part formaldehyde per million parts of air (1 ppm) as an 8-hour TWA.

(b) Short term exposure limit (STEL): The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a fifteen-minute STEL.

(4) Exposure monitoring.

(a) General.

(i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) Exceptions.

(A) The employer need not initiate exposure monitoring unless there is a formaldehyde hazard as defined in subsection (13) of this section or there are employee health complaints possibly associated with formaldehyde exposure.

(B) Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde unless there are employee health complaints possibly associated with formaldehyde exposure.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different workshifts.

(b) Initial monitoring. The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(c) Periodic monitoring.

(i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every six months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least once a year under worst conditions.

(d) Termination of monitoring. The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least seven days apart show that employee exposure is below the action level and the STEL. The results must be statistically representative and consistent with the employer's knowledge of the job and work operation.

(e) Accuracy of monitoring. Monitoring shall be accurate, at the ninety-five percent confidence level, to within plus or minus twenty-five percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus thirty-five percent for airborne concentrations of formaldehyde at the action level.

(f) Employee notification of monitoring results. Within fifteen days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(g) Observation of monitoring.

(i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(b) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(c) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering controls and work practices. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to formaldehyde at or below the TWA and the STEL.

(b) Exception. Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(7) Respiratory protection.

(a) General. Where respiratory protection is required, the employer shall provide the respirators at no cost to the employee and shall assure that they are properly used. The respirators shall comply with the requirements of this standard and shall reduce the concentration of formaldehyde inhaled by the employee to at or below both the TWA and the STEL. Respirators shall be used in the following circumstances:

(i) During the interval necessary to install or implement feasible engineering and work practice controls;

(ii) In work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the PELs; and

(iv) In emergencies.

(b) Respirator selection.

(i) The appropriate respirators as specified in Table 1 shall be selected from those approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(ii) The employer shall make available a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who experiences difficulty wearing a negative-pressure respirator to reduce exposure to formaldehyde.

(c) Respirator usage.

(i) Whenever respirator use is required by this standard, the employer shall institute a respiratory protection program in accordance with WAC 296-62-07109, 296-62-07111, 296-62-07115, and 296-62-07117.

(ii) The employer shall perform either quantitative or qualitative face fit tests in accordance with the procedures outlined in Appendix E at the time of initial fitting and at least annually thereafter for all employees required by this standard to wear negative-pressure respirators.

(A) Respirators selected shall be from those exhibiting the best facepiece fit.

(B) No respirator shall be chosen that would potentially permit the employee to inhale formaldehyde at concentrations in excess of either the TWA or the STEL.

TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 10 ppm	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde ² .
Up to 100 ppm	Full-face mask with chin style or chest or back mounted type industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 100 ppm or unknown (emergencies).....	Self-contained breathing apparatus (SCBA) with positive-pressure full facepiece. Combination supplied-air, full facepiece positive-pressure respirator with auxiliary self-contained air supply.
Firefighting	SCBA with positive-pressure in full facepiece.
Escape	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(iii) Where air purifying chemical cartridge respirators are used, the cartridges shall be replaced after three hours of use or at the end of the workshift, whichever is sooner unless the cartridge contains a NIOSH-approved end-of-service indicator to show when breakthrough occurs.

(iv) Unless the canister contains a NIOSH-approved end-of-service life indicator to show when breakthrough occurs, canisters used in atmospheres up to 10 ppm shall be replaced every four hours and industrial sized canisters used in atmospheres up to 100 ppm shall be replaced every two hours or at the end of the workshift, whichever is sooner.

(v) Employers shall permit employees to leave the work area to wash their faces and respirator facepieces as needed to prevent skin irritation from respirator use.

(8) Protective equipment and clothing. Employers shall comply with the provisions of WAC 296-24-07501 and 296-24-078. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(a) Selection. The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

(i) All contact of the eyes and skin with liquids containing one percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(b) Maintenance of protective equipment and clothing.

(i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(9) Hygiene protection.

(a) The employer shall provide change rooms, as described in WAC 296-24-120 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(b) If employees' skin may become splashed with solutions containing one percent or greater formaldehyde, for example because of equipment failure or improper work practices, the employer shall provide conveniently located quick drench showers and assure that affected employees use these facilities immediately.

(c) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eyewash facilities within the immediate work area for emergency use.

(10) Housekeeping. For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(a) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(b) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(c) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(d) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing

a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(11) Emergencies. For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(12) Medical surveillance.

(a) Employees covered.

(i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concentrations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and when formaldehyde is present in materials in concentrations less than 0.1 percent.

(b) Examination by a physician. All medical procedures, including administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(c) Medical disease questionnaire. The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in Appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(d) Medical examinations. Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV1), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the increased risk of impairment of their health.

(e) Examinations for employees exposed in an emergency. The employer shall make medical examinations available as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and Appendices A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(g) Physician's written opinion.

(i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within fifteen days of its receipt.

(13) Hazard communication.

(a) General. Notwithstanding any exemption granted in WAC 296-62-05403 (6)(c) for wood products, each employer who has a workplace covered by this standard shall comply with the requirements of WAC 296-62-05409 through 296-62-05419.

(i) For purposes of hazard communication, formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air under any normal condition of use at concentrations reaching or exceeding 0.1 ppm shall be considered a health hazard.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(b) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs if these items may constitute a health hazard within the meaning of WAC 296-62-05407 under normal conditions of use.

(c) Labels.

(i) The employer shall assure that hazard warning labels complying with the requirements of WAC 296-62-05411 are affixed to all containers where the presence of formaldehyde constitutes a health hazard.

(ii) Information on labels. As a minimum, labels shall identify the hazardous chemical; list the name and address of the responsible party; contain the information "potential cancer hazard"; and appropriately warn of all other hazards as defined in Part C (WAC 296-62-054 through 296-62-05425), Appendices A and B.

(iii) Substitute warning labels. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this subitem.

(d) Material safety data sheets.

(i) Any employer who uses formaldehyde-containing materials that constitute a health hazard as defined in this standard shall comply with the requirements of WAC 296-62-05413 with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde containing materials that constitute a health hazard as defined in this standard shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(14) Employee information and training.

(a) Employee training. Written materials for employee training shall be updated as soon as possible, but no later than two months after the effective date of the standard.

(b) Participation. The employer shall assure that all employees who are assigned to workplaces where there is a health hazard from formaldehyde participate in a training program.

(c) Frequency.

(i) Employers shall provide employees with information and training on formaldehyde at the time of their initial assignment and whenever a new hazard from formaldehyde is introduced into their work area.

(ii) Employers shall provide such information and training at least annually for all employees exposed to formaldehyde concentrations at or above the action level or the STEL.

(d) Training program. The training program shall be conducted in a manner which the employee is able to understand and shall include:

(i) A discussion of the contents of this regulation and the contents of the material safety data sheet;

(ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing and equipment;

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls; and

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency.

(e) Access to training materials.

(i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the director of labor and industries, or his designated representative.

(15) Recordkeeping.

(a) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

(i) The date of measurement;

(ii) The operation being monitored;

(iii) The methods of sampling and analysis and evidence of their accuracy and precision;

(iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, Social Security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(b) Exposure determinations. Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(c) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

(i) The name and Social Security number of the employee;

(ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(d) Respirator fit testing.

(i) The employer shall establish and maintain accurate records for employees subject to negative-pressure respirator fit testing required by this standard.

(ii) This record shall include:

- (A) A copy of the protocol selected for respirator fit testing;
- (B) A copy of the results of any fit testing performed;
- (C) The size and manufacturer of the types of respirators available for selection; and

(D) The date of the most recent fit testing, the name and Social Security number of each tested employee, and the respirator type and facepiece selected.

(e) Record retention. The employer shall retain records required by this standard for at least the following periods:

(i) Exposure records and determinations shall be kept for at least thirty years;

(ii) Medical records shall be kept for the duration of employment plus thirty years; and

(iii) Respirator fit testing records shall be kept until replaced by a more recent record.

(f) Availability of records.

(i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the director of labor and industries, or his designated representative.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination and copying, to the subject employee, or former employee, and employee representatives in accordance with WAC 296-62-052 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying, to the subject employee, or former employee, or to anyone having the specific written consent of the subject employee or former employee in accordance with WAC 296-62-05201 through 296-62-05209, and 296-62-05213 through 296-62-05217.

(16) Effective dates.

(a) Laboratories. This standard shall become effective for anatomy, histology, and pathology laboratories thirty days after the adoption date, except as noted in (b) of this subsection. For all laboratories other than anatomy, histology, and pathology, subsections (2) and (4) through (15) of this section shall become effective on September 1, 1988, except as noted in (b) of this subsection.

(b) Engineering and work practice controls. Engineering and work practice controls required by this standard shall be implemented as soon as possible, but no later than February 2, 1989.

(c) Employee training. Written materials for employee training shall be updated as soon as possible, but no later than two months after the effective date of the standard.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-62-07544 APPENDIX B—SAMPLING STRATEGY AND ANALYTICAL METHODS FOR FORMALDEHYDE.

(1) To protect the health of employees, exposure measurements must be unbiased and representative of employee exposure. The proper measurement of employee exposure requires more than a token commitment on the part of the employer. WISHA's mandatory requirements establish a baseline; under the best of circumstances all questions regarding employee exposure will be answered. Many employers, however, will wish to conduct more extensive monitoring before undertaking expensive commitments, such as engineering controls, to assure that the modifications are truly necessary. The following sampling strategy, which was developed at NIOSH by Nelson A. Leidel, Kenneth A. Busch, and Jeremiah R. Lynch and described in NIOSH publication No. 77-173 (Occupational Exposure Sampling Strategy Manual) will assist the employer in developing a strategy for determining the exposure of his or her employees.

(2) There is no one correct way to determine employee exposure. Obviously, measuring the exposure of every employee exposed to formaldehyde will provide the most information on any given day. Where few employees are exposed, this may be a practical solution. For most employers, however, use of the following strategy will give just as much information at less cost.

(3) Exposure data collected on a single day will not automatically guarantee the employer that his or her workplace is always in compliance with the formaldehyde standard. This does not imply, however, that it is impossible for an employer to be sure that his or her worksite is in compliance with the standard. Indeed, a properly designed sampling strategy showing that all employees are exposed below the PELs, at least with a ninety-five percent certainty, is compelling evidence

that the exposure limits are being achieved provided that measurements are conducted using valid sampling strategy and approved analytical methods.

(4) There are two PELs, the TWA concentration and the STEL.

(a) Most employers will find that one of these two limits is more critical in the control of their operations, and WISHA expects that the employer will concentrate monitoring efforts on the critical component.

(b) If the more difficult exposure is controlled, this information, along with calculations to support the assumptions, should be adequate to show that the other exposure limit is also being achieved.

(5) Sampling strategy.

(a) Determination of the need for exposure measurements.

(b) The employer must determine whether employees may be exposed to concentrations in excess of the action level. This determination becomes the first step in an employee exposure monitoring program that minimizes employer sampling burdens while providing adequate employee protection.

(c) If employees may be exposed above the action level, the employer must measure exposure. Otherwise, an objective determination that employee exposure is low provides adequate evidence that exposure potential has been examined.

(d) The employer should examine all available relevant information, e.g., insurance company and trade association data and information from suppliers or exposure data collected from similar operations.

(e) The employer may also use previously-conducted sampling including area monitoring. The employer must make a determination relevant to each operation although this need not be on a separate piece of paper.

(f) If the employer can demonstrate conclusively that no employee is exposed above the action level or the STEL through the use of objective data, the employer need proceed no further on employee exposure monitoring until such time that conditions have changed and the determination is no longer valid.

(g) If the employer cannot determine that employee exposure is less than the action level and the STEL, employee exposure monitoring will have to be conducted.

(6) Workplace material survey.

(a) The primary purpose of a survey of raw material is to determine if formaldehyde is being used in the work environment and if so, the conditions under which formaldehyde is being used.

(b) The first step is to tabulate all situations where formaldehyde is used in a manner such that it may be released into the workplace atmosphere or contaminate the skin. This information should be available through analysis of company records and information on the MSDSs available through provisions of this standard and the hazard communication standard.

(c) If there is an indication from materials handling records and accompanying MSDSs that formaldehyde is being used in the following types of processes or work operations, there may be a potential for releasing formaldehyde into the workplace atmosphere:

(i) Any operation that involves grinding, sanding, sawing, cutting, crushing, screening, sieving, or any other manipulation of material that generates formaldehyde-bearing dust.

(ii) Any processes where there have been employee complaints or symptoms indicative of exposure to formaldehyde.

(iii) Any liquid or spray process involving formaldehyde.

(iv) Any process that uses formaldehyde in preserved tissue.

(v) Any process that involves the heating of a formaldehyde-bearing resin.

Processes and work operations that use formaldehyde in these manners will probably require further investigation at the worksite to determine the extent of employee monitoring that should be conducted.

(7) Workplace observations.

(a) To this point, the only intention has been to provide an indication as to the existence of potentially exposed employees. With this information, a visit to the workplace is needed to observe work operations, to identify potential health hazards, and to determine whether any employees may be exposed to hazardous concentrations of formaldehyde.

(b) In many circumstances, sources of formaldehyde can be identified through the sense of smell. However, this method of detection should be used with caution because of olfactory fatigue.

(c) Employee location in relation to source of formaldehyde is important in determining if an employee may be significantly exposed to formaldehyde. In most instances, the closer a worker is to the source, the higher the probability that a significant exposure will occur.

(d) Other characteristics should be considered. Certain high temperature operations give rise to higher evaporation rates. Locations of open doors and windows provide natural ventilation that tend to dilute formaldehyde emissions. General room ventilation also provides a measure of control.

(8) Calculation of potential exposure concentrations.

(a) By knowing the ventilation rate in a workplace and the quantity of formaldehyde generated, the employer may be able to determine by calculation if the PELs might be exceeded.

(b) To account for poor mixing of formaldehyde into the entire room, locations of fans and proximity of employees to the work operation, the employer must include a safety factor.

(c) If an employee is relatively close to a source, particularly if he or she is located downwind, a safety factor of one hundred may be necessary.

(d) For other situations, a factor of ten may be acceptable. If the employer can demonstrate through such calculations that employee exposure does not exceed the action level or the STEL, the employer may use this information as objective data to demonstrate compliance with the standard.

(9) Sampling strategy.

(a) Once the employer determines that there is a possibility of substantial employee exposure to formaldehyde, the employer is obligated to measure employee exposure.

(b) The next step is selection of a maximum risk employee. When there are different processes where employees may be exposed to formaldehyde, a maximum risk employee should be selected for each work operation.

(c) Selection of the maximum risk employee requires professional judgment. The best procedure for selecting the maximum risk employee is to observe employees and select the person closest to the source of formaldehyde. Employee mobility may affect this selection; e.g., if the closest employee is mobile in his tasks, he may not be the maximum risk employee. Air movement patterns and differences in work habits will also affect selection of the maximum risk employee.

(d) When many employees perform essentially the same task, a maximum risk employee cannot be selected. In this circumstance, it is necessary to resort to random sampling of the group of workers. The objective is to select a subgroup of adequate size so that there is a high probability that the random sample will contain at least one worker with high exposure if one exists. The number of persons in the group influences the number that need to be sampled to ensure that at least one individual from the highest ten percent exposure group is contained in the sample. For example, to have ninety percent confidence in the results, if the group size is ten, nine should be sampled; for fifty, only eighteen need to be sampled.

(e) If measurement shows exposure to formaldehyde at or above the action level or the STEL, the employer needs to identify all other employees who may be exposed at or above the action level or STEL and measure or otherwise accurately characterize the exposure of these employees.

(f) Whether representative monitoring or random sampling are conducted, the purpose remains the same to determine if the exposure of any employee is above the action level. If the exposure of the most exposed employee is less than the action level and the STEL, regardless of how the employee is identified, then it is reasonable to assume that measurements of exposure of the other employees in that operation would be below the action level and the STEL.

(10) Exposure measurements.

(a) There is no "best" measurement strategy for all situations. Some elements to consider in developing a strategy are:

- (i) Availability and cost of sampling equipment;
- (ii) Availability and cost of analytic facilities;
- (iii) Availability and cost of personnel to take samples;
- (iv) Location of employees and work operations;
- (v) Intraday and interday variations in the process;
- (vi) Precision and accuracy of sampling and analytic methods; and
- (vii) Number of samples needed.

(b) Samples taken for determining compliance with the STEL differ from those that measure the TWA concentration in important ways. STEL samples are best taken in a nonrandom fashion using all available knowledge relating to the area, the individual, and the process to obtain samples during periods of maximum expected concentrations. At least three measurements on a shift are generally needed to spot gross errors or mistakes; however, only the highest value represents the STEL.

(c) If an operation remains constant throughout the workshift, a much greater number of samples would need to be taken over the thirty-two discrete nonoverlapping periods in an 8-hour workshift to verify compliance with a STEL. If employee exposure is truly uniform throughout the workshift, however, an employer in compliance with the 1 ppm TWA would be in compliance with the 2 ppm STEL, and this determination can probably be made using objective data.

(11) Need to repeat the monitoring strategy.

(a) Interday and intraday fluctuations in employee exposure are mostly influenced by the physical processes that generate formaldehyde and the work habits of the employee. Hence, in-plant process variations influence the employer's determination of whether or not additional controls need to be imposed. Measurements that employee exposure is low on a day that is not representative of worst conditions may not provide sufficient information to determine whether or not additional engineering controls should be installed to achieve the PELs.

(b) The person responsible for conducting sampling must be aware of systematic changes which will negate the validity of the sampling results. Systematic changes in formaldehyde exposure concentration for an employee can occur due to:

- (i) The employee changing patterns of movement in the workplace;
- (ii) Closing of plant doors and windows;
- (iii) Changes in ventilation from season to season;
- (iv) Decreases in ventilation efficiency or abrupt failure of engineering control equipment; and
- (v) Changes in the production process or work habits of the employee.

(c) Any of these changes, if they may result in additional exposure that reaches the next level of action (i.e., 0.5 or 1.0 ppm as an 8-hour average or 2 ppm over fifteen minutes) require the employer to perform additional monitoring to reassess employee exposure.

(d) A number of methods are suitable for measuring employee exposure to formaldehyde or for characterizing emissions within the worksite. The preamble to this standard describes some methods that have been widely used or subjected to validation testing. A detailed analytical procedure derived from the WISHA Method A.C.R.O. for acrolein and formaldehyde is presented below for informational purposes.

(e) Inclusion of WISHA's method in this appendix in no way implies that it is the only acceptable way to measure employee exposure to formaldehyde. Other methods that are free from significant interferences and that can determine formaldehyde at the permissible exposure limits within ± 25 percent of the "true" value at the ninety-five percent confidence level are also acceptable. Where applicable, the method should also be capable of measuring formaldehyde at the action level to ± 35 percent of the "true" value with a ninety-five percent confidence level. WISHA encourages employers to choose methods that will be best for their individual needs. The employer must exercise caution, however, in choosing an appropriate method since some techniques suffer from interferences that are likely to be present in workplaces of certain industry sectors where formaldehyde is used.

(12) WISHA's analytical laboratory method.

A.C.R.O. (also use methods F.O.R.M. and F.O.R.M. 2 when applicable).

(a) Matrix: Air.

((+)) (b) Target concentration: 1 ppm (1.2 mg/m³).

((+)) (c) Procedures: Air samples are collected by drawing known volumes of air through sampling tubes containing XAD-2 adsorbent which have been coated with 2-(hydroxymethyl) piperidine. The samples are desorbed with toluene and then analyzed by gas chromatography using a nitrogen selective detector.

((+)) (d) Recommended sampling rate and air volumes: 0.1 L/min and 24 L.

((+)) (e) Reliable quantitation limit: 16 ppb (20 ug/m³).

((+)) (f) Standard error of estimate at the target concentration: 7.3%.

((+)) (g) Status of the method: A sampling and analytical method that has been subjected to the established evaluation procedures of the organic methods evaluation branch.

((+)) (h) Date: March, 1985.

((+)) (i) General discussion.

((+)) (a) Background: The current WISHA method for collecting acrolein vapor recommends the use of activated 13X molecular sieves. The samples must be stored in an ice bath during and after sampling and also they must be analyzed within forty-eight hours of collection.

The current WISHA method for collecting formaldehyde vapor recommends the use of bubblers containing ten percent methanol in water as the trapping solution.

(b) This work was undertaken to resolve the sample stability problems associated with acrolein and also to eliminate the need to use bubblers to sample formaldehyde. A goal of this work was to develop and/or to evaluate a common sampling and analytical procedure for acrolein and formaldehyde.

(c) NIOSH has developed independent methodologies for acrolein and formaldehyde which recommend the use of reagent-coated adsorbent tubes to collect the aldehydes as stable derivatives. The formaldehyde sampling tubes contain Chromosorb 102 adsorbent coated with N-benzylethanolamine (BEA) which reacts with formaldehyde vapor to form a stable oxazolidine compound. The acrolein sampling tubes contain XAD-2 adsorbent coated with 2-(hydroxymethyl) piperidine (2-HMP) which reacts with acrolein vapor to form a different, stable oxazolidine derivative. Acrolein does not appear to react with BEA to give a suitable reaction product. Therefore, the formaldehyde procedure cannot provide a common method for both aldehydes. However, formaldehyde does react with 2-HMP to form a very suitable reaction product. It is the quantitative reaction of acrolein and formaldehyde with 2-HMP that provides the basis for this evaluation.

(d) This sampling and analytical procedure is very similar to the method recommended by NIOSH for acrolein. Some changes in the NIOSH methodology were necessary to permit the simultaneous determination of both aldehydes and also to accommodate WISHA laboratory equipment and analytical techniques.

((††)) (14) Limit-defining parameters: The analyte air concentrations reported in this method are based on the recommended air volume for each analyte collected separately and a desorption volume of 1 mL. The amounts are presented as acrolein and/or formaldehyde, even though the derivatives are the actual species analyzed.

((††)) (15) Detection limits of the analytical procedure: The detection limit of the analytical procedure was 386 pg per injection for formaldehyde. This was the amount of analyte which gave a peak whose height was about five times the height of the peak given by the residual formaldehyde derivative in a typical blank front section of the recommended sampling tube.

((††)) (16) Detection limits of the overall procedure: The detection limits of the overall procedure were 482 ng per sample (16 ppb or 20 ug/m³ for formaldehyde). This was the amount of analyte spiked on the sampling device which allowed recoveries approximately equal to the detection limit of the analytical procedure.

((††)) (17) Reliable quantitation limits:

(a) The reliable quantitation limit was 482 ng per sample (16 ppb or 20 ug/m³) for formaldehyde. These were the smallest amounts of analyte which could be quantitated within the limits of a recovery of at least seventy-five percent and a precision (± 1.96 SD) of $\pm 25\%$ or better.

(b) The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operating parameters.

((††)) (18) Sensitivity: The sensitivity of the analytical procedure over concentration ranges representing 0.4 to 2 times the target concentration, based on the recommended air volumes, was seven thousand five hundred eighty-nine area units per ug/mL for formaldehyde. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

((††)) (19) Recovery: The recovery of formaldehyde from samples used in an eighteen-day storage test remained above ninety-two percent when the samples were stored at ambient temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least seventy-five percent following storage.

((††)) (20) Precision (analytical method only): The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.4 to 2 times the target concentration was 0.0052 for formaldehyde ((d)(C)(iii) of this subsection).

((††)) (21) Precision (overall procedure): The precision at the ninety-five percent confidence level for the ambient temperature storage tests was $\pm 14.3\%$ for formaldehyde. These values each include an additional $\pm 5\%$ for sampling error. The overall procedure must provide

results at the target concentrations that are $\pm 25\%$ at the ninety-five percent confidence level.

((††)) (22) Reproducibility: Samples collected from controlled test atmospheres and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The formaldehyde samples were analyzed following fifteen days storage. The average recovery was 96.3% and the standard deviation was 1.7%.

((††)) (23) Advantages:

((††)) (a) The sampling and analytical procedures permit the simultaneous determination of acrolein and formaldehyde.

((††)) (b) Samples are stable following storage at ambient temperature for at least eighteen days.

((††)) (24) Disadvantages: None.

((††)) (25) Sampling procedure.

((††)) (a) Apparatus:

((††)) (i) Samples are collected by use of a personal sampling pump that can be calibrated to within $\pm 5\%$ of the recommended 0.1 L/min sampling rate with the sampling tube in line.

((††)) (ii) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane treated glass and is about 8-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with a 75-mg backup section, located nearest the tapered end and a 150-mg sampling section of pretreated XAD-2 adsorbent which has been coated with 2-HMP. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic and caps. Instructions for the pretreatment and the coating of XAD-2 adsorbent are presented in (d) of this subsection.

((††)) (b) Sampling tubes, similar to those recommended in this method, are marketed by Supelco, Inc. These tubes were not available when this work was initiated; therefore, they were not evaluated.

((††)) (25) Reagents: None required.

((††)) (26) Technique:

((††)) (a) Properly label the sampling tube before sampling and then remove the plastic end caps.

((††)) (b) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the large, front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

((††)) (c) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps.

((††)) (d) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

((††)) (e) List any potential interferences on the sample data sheet.

((††)) (27) Breakthrough:

((††)) (a) Breakthrough was defined as the relative amount of analyte found on a backup sample in relation to the total amount of analyte collected on the sampling train.

((††)) (b) For formaldehyde collected from test atmospheres containing six times the PEL, the average five percent breakthrough air volume was 41 L. The sampling rate was 0.1 L/min and the average mass of formaldehyde collected was 250 ug.

((††)) (28) Desorption efficiency: No desorption efficiency corrections are necessary to compute air sample results because analytical standards are prepared using coated adsorbent. Desorption efficiencies were determined, however, to investigate the recoveries of the analytes from the sampling device. The average recovery over the range of 0.4 to 2 times the target concentration, based on the recommended air volumes, was 96.2% for formaldehyde. Desorption efficiencies were essentially constant over the ranges studied.

((††)) (29) Recommended air volume and sampling rate:

((††)) (a) The recommended air volume for formaldehyde is 24 L.

((††)) (b) The recommended sampling rate is 0.1 L/min.

((††)) (30) Interferences:

((††)) (a) Any collected substance that is capable of reacting with 2-HMP and thereby depleting the derivatizing agent is a potential interference. Chemicals which contain a carbonyl group, such as acetone, may be capable of reacting with 2-HMP.

(b) There are no other known interferences to the sampling method.

((viii)) (31) Safety precautions:
 ((A)) (a) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.
 ((B)) (b) Follow all safety practices that apply to the work area being sampled.
 ((C)) (32) Analytical procedure.
 ((D)) (a) Apparatus:
 ((A)) (i) A gas chromatograph (GC), equipped with a nitrogen selective detector. A Hewlett-Packard model 5840A GC fitted with a nitrogen phosphorus flame ionization detector (NPD) was used for this evaluation. Injections were performed using a Hewlett-Packard model 7671A automatic sampler.
 ((B)) (ii) A GC column capable of resolving the analytes from any interference. A 6 ft x 1/4 in OD (2mm ID) glass GC column containing 10% UCON 50-HB-5100 + 2% KOH on 80/100 mesh Chromosorb W-AW was used for the evaluation. Injections were performed on-column.
 ((C)) (iii) Vials, glass 2-mL with Teflon-lined caps.
 ((D)) (iv) Volumetric flasks, pipets, and syringes for preparing standards, making dilutions, and performing injections.
 ((E)) (b) Reagents:
 ((A)) (i) Toluene and dimethylformamide. Burdick and Jackson solvents were used in this evaluation.
 ((B)) (ii) Helium, hydrogen, and air, GC grade.
 ((C)) (iii) Formaldehyde, thirty-seven percent by weight, in water. Aldrich Chemical, ACS Reagent Grade formaldehyde was used in this evaluation.
 ((D) Amberlite) (iv) Amberlite XAD-2 adsorbent coated with 2-(hydroxymethyl) piperidine (2-HMP), 10% by weight ((d) of this subsection).
 ((E)) (v) Desorbing solution with internal standard. This solution was prepared by adding 20 uL of dimethylformamide to 100 mL of toluene.
 ((F)) (c) Standard preparation:
 ((A)) (i) Formaldehyde: Prepare stock standards by diluting known volumes of thirty-seven percent formaldehyde solution with methanol. A procedure to determine the formaldehyde content of these standards is presented in (d) of this subsection. A standard containing 7.7 mg/mL formaldehyde was prepared by diluting 1 mL of the thirty-seven percent reagent to 50 mL with methanol.
 ((B)) (ii) It is recommended that analytical standards be prepared about sixteen hours before the air samples are to be analyzed in order to ensure the complete reaction of the analytes with 2-HMP. However, rate studies have shown the reaction to be greater than ninety-five percent complete after four hours. Therefore, one or two standards can be analyzed after this reduced time if sample results are outside the concentration range of the prepared standards.
 ((C)) (iii) Place 150-mg portions of coated XAD-2 adsorbent, from the same lot number as used to collect the air samples, into each of several glass 2-mL vials. Seal each vial with a Teflon-lined cap.
 ((D)) (iv) Prepare fresh analytical standards each day by injecting appropriate amounts of the diluted analyte directly onto 150-mg portions of coated adsorbent. It is permissible to inject both acrolein and formaldehyde on the same adsorbent portion. Allow the standards to stand at room temperature. A standard, approximately the target levels, was prepared by injecting 11 uL of the acrolein and 12 uL of the formaldehyde stock standards onto a single coated XAD-2 adsorbent portion.
 ((E)) (v) Prepare a sufficient number of standards to generate the calibration curves. Analytical standard concentrations should bracket sample concentrations. Thus, if samples are not in the concentration range of the prepared standards, additional standards must be prepared to determine detector response.
 ((F)) (vi) Desorb the standards in the same manner as the samples following the sixteen-hour reaction time.
 ((G)) (d) Sample preparation:
 ((A)) (i) Transfer the 150-mg section of the sampling tube to a 2-mL vial. Place the 75-mg section in a separate vial. If the glass wool plugs contain a significant number of adsorbent beads, place them with the appropriate sampling tube section. Discard the glass wool plugs if they do not contain a significant number of adsorbent beads.
 ((B)) (ii) Add 1 mL of desorbing solution to each vial.
 ((C)) (iii) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand with vigorous force several times during the desorption time.
 ((D)) (iv) Save the used sampling tubes to be cleaned and recycled.

((v)) (e) Analysis:
 ((A)) (i) GC conditions.
 Column temperature:
 Bi-level temperature program.
 First level: 100°C to 140°C at 4°C/min following completion of the first level.
 Second level: 140°C to 180°C at 20°C/min following completion of the first level.
 (b) Isothermal period: Hold column at 180°C until the recorder pen returns to baseline (usually about twenty-five minutes after injection).
 Injector temperature: 180°C.
 (g) Helium flow rate: 30 mL/min (detector response will be reduced if nitrogen is substituted for helium carrier gas).
 (h) Injection volume: 51 0.8 uL.
 GC column: Six-ft x 1/4-in OD (2 mm ID) glass GC column containing 10% UCON 50-HB-5100N2G651+512% KOH on 80/100 Chromosorb W-AW.
 (i) NPD conditions:
 Hydrogen flow rate: 3 mL/min.
 Air flow rate: 50 mL/min.
 Detector temperature: 275 5151C.
 ((B)) (A) Use a suitable method, such as electronic integration, to measure detector response.
 ((C)) (B) Use an internal standard method to prepare the calibration curve with several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report results in ug/mL.
 ((D)) (C) Bracket sample concentrations with standards.
 ((E)) (j) Interferences (analytical).
 (A) Any compound with the same general retention time as the analytes and which also gives a detector response is a potential interference. Possible interferences should be reported to the laboratory with submitted samples by the industrial hygienist.
 (B) GC parameters (temperature, column, etc.), may be changed to circumvent interferences.
 (C) A useful means of structure designation is GC/MS. It is recommended this procedure be used to confirm samples whenever possible.
 (D) The coated adsorbent usually contains a very small amount of residual formaldehyde derivative.
 ((F)) (k) Calculations:
 (A) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.
 (B) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If either of the analytes is found on the backup section, it is added to the amount found on the front section. Blank corrections should be performed before adding the results together.
 (C) The acrolein and/or formaldehyde air concentration can be expressed using the following equation:

$$\text{Mg/m}^3 = (A)(B)/C$$
 where A=ug/mL from 3.7.2, B=desorption volume, and C=L of air sampled.
 No desorption efficiency corrections are required.
 (D) The following equation can be used to convert results in mg/m³ to ppm.

$$\text{ppm} = (\text{mg/m}^3)(24.45)/\text{MW}$$
 where mg/m³=result from 3.7.3, 24.45=molar volume of an ideal gas at 760 mm Hg and 25 5151C, MW=molecular weight (Formaldehyde=30.0).
 ((G)) (l) Backup data. ((F)) Backup data on detection limits, reliable quantitation limits, sensitivity and precision of the analytical method, breakthrough, desorption efficiency, storage, reproducibility, and generation of test atmospheres are available in OSHA Method 52, developed by the Organics Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah.
 ((H)) (m) Procedure to coat XAD-2 adsorbent with 2-HMP:
 ((A)) (i) Apparatus: Soxhlet extraction apparatus, rotary evaporation apparatus, vacuum dessicator, 1-L vacuum flask, 1-L round-bottomed evaporative flask, 1-L Erlenmeyer flask, 250-mL Buchner funnel with a coarse fritted disc, etc.
 ((B)) (ii) Reagents:
 ((C)) (A) Methanol, isooctane, and toluene.
 ((D)) (B) (Hydroxymethyl) piperidine.

~~((H))~~ (C) Amberlite XAD-2 nonionic polymeric adsorbent, twenty to sixty mesh, Aldrich Chemical XAD-2 was used in this evaluation.

~~((C))~~ (n) Procedure: Weigh 125 g of crude XAD-2 adsorbent into a 1-L Erlenmeyer flask. Add about 200 mL of water to the flask and then swirl the mixture to wash the adsorbent. Discard any adsorbent that floats to the top of the water and then filter the mixture using a fritted Buchner funnel. Air dry the adsorbent for two minutes. Transfer the adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent to a 1-L round-bottomed evaporative flask, add 13 g of 2-HMP and then 200 mL of methanol, swirl the mixture and then allow it to stand for one hour. Remove the methanol at about 40°C and reduced pressure using a rotary evaporation apparatus. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator at room temperature overnight. Transfer the coated adsorbent to a Soxhlet extractor and then extract the material with toluene for about twenty-four hours. Discard the contaminated toluene, add methanol in its place and then continue the Soxhlet extraction for an additional four hours. Transfer the adsorbent to a weighted 1-L round-bottom evaporative flask and remove the methanol using the rotary evaporation apparatus. Determine the weight of the adsorbent and then add an amount of 2-HMP, which is ten percent by weight of the adsorbent. Add 200 mL of methanol and then swirl the mixture. Allow the mixture to stand for one hour. Remove the methanol by rotary evaporation. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator until all traces of solvents are gone. Typically, this will take two to three days. The coated adsorbent should be protected from contamination. XAD-2 adsorbent treated in this manner will probably not contain residual acrolein derivative. However, this adsorbent will often contain residual formaldehyde derivative levels of about 0.1 ug per 150 mg of adsorbent. If the blank values for a batch of coated adsorbent are too high, then the batch should be returned to the Soxhlet extractor, extracted with toluene again and then recoated. This process can be repeated until the desired blank levels are attained.

The coated adsorbent is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number. A sufficient amount of each lot number of coated adsorbent should be retained to prepare analytical standards for use with air samples from that lot number.

~~((H))~~ (o) A procedure to determine formaldehyde by acid titration:

(i) Standardize the 0.1 N HCl solution using sodium carbonate and methyl orange indicator.

(ii) Place 50 mL of 0.1 M sodium sulfite and three drops of thymolphthalein indicator into a 250-mL Erlenmeyer flask. Titrate the contents of the flask to a colorless endpoint with 0.1 N HCl (usually one or two drops is sufficient). Transfer 10 mL of the formaldehyde/methanol solution ((b)(iii)(A) of this subsection) into the same flask and titrate the mixture with 0.1 N HCl, again, to a colorless endpoint. The formaldehyde concentration of the standard may be calculated by the following equation:

$$\text{Formaldehyde, mg/mL} = \frac{\text{acid titer} \times \text{acid normality} \times 30.0}{\text{mL of Sample}}$$

(iii) This method is based on the quantitative liberation of sodium hydroxide when formaldehyde reacts with sodium sulfite to form the formaldehyde-bisulfite addition product. The volume of sample may be varied depending on the formaldehyde content but the solution to be titrated must contain excess sodium sulfite. Formaldehyde solutions containing substantial amounts of acid or base must be neutralized before analysis.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-09007 PRESSURE. (1) ~~((Workmen))~~ Employees exposed to pressures above normal atmospheric pressure which may produce physiological injury shall adhere to decompression schedules or other tables as are or may be adopted by the department of labor and industries: for example, state of Washington "safety standards for compressed air work" and "safety regulations for scuba diving." The

employer shall provide and supervise the use of decompression equipment and schedules in accordance with applicable requirements.

(2) If no specific requirements prevail for an unusual condition, a plan based on the recommendations of professionally qualified advisors, experienced with hazards associated with such exposures, shall be followed by both the employer and employee.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-11011 DESIGN AND OPERATION. Ventilation systems shall be designed and operated in such a manner that ~~((workmen))~~ employees will not be subjected to excessive air velocities.

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-14503 PERSONNEL REQUIREMENTS FOR ENTRY INTO CONFINED SPACES. ~~((Workmen))~~ Employees required to enter confined spaces shall be protected from the hazards which may result from the entry.

(1) Management shall be responsible for procedures, training, and planning for entry into confined spaces which present a problem due to toxicity, flammability, oxygen deficiency or excess, mechanical, electrical, corrosive or temperature hazard.

(2) Management shall develop, distribute and enforce a written procedure which shall include planning, general precautions, procedures, evaluation of hazards, ventilation requirements, personal protection, isolation and responsibilities.

(3) For each project or job, individuals who are competent in the evaluation of hazards, precautions, first aid and artificial respiration shall specifically be assigned. All personnel shall be trained in the use of personal protective equipment required for the job assignment.

(4) Management shall instruct all involved employees in the safe procedures to be followed.

AMENDATORY SECTION (Amending Order 90-14, filed 10/1/90, effective 11/15/90)

WAC 296-62-3050 MEDICAL SURVEILLANCE. (1) General. Employers engaged in operations specified in WAC 296-62-300 (1)(a) through (d) and not covered by WAC 296-62-300(2), exceptions; and employers of employees specified in WAC 296-62-3112(9) shall institute a medical surveillance program in accordance with this subsection.

(2) Employees covered. The medical surveillance program shall be instituted by the employer for the following employees:

(a) All employees who are or may be exposed to hazardous substances or health hazards at or above the permissible exposure limits or, if there is no permissible exposure limit, above the published exposure levels for these substances, without regard to the use of respirators, for 30 days or more a year;

(b) All employees who wear a respirator for 30 days or more a year or as required by WAC 296-62-071; and

(c) All employees who are injured, become ill or develop signs or symptoms due to possible overexposure involving hazardous substances or health hazards from an emergency response or hazardous waste operation; and

(d) Members of HAZMAT teams.

(3) Frequency of medical examinations and consultations. Medical examinations and consultations shall be made available by the employer to each employee covered under subsection (1) of this section on the following schedules:

(a) For employees covered under WAC ~~((296-62-3150))~~ 296-62-3050 (2)(a), (b), and (d):

(i) Prior to assignment;

(ii) At least once every twelve months for each employee covered unless the attending physician believes a longer interval (not greater than biennially) is appropriate;

(iii) At termination of employment or reassignment to an area where the employee would not be covered if the employee has not had an examination within the last six months;

(iv) As soon as possible upon notification by an employee that the employee has developed signs or symptoms indicating possible overexposure to hazardous substances or health hazards, or that the employee has been injured or exposed above the permissible exposure limits, or published exposure levels in an emergency situation;

(v) At more frequent times, if the examining physician determines that an increased frequency of examination is medically necessary.

(b) For employees covered under subsection ~~((H))~~ (2)(c) of this section and for all employees including those employees covered by

WAC 296-62-300 (1)(e) who may have been injured, received a health impairment, developed signs or symptoms which may have resulted from exposure to hazardous substances resulting from an emergency incident, or exposed during an emergency incident to hazardous substances at concentrations above the permissible exposure limits or the published exposure levels without the necessary personal protective equipment being used:

(i) As soon as possible following the emergency incident or development of signs or symptoms;

(ii) At additional times, if the examining physician determines that follow-up examinations or consultations are medically necessary.

(4) Content of medical examinations and consultations.

(a) Medical examinations required by subsection (3) of this section shall include a medical and work history (or updated history if one is in the employee's file) with special emphasis on symptoms related to the handling of hazardous substances and health hazards, and to fitness for duty including the ability to wear any required PPE under conditions (i.e., temperature extremes) that may be expected at the worksite.

(b) The content of medical examinations or consultations made available to employees pursuant to this section shall be determined by the examining physician. The guidelines in the Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (See Appendix D, Reference #10) should be consulted.

(5) Examination by a physician and costs. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, preferably one knowledgeable in occupational medicine, and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(6) Information provided to the physician. The employer shall provide one copy of this standard and its appendices to the examining physician, and in addition, the following for each employee:

(a) A description of the employee's duties as they relate to the employee's exposures;

(b) The employee's exposure levels or anticipated exposure levels;

(c) A description of any personal protective equipment used or to be used;

(d) Information from previous medical examinations of the employee which is not readily available to the examining physician; and

(e) Information required in WAC 296-62-071 through 296-62-07121.

(7) Physician's written opinion.

(a) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(i) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from work in hazardous waste operations or emergency response or from respirators use.

(ii) The physician's recommended limitations upon the employees assigned work.

(iii) The results of the medical examination and tests if requested by the employee.

(iv) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(b) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposures.

(8) Recordkeeping.

(a) An accurate record of the medical surveillance required by this section shall be retained. This record shall be retained for the period specified and meet the criteria of Part B of chapter 296-62 WAC.

(b) The record required in (a) of this subsection shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) Physicians' written opinions, recommended limitations, and results of examinations and tests;

(iii) Any employee medical complaints related to exposure to hazardous substances;

(iv) A copy of the information provided to the examining physician by the employer, with the exception of the standard and its appendices.

(a) Hazardous substances and contaminated soils, liquids, and other residues shall be handled, transported, labeled, and disposed of in accordance with this section.

(b) Drums and containers used during the clean-up shall meet the appropriate DOT, OSHA, WISHA, and EPA regulations for the wastes that they contain.

(c) When practical, drums and containers shall be inspected and their integrity shall be assured prior to being moved. Drums or containers that cannot be inspected before being moved because of storage conditions (i.e., buried beneath the earth, stacked behind other drums, stacked several tiers high in a pile, etc.) shall be moved to an accessible location and inspected prior to further handling.

(d) Unlabeled drums and containers shall be considered to contain hazardous substances and handled accordingly until the contents are positively identified and labeled.

(e) Site operations shall be organized to minimize the amount of drum or container movement.

(f) Prior to movement of drums or containers, all employees exposed to the transfer operation shall be warned of the potential hazards associated with the contents of the drums or containers.

(g) United States Department of Transportation specified salvage drums or containers and suitable quantities of proper absorbent shall be kept available and used in areas where spills, leaks, or ruptures may occur.

(h) Where major spills may occur, a spill containment program, which is part of the employer's safety and health program required in WAC 296-62-3010, shall be implemented to contain and isolate the entire volume of the hazardous substance being transferred.

(i) Drums and containers that cannot be moved without rupture, leakage, or spillage shall be emptied into a sound container using a device classified for the material being transferred.

(j) A ground-penetrating system or other type of detection system or device shall be used to estimate the location and depth of buried drums or containers.

(k) Soil or covering material shall be removed with caution to prevent drum or container rupture.

(l) Fire extinguishing equipment meeting the requirements of Part G of chapter 296-24 WAC shall be on hand and ready for use to control incipient fires.

(2) Opening drums and containers. The following procedures shall be followed in areas where drums or containers are being opened:

(a) Where an airline respirator system is used, connections to the source of air supply shall be protected from contamination and the entire system shall be protected from physical damage.

(b) Employees not actually involved in opening drums or containers shall be kept a safe distance from the drums or containers being opened.

(c) If employees must work near or adjacent to drums or containers being opened, a suitable shield that does not interfere with the work operation shall be placed between the employee and the drums or containers being opened to protect the employee in case of accidental explosion.

(d) Controls for drum or container opening equipment, monitoring equipment, and fire suppression equipment shall be located behind the explosion-resistant barrier.

(e) When there is a reasonable possibility of flammable atmospheres being present, material handling equipment and hand tools shall be of the type to prevent sources of ignition.

(f) Drums and containers shall be opened in such a manner that excess interior pressure will be safely relieved. If pressure cannot be relieved from a remote location, appropriate shielding shall be placed between the employee and the drums or containers to reduce the risk of employee injury.

(g) Employees shall not stand upon or work from drums or containers.

(3) Material handling equipment. Material handling equipment used to transfer drums and containers shall be selected, positioned, and operated to minimize sources of ignition related to the equipment from igniting vapors released from ruptured drums or containers.

(4) Radioactive wastes. Drums and containers containing radioactive wastes shall not be handled until such time as their hazard to employees is properly assessed.

(5) Shock-sensitive wastes.

As a minimum, the following special precautions shall be taken when drums and containers containing or suspected of containing shock-sensitive wastes are handled:

AMENDATORY SECTION (Amending WSR 89-21-018, filed 10/10/89, effective 11/24/89)

WAC 296-62-3090 HANDLING DRUMS AND CONTAINERS. (1) General.

(a) All nonessential employees shall be evacuated from the area of transfer.

(b) Material handling equipment shall be provided with explosive containment devices or protective shields to protect equipment operators from exploding containers.

(c) An employee alarm system capable of being perceived above surrounding light and noise conditions shall be used to signal the commencement and completion of explosive waste handling activities.

(d) Continuous communications (i.e., portable radios, hand signals, telephones, as appropriate) shall be maintained between the employee-in-charge of the immediate handling area and the site safety and health supervisor and/or command post until such time as the handling operation is completed. Communication equipment or methods that could cause shock-sensitive materials to explode shall not be used.

(e) Drums and containers under pressure, as evidenced by bulging or swelling, shall not be moved until such time as the cause for excess pressure is determined and appropriate containment procedures have been implemented to protect employees from explosive relief of the drum.

(f) Drums and containers containing packaged laboratory wastes shall be considered to contain shock-sensitive or explosive materials until they have been characterized.

Caution: Shipping of shock-sensitive wastes may be prohibited under United States Department of Transportation regulations. Employers and their shippers should refer to WAC 480-12-195.

(6) Laboratory waste packs. In addition to the requirements of subsection (4) of this section, the following precautions shall be taken, as a minimum, in handling laboratory waste packs (lab packs):

(a) Lab packs shall be opened only when necessary and then only by an individual knowledgeable in the inspection, classification, and segregation of the containers within the pack according to the hazards of the wastes.

(b) If crystalline material is noted on any container, the contents shall be handled as a shock-sensitive waste until the contents are identified.

(7) Sampling of drum and container contents. Sampling of containers and drums shall be done in accordance with a sampling procedure which is part of the site safety and health plan developed for and available to employees and others at the specific worksite.

(8) Shipping and transport.

(a) Drums and containers shall be identified and classified prior to packaging for shipment.

(b) Drum or container staging areas shall be kept to the minimum number necessary to identify and classify materials safely and prepare them for transport.

(c) Staging areas shall be provided with adequate access and egress routes.

(d) Bulking of hazardous wastes shall be permitted only after a thorough characterization of the materials has been completed.

(9) Tank and vault procedures.

(a) Tanks and vaults containing hazardous substances shall be handled in a manner similar to that for drums and containers, taking into consideration the size of the tank or vault.

(b) Appropriate tank or vault entry procedures as described in WAC 296-62-14503 and the employer's safety and health plan shall be followed whenever employees must enter a tank or vault.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-99-050 HOUSEKEEPING. (1) The employer shall develop and implement a written housekeeping program that establishes the frequency and method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

(2) In addition, the housekeeping program for grain elevators shall ~~((require that a special emphasis be made with respect to keeping))~~ address fugitive grain dust accumulations at priority housekeeping areas ~~((free from accumulations of fugitive grain dust))~~.

(a) Priority housekeeping areas shall include at least the following:

(i) Floor areas within thirty-five feet (10.7 m) of inside bucket elevators;

(ii) Floors of enclosed areas containing grinding equipment;

(iii) Floors of enclosed areas containing grain dryers located inside the facility.

~~(b) ((Employers shall not permit fugitive grain dust to accumulate in priority housekeeping areas described in (2)(a)(i), (ii), and (iii) of~~

~~this section.))~~ The employer shall immediately remove any fugitive grain dust accumulations whenever they exceed one-eighth inch (.32 cm) at priority housekeeping areas, pursuant to the housekeeping program, or shall demonstrate and assure, through the development and implementation of the housekeeping program, that equivalent protection is provided.

(3) The use of compressed air to blow dust from ledges, walls, and other areas shall only be permitted when all machinery that presents an ignition source in the area is shut-down, and all other known potential ignition sources in the area are removed or controlled.

(4) Grain and product spills shall not be considered fugitive grain dust accumulations. However, the housekeeping program shall address the procedures for removing such spills from the work area.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-205 HEAD PROTECTION. (1) All employees on any construction site shall be provided an individual hard hat which meets all requirements of (a) and (b) of this subsection. Employers shall provide individual hard hats at no cost to the employees.

(a) Hard hats for the protection of employees against impact and/or penetration of falling and flying objects shall meet the specifications contained in American National Standards Institute, Z89.1-1969, Safety Requirements for Industrial Head Protection.

(b) Hard hats for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Standards Institute, Z89.2-1971.

(2) All employees must have their individual hard hats on site and readily available at all times.

(3) All employees shall wear a hard hat on any construction site whenever there is a potential exposure to danger of flying or falling objects to persons working or occupying the area.

Note: The hard hat may be removed whenever there is no potential exposure to a hazard.

~~(4) ((Employers of members of the Old Order Amish or the Sikh Dharma Brotherhood will not be cited for the failure to provide head protection and to require these employees to wear head protection provided these employee [employees] have so notified their employer of their religious objection to the wearing of hard hats, in writing.~~

~~(5))~~ Employees working on asphalt paving crews when they are exposed to extreme temperatures from hot mix and when they are not exposed to falling objects need not wear protective hard hats. Flaggers working in conjunction with asphalt paving operations shall wear protective hard hats.

~~((6))~~ (5) Caps with metal buttons or metal visors shall not be worn around electrical hazards.

~~((7))~~ (6) Employees working near moving machinery or in locations which present a hair-catching or fire hazard shall wear caps, nets or other head and face protection that will completely contain the hair.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-363 SAFETY REQUIREMENTS FOR POWDER ACTUATED FASTENING SYSTEMS, IN ACCORDANCE WITH ANSI A10.3-~~((1977))~~ 1985, SAFETY REQUIREMENTS FOR POWDER ACTUATED FASTENING SYSTEMS.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-36313 OPERATION. (1) Acceptable tools. Only tools meeting the requirements of this standard shall be used.

(2) Qualified operators. Only qualified operators shall operate tools.

(3) Use lowest velocity. The lowest velocity class of tool that will properly set the fastener shall be used.

(4) Operating limitations. Tools shall be operated in strict accordance with the manufacturer's instructions.

(5) Personal protection. Eye or face protection, or both, shall be worn by operators, assistants, and adjacent personnel when tool is in use. Hearing protection shall be used when making fastenings in confined areas.

(6) Daily inspections. Each day, prior to use, the operator shall inspect the tool to determine that it is in proper working condition in accordance with the testing methods recommended by the manufacturer of the tool.

(7) Defective tools. Any tool found not to be in proper working condition shall be immediately removed from service and tagged "DEFECTIVE"; it shall not be used until it has been properly repaired in accordance with the manufacturer's instructions.

(8) Proper accessories. The proper shield, fixture, adapter, or accessory, suited for the application, as recommended and supplied by the manufacturer, shall be used.

(9) Proper loads and fasteners. Only those types of fasteners and power loads recommended by the tool manufacturer for a particular tool, or those providing the same level of safety and performance, shall be used.

(10) Questionable material. Before fastening into any questionable material, the operator shall determine its suitability by using a fastener as a center punch. If the fastener point does not easily penetrate, is not blunted, and does not fracture the material, initial test fastenings shall then be made in accordance with the tool manufacturer's recommendations. (See WAC 296-155-36315(3).)

(11) Tool safety. No tool shall be loaded unless it is being prepared for immediate use. If the work is interrupted after loading, the tool shall be unloaded at once.

(12) Powder actuated magazine or clip-fed tools are not considered loaded unless a power load is actually in the ram (firing chamber), even though the magazine or clip is inserted in the tool. If work is interrupted, the firing chamber shall be cleared and the magazine or clip removed.

(13) Pointing tools. Tools shall not be loaded until just prior to the intended firing time. Neither loaded nor empty tools are to be pointed at any person; hands shall be kept clear of the open barrel end.

(14) Tool perpendicular to work. The tool shall always be held perpendicular to the work surface when fastening into any material, except for specific applications recommended by the tool manufacturer.

(15) Misfires. In the event of a misfire, the operator shall hold the tool firmly against the work surface for a period of thirty seconds and then follow the explicit instructions set forth in the manufacturer's instructions.

(16) Different power levels. Power loads of different power levels and types shall be kept in separate compartments or containers.

(17) Signs. A sign, at least 20 x 25 cm (8 x 10 in), using boldface type no less than 2.5 cm (1 in) in height, shall be posted in plain sight on all construction projects where tools are used. The sign shall bear wording similar to the following: "POWDER ACTUATED TOOL IN USE."

AMENDATORY SECTION (Amending Order 74-26, filed 5/7/74, effective 6/6/74)

WAC 296-155-375 JACKS—LEVER AND RATCHET, SCREW, AND HYDRAULIC. ((+)) General requirements.

((+)) (1) The manufacturer's rated capacity shall be legibly marked on all jacks and this capacity shall not be exceeded.

((+)) (2) All jacks shall have a positive stop to prevent over-travel.

((+)) (3) Specially designed jacks constructed for specific purposes shall meet the approval of the division of Industrial Safety and Health before being placed in service.

((+)) (4) Control parts shall be so designed that the operator will not be subjected to hazard.

((2) Lift slab construction:

(a) Hydraulic jacks used in lift slab construction shall have a safety device which will cause the jacks to support the load in any position in the event the jack malfunctions:

(b) If lift slabs are automatically controlled, a device shall be installed which will stop the operation when the 1/2-inch leveling tolerance is exceeded:

(3) Blocking. When it is necessary, to provide a firm foundation, the base of the jack shall be blocked or cribbed. Where there is a possibility of slippage of the metal cap of the jack, a wood block shall be placed between the cap and the load:))

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-155-675 SCOPE, APPLICATION, AND DEFINITIONS APPLICABLE TO THIS PART. (1) Scope and application. This subpart sets forth requirements to protect all construction employees from the hazards associated with concrete and masonry construction operations performed in workplaces covered under chapter 296-155 WAC.

(2) Definitions applicable to this part.

(a) "Bull float" means a tool used to spread out and smooth the concrete.

(b) "Formwork" means the total system of support for freshly placed or partially cured concrete, including the mold or sheeting (form) that is in contact with the concrete as well as all supporting members including shores, reshores, hardware, braces, and related hardware.

(c) "Jacking operation" means the task of lifting a slab (or group of slabs) vertically from one location to another (e.g., from the casting location to a temporary (parked) location, or from a temporary location to another temporary location, or to its final location in the structure), during the construction of a building/structure where the lift-slab process is being used.

(d) "Lift slab" means a method of concrete construction in which floor and roof slabs are cast on or at ground level and, using jacks, lifted into position.

((+)) (e) "Limited access zone" means an area alongside a masonry wall, which is under construction, and which is clearly demarcated to limit access by employees.

((+)) (f) "Precast concrete" means concrete members (such as walls, panels, slabs, columns, and beams) which have been formed, cast, and cured prior to final placement in a structure.

((+)) (g) "Reshoring" means the construction operation in which shoring equipment (also called reshores or reshoring equipment) is placed, as the original forms and shores are removed, in order to support partially cured concrete and construction loads.

((+)) (h) "Shore" means a supporting member that resists a compressive force imposed by a load.

((+)) (i) "Vertical slip forms" means forms which are jacked vertically during the placement of concrete.

((+)) (j) "Guy" means a line that steadies a high piece or structure by pulling against an off-center load.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-155-694 REQUIREMENTS FOR LIFT-SLAB CONSTRUCTION OPERATIONS. ((+)) General. The safety requirements and recommendations in this section apply specifically to lift-slab construction operations:

(2) Design and planning. Lift-slab operations shall be designed and planned by a qualified professional engineer or architect. Such plans and designs shall include detailed instructions and sketches indicating the prescribed method of erection:

(3) Jacking equipment:

(a) Jacking equipment shall not be loaded beyond its safe working capacity, and then threaded rods and other members that transmit loads to the jacks shall have a minimum safety factor of 2.5. Jacking equipment used in lift-slab operations shall meet the criteria in (a) through (d) of this subsection. (Note: ANSI has interpreted this provision to mean that the safety factor of 2.5 must be met for all jacking components such as jacks, threaded rods, lifting nuts, lifting angles, as well as shearheads, columns and footings:)

(b) Jacks shall be so designed and installed so that they will not continue to lift when overloaded:

(c) Jacks shall be installed with a safety device which will enable them to continue to support the load in any position should the jack malfunction and lose its lifting ability:

(d) The maximum number of manually controlled jacks on one slab shall be limited to 14, and in no event should the number be too great to permit the operator to maintain the slab level within specified tolerances:

(4) Uniform lifting. Jacking operations shall be synchronized in such a manner as to insure even and uniform lifting of the slab. During lifting, all points of the slab support shall be kept within one-half inch of that needed to maintain the slab in a level position. If leveling is automatically controlled, a device shall be installed which will stop the operation when the one-half inch tolerance is exceeded or when there is a malfunction in the jacking system. If level is maintained by manual controls, such controls shall be located in a central location and attended by a trained operator while lifting is in progress:

(5) Falling hazard. No one shall be permitted under the slab during jacking operations. (Note: ANSI has interpreted this provision as follows: "No one is permitted in the building during jacking operations except those employees required for the jacking operation and to secure slabs:")) (1) Lift-slab operations shall be designed and planned by

a registered professional engineer who has experience in lift-slab construction. Such plans and designs shall be implemented by the employer and shall include detailed instructions and sketches indicating the prescribed method of erection. These plans and designs shall also include provisions for ensuring lateral stability of the building/structure during construction.

(2) Jacks/lifting units shall be marked to indicate their rated capacity as established by the manufacturer.

(3) Jacks/lifting units shall not be loaded beyond their rated capacity as established by the manufacturer.

(4) Jacking equipment shall be capable of supporting at least two and one-half times the load being lifted during jacking operations and the equipment shall not be overloaded. For the purpose of this provision, jacking equipment includes any load bearing component which is used to carry out the lifting operation(s). Such equipment includes, but is not limited to, the following: Threaded rods, lifting attachments, lifting nuts, hook-up collars, T-caps, shearheads, columns, and footings.

(5) Jacks/lifting units shall be designed and installed so that they will neither lift nor continue to lift when they are loaded in excess of their rated capacity.

(6) Jacks/lifting units shall have a safety device installed which will cause the jacks/lifting units to support the load in any position in the event any jack/lifting unit malfunctions or loses its lifting ability.

(7) Jacking operations shall be synchronized in such a manner to ensure even and uniform lifting of the slab. During lifting, all points at which the slab is supported shall be kept within 1/2 inch of that needed to maintain the slab in a level position.

(8) If leveling is automatically controlled, a device shall be installed that will stop the operation when the 1/2 inch tolerance set forth in subsection (7) of this section is exceeded or where there is a malfunction in the jacking (lifting) system.

(9) If leveling is maintained by manual controls, such controls shall be located in a central location and attended by a competent person while lifting is in progress. In addition to meeting the definition in WAC 296-155-012(4), the competent person must be experienced in the lifting operation and with the lifting equipment being used.

(10) The maximum number of manually controlled jacks/lifting units on one slab shall be limited to a number that will permit the operator to maintain the slab level within specified tolerances of subsection (7) of this section, but in no case shall that number exceed 14.

(11) No employee, except those essential to the jacking operation, shall be permitted in the building/structure while any jacking operation is taking place unless the building/structure has been reinforced sufficiently to ensure its integrity during erection. The phrase "reinforced sufficiently to ensure its integrity" used in this subsection means that a registered professional engineer, independent of the engineer who designed and planned the lifting operation, has determined from the plans that if there is a loss of support at any jack location, that loss will be confined to that location and the structure as a whole will remain stable.

(a) Under no circumstances, shall any employee who is not essential to the jacking operation be permitted immediately beneath a slab while it is being lifted.

(b) For the purpose of subsection (11) of this section, a jacking operation begins when a slab or group of slabs is lifted and ends when such slabs are secured (with either temporary connections or permanent connections).

(c) Employers who comply with appendix A to WAC 296-155-694 shall be considered to be in compliance with the provisions of subsections (11) through (11)(c) of this section.

(12) When making temporary connections to support slabs, wedges shall be secured by tack welding, or an equivalent method of securing the wedges to prevent them from falling out of position. Lifting rods may not be released until the wedges at that column have been secured.

(13) All welding on temporary and permanent connections shall be performed by a certified welder, familiar with the welding requirements specified in the plans and specifications for the lift-slab operation.

(14) Load transfer from jack/lifting units to building columns shall not be executed until the welds on the column shear plates (weld blocks) are cooled to air temperature.

(15) Jacks/lifting units shall be positively secured to building columns so that they do not become dislodged or dislocated.

(16) Equipment shall be designed and installed so that the lifting rods cannot slip out of position or the employer shall institute other

measures, such as the use of locking or blocking devices, which will provide positive connection between the lifting rods and attachments and will prevent components from disengaging during lifting operations.

Appendix to WAC 296-155-694—Lift-Slab Operations
(This Appendix is non-mandatory.)

In WAC 296-155-694(11), WISHA requires employees to be removed from the building/structure during jacking operations unless an independent registered professional engineer, other than the engineer who designed and planned the lifting operation, has determined that the building/structure has been sufficiently reinforced to insure the integrity of the building/structure. One method to comply with this provision is for the employer to ensure that continuous bottom steel is provided in every slab and in both directions through every wall or column head area. (Column head area means the distance between lines that are one and one half times the thickness of the slab or drop panel. These lines are located outside opposite faces of the outer edges of the shearhead sections—See Figure 1). The amount of bottom steel shall be established by assuming loss of support at a given lifting jack and then determining the steel necessary to carry, by catenary action over the span between surrounding supports, the slab service dead load plus any service dead and live loads likely to be acting on the slab during jacking. In addition, the surrounding supports must be capable of resisting any additional load transferred to them as a result of the loss of support at the lifting jack considered.

AMENDATORY SECTION (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

WAC 296-155-730 TUNNELS AND SHAFTS. (1) Scope and application.

(a) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(b) This section does not apply to excavation and trenching operations covered by Part N of this chapter, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation.

(c) The employer shall comply with the requirements of this part and chapter in addition to applicable requirements of chapter 296-36 WAC, Safety standards—Compressed air work.

(2) Access and egress.

(a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.

(b) The employer shall provide and maintain safe means of access and egress to all work stations.

(c) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains, and other mobile equipment.

(d) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with warning signs indicating "keep out" or similar language. Completed or unused sections of the underground facility shall be barricaded.

(3) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

- (a) Air monitoring;
- (b) Ventilation;
- (c) Confined space entry procedures;
- (d) Illumination;
- (e) Communications;
- (f) Flood control;
- (g) Mechanical equipment;
- (h) Personal protective equipment;
- (i) Explosives;
- (j) Fire prevention and protection; and

(k) Emergency procedures, including evacuation plans and check-in/check-out systems.

(4) Notification.

(a) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected, or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fire(s), or explosions.

(b) Information specified in (a) of this subsection shall be recorded in a shift journal which shall be current prior to the end of each shift, and shall be located above ground.

(c) Oncoming supervisory personnel shall read the notification prior to going underground, and shall signify their understanding of the contents by affixing their respective initials to the log.

(d) The hazard notification log shall be retained on the site until the completion of the project.

(e) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

(5) Communications.

(a) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication shall be used to provide communication between the work face, the bottom of the shaft, and the surface.

(b) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in subsection (22)(c)(xv) of this section.

(c) Powered communication systems shall operate on an independent power supply, and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(d) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(e) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by other persons, shall be provided with an effective means of obtaining assistance in an emergency.

(6) Emergency provisions. Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(7) Self-rescuers. The employer shall provide self-rescuers having current approval from the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration to be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators shall be in accordance with the requirements of WAC 296-62-071 through 296-62-07121.

(8) Designated person. At least one designated person shall be on duty above ground whenever any employee is working underground. This designated person shall be responsible for securing immediate aid and keeping an accurate record of the number, identification, and location of employees who are underground in case of emergency. The designated person must not be so busy with other responsibilities that the personnel counting and identification function is encumbered.

(9) Emergency lighting. Each employee underground shall have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or an emergency lighting system provides adequate illumination for escape.

(10) Rescue teams.

(a) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(b) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(c) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of fire-fighting equipment. Qualifications shall be reviewed not less than annually.

(d) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using pressure demand mode, self-contained breathing apparatuses monthly.

(e) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(11) Hazardous classifications.

(a) Potentially gassy operations. Underground construction operations shall be classified as potentially gassy if either:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) \pm 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for more than a 24-hour period; or

(ii) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(b) Gassy operations. Underground construction operations shall be classified as gassy if:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) \pm 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for three consecutive days; or

(ii) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(iii) The underground construction operation is both connected to an underground work area which is currently classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(c) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to potentially gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(12) Gassy operations—Additional requirements. Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(a) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that part.

(b) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(c) Smoking shall be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(d) A fire watch as described in WAC 296-155-410(5) shall be maintained when hot work is performed.

(e) Once an operation has met the criteria in subsection (11)(a)(i) of this section, warranting classification as gassy, all operations in the affected area, except the following, shall be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (c) of this subsection:

(i) Operations related to the control of the gas concentration;

(ii) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and

(iii) Installation of above-ground controls for reversing the air flow.

(13) Air quality and monitoring.

(a) General. Air quality limits and control requirements specified in chapter 296-62 WAC shall apply except as modified by this subsection.

(b) The employer shall assign a competent person who shall perform all air monitoring required by this section.

(c) Where this paragraph requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

(i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;

(iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: The use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and employees' physical reactions to working underground.

(d) The employer shall provide testing and monitoring instruments which are capable of achieving compliance with the provisions of this subsection, and:

(i) Shall maintain the testing and monitoring instruments in good condition;

(ii) Shall calibrate the instruments on a frequency not to exceed 6 months.

(e) Exposure to airborne contaminants shall not exceed the levels established by chapter 296-62 WAC.

(f) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible exposure referred to in (d) of this subsection, if the employee wears a respiratory protective device approved by MSHA-NIOSH as protection against the particular hazards involved, and the selection and use of respirators complies with the provisions of WAC 296-62-071 through 296-62-07121.

(g) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the permissible exposure limit listed for that contaminant, except as modified in ~~((s)(i))~~ (i) and (ii) of this subsection.

(h) The atmosphere in all underground work areas shall be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(i) Tests for oxygen content shall be made before tests for air contaminants.

(j) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(k) The atmosphere in all underground work areas shall be tested quantitatively for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dust, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in chapter 296-62 WAC, are not exceeded.

(l) The atmosphere in all underground work areas shall be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (q), (r), and (s) of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under subsection (11) of this section.

(m) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test shall be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(n) Testing shall be performed as often as necessary to ensure that the ventilation requirements of subsection (15) of this section are met.

(o) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(p) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test shall be conducted in the affected underground work area(s), at least at the beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(i) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor shall be used to monitor the affected work area.

(ii) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(iii) The continuous sampling and indicating hydrogen sulfide monitor shall be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 20 ppm

to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(q) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Immediately increase sampling frequency levels to insure workers are not exposed to identified contaminants in excess of the permissible exposure limit(s); and

(iii) Ensure that all necessary precautions are taken to comply with pertinent requirements of this section, and chapter 296-62 WAC.

(r) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but shall be reinstated whenever the five percent level is exceeded.

(s) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(t) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Employees who remain underground to correct or eliminate the hazard described in (t) above shall be equipped with approved, pressure demand mode, self-contained breathing apparatus, and shall have received adequate training in the proper use of that equipment.

(iii) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(14) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for potentially gassy and gassy operations set forth in subsection (13) of this section shall be subject to the additional monitoring requirements of this subsection.

(a) A test for oxygen content shall be conducted in the affected underground work areas and work areas immediately adjacent to such areas at least at the beginning and midpoint of each shift.

(b) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment shall be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor shall signal the heading, and shut down electric power in the affected underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(i) A manual flammable gas monitor shall be used as needed, but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in subsections (11) and (13) of this section are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading.

(ii) Local gas tests shall be made prior to and continuously during any welding, cutting, or other hot work.

(iii) In underground operations driven by drill-and-blast methods, the air in the affected area shall be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(c) Recordkeeping. A record of all air quality tests shall be maintained above ground at the worksite and be made available to the director or his representatives upon request. The record shall include the location, date, time, substance and amount monitored. Records of exposures to toxic substances shall be retained in accordance with Part B, chapter 296-62 WAC. All other air quality test records shall be retained until completion of the project.

(15) Ventilation.

(a)(i) Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases.

(ii) Mechanical ventilation shall be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(b) A minimum of 200 cubic feet (5.7 m³) of fresh air per minute shall be supplied for each employee underground.

(c) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas shall be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(d) The direction of mechanical air flow shall be reversible.

(e) Air that has passed through underground oil or fuel-storage areas shall not be used to ventilate working areas.

(f) Following blasting, ventilation systems shall exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(g) Ventilation doors shall be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(h) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(i) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants shall be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(j) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in WAC 296-155-160. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(k)(i) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations shall be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m³) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(iii) Application shall be made to the mining section, division of industrial safety and health, department of labor and industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment.

(B) The location where the diesel equipment is to be used.

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the division of industrial safety and health or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required.

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 100 CFM per horsepower based on the maximum brake horsepower of the engines.

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust ports	Carbon Monoxide	.10%	1,000 ppm ³
Next to equipment	Carbon Monoxide	.005%	50 ppm
General atmosphere	Carbon Monoxide	.005%	50 ppm
General atmosphere	Nitrogen Dioxide	.0003%	3 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

³Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(l) Potentially gassy or gassy operations shall have ventilation systems installed which shall:

(i) Be constructed of fire-resistant materials; and

(ii) Have acceptable electrical systems, including fan motors.

(m) Gassy operations shall be provided with controls located above ground for reversing the air flow of ventilation systems.

(n) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(16) Illumination.

(a) Sufficient lighting shall be provided, in accordance with the requirements of ((Table B-3 of Part B of this chapter)) ~~WAC 296-155-165 (1) through (4)~~, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(b) Only acceptable portable lighting ((as defined in ~~WAC 296-155-462(+)~~)) shall be used within 50 feet (15.24 m) of any underground heading during explosive handling.

(17) Fire prevention and control. Fire prevention and protection requirements applicable to underground construction operations are found in Part D of this chapter except as modified by the following additional standards.

(a) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting, and other hot work operations.

(i) Smoking may be allowed only in areas free of fire and explosion hazards.

(ii) Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist.

(b) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(c) The piping of diesel fuel from the surface to an underground location is permitted only if:

(i) Diesel fuel is contained at the surface in a tank whose maximum capacity is no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station; and

(ii) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle; and

(iii) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(iv) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(d)(i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gas, and Methylacetylene Propadiene Stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with Part H of this chapter and subsections (13), (15), (17), and (18) of this section.

(e) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(f) Flammable or combustible materials shall not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(i) They are located as far as practicable from the opening; and

(ii) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(g) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multipurpose fire extinguisher(s) rated at a sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:40B:C.

(h)(i) Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.

(ii) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for Class I, Division 2 locations, in accordance with Part I of this chapter.

(i) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(j) A fire extinguisher of at least 4A:40B:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of underground belt conveyors, and at 300-foot intervals along the belt.

(k) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground shall be constructed of material having a fire-resistance rating of at least one hour.

(18) Welding, cutting, and other hot work. In addition to the requirements of Part H of this chapter, the following requirements shall apply to underground welding, cutting, and other hot work.

(a) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(b) Noncombustible barriers shall be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(19) Ground support.

(a) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners, or other engineered tunnel support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(b) Portal areas. Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting, or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or otherwise secured to prevent loose soil, rock, or fractured materials from endangering the portal and access area.

(c) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(d) Underground areas.

(i)(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections shall be protected from loose ground by location, ground support, or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be inspected as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled, or supported.

~~(iv) ((Torque meters and torque wrenches shall be available at tunnels where rock bolts are used for ground support. Frequent tests shall be made to determine if bolts meet the required torque. The test frequency shall be determined by rock conditions and distance from vibration sources.~~

~~(v)(A))~~ Torque wrenches shall be used wherever bolts that depend on torsionally applied force are used for ground support.

~~((B))~~ (v) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions, and the distance from vibration sources.

(vi) Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed.

(ix) A shield or other type of support shall be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(e) Shafts.

(i) Shafts and wells over 4 feet (1.219 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock, or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is potential for shear, the casing or bracing shall extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing shall extend to the end of the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(B) The casing or bracing shall extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12-inch (0.3 m) barrier.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(f) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in chapter 296-52 WAC.

(i) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(ii) Following blasting, an employee shall not enter a work area until the air quality meets the requirements of subsection (13) of this section.

(g) Drilling.

(i) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(ii) The drilling area shall be inspected for hazards before the drilling operation is started.

(iii) Employees shall not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(iv) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast shall be placed in a safe position.

(v) Receptacles or racks shall be provided for storing drill steel located on jumbos.

(vi) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(vii) Drills on columns shall be anchored firmly before starting drilling, and shall be retightened as necessary thereafter.

(viii) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(ix) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(x) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(xi) Only employees assisting the operator shall be allowed to ride on jumbos, unless the jumbo meets the requirements of subsection (20)(e) of this section.

(xii) Jumbos shall be chocked to prevent movement while employees are working on them.

(xiii) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping, and falling.

(xiv) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(xv) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(xvi) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. ~~((Lifters))~~ Blasting holes shall not be drilled through blasted rock (muck) or water.

(xvii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(xviii) A caution sign reading "buried line," or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.

(20) Haulage.

(a) A competent person shall inspect haulage equipment before each shift.

(i) Equipment defects affecting safety and health shall be corrected before the equipment is used.

(ii) Powered mobile haulage equipment shall be provided with adequate brakes.

(iii) Power mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The operator shall sound the warning device before moving the equipment and whenever necessary during travel.

(iv) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(v) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(b) Antirollback devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse. Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(c) Endless belt-type manlifts are prohibited in underground construction.

(d) General requirements also applicable to underground construction for use of conveyors in construction are found in WAC 296-155-545 (1) through (17).

(e) No employee shall ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and nonslip steps or footboards. Requirements applicable to underground construction for motor vehicle transportation of employees are found in WAC 296-155-610.

(f) Conveyor lockout.

(i) Conveyors shall be deenergized and locked out with a padlock, and tagged out with a "Do Not Operate" tag at any time repair, maintenance, or clean-up work is being performed on the conveyor.

(ii) Tags or push button stops are not acceptable.

(iii) Persons shall not be allowed to walk on conveyors except for emergency purposes and then only after the conveyor has been deenergized and locked out in accordance with (f) above, and persons can do so safely.

(g) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(h) Whenever rails serve as a return for a trolley circuit, both rails shall be bonded at every joint and crossbonded every 200 feet (60.96 m).

(i) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(k) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(l)(i) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work, and;

(ii) Employees shall not reach between moving cars during coupling operations.

(iii) Couplings shall not be aligned, shifted, or cleaned on moving cars or locomotives.

(iv) Safety chains or other connections shall be used in addition to couplers to connect man cars or powder cars whenever the locomotive is uphill of the cars.

(v) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections shall be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(vi) Such safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(m) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(n) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(o) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(p)(i) Only small handtools, lunch pails, or similar small items may be transported with employees in man cars, or on top of a locomotive.

(ii) When small hand tools or other small items are carried on top of a locomotive, the top shall be designed or modified to retain them while traveling.

(q)(i) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(ii) Crew trips shall consist of personnel loads only.

(21) Electrical safety. This paragraph applies in addition to the general requirements for electrical safety which are found in Part I of this chapter.

(a) Electric power lines shall be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(b) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(22) Hoisting unique to underground construction except as modified by this section, the following provisions of chapter 296-155 WAC, Part L apply: Requirements for cranes are found in WAC 296-155-525. WAC 296-155-48533 contains rules applicable to crane hoisting of personnel, except, that the limitations imposed by WAC 296-155-48533(2) do not apply to the routine access of employees to the underground via a shaft. Requirements for personnel hoists, material hoists, and elevators are found in WAC 296-155-530 and in this subsection.

(a) General requirements for cranes and hoists.

(i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This paragraph does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalman at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalman who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Only closed shackles shall be used for cage and skip rigging.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(b) Additional requirements for cranes. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(c) Additional requirements for hoists.

(i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Hoist machines with cast metal parts shall not be used.

(v) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(vi) Employees shall not ride on top of any cage, skip, or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vii) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(viii) Line speed shall not exceed the design limitations of the systems.

(ix) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(x) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(xi) A fire extinguisher that is rated at least 2A:10B:C (multipurpose, dry chemical) shall be mounted in each hoist house.

(xii) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cut-off without having to reach beyond the operator's normal operating position.

(xiii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiv) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(xvi) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvii) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail-guided to within a rail length from the sinking operation.

(xviii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xix) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to WAC 296-155-530 (3)(r)(i), (ii), and (iii) for design factors for wire rope used in personnel hoists. The design factors shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xx) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xxi) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxii) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: At the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxiii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xiv) Unsafe conditions shall be corrected before using the equipment.

(d) Additional requirements for personnel hoists.

(i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this subsection.

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm) wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a positive locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16 -inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches, or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in complete shafts.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06009 BODY PROTECTION. (1) Body protection shall be coordinated with foot and leg protection to ensure full protection for the wearer. This shall be achieved by one of the following methods:

(a) Wearing of a fire resistive coat with fully extended hip boots meeting the requirements of WAC 296-305-06007; or

(b) Wearing of a fire resistant coat with fire resistant trousers; or

(c) Wearing of ancillary clothing as specified in WAC 296-305-060 (3)(a) of this chapter.

(2) Fire resistant coat and trousers shall be at least equivalent to the requirements of the NFPA Standard #1971, protective clothing for structural fire fighters (~~except that the outer shell fabric shall weigh not less than 7.5 oz/yd²~~).

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-260 ROLLOVER PROTECTIVE STRUCTURES (ROPS) FOR MATERIAL HANDLING EQUIPMENT.

(1) Coverage. (a) This section applies to the following types of material handling equipment: To all rubber-tired, self-propelled scrapers, rubber-tired front-end loaders, rubber-tired dozers, wheel-type agricultural and industrial tractors, crawler tractors, crawler-type loaders, and motor graders, with or without attachments, that are used in agricultural work. This requirement does not apply to side-boom pipelaying tractors.

(2) Material handling machinery described in subsection (1) of this section and manufactured on or after October 25, 1976, shall be equipped with rollover protective structures which meet the minimum performance standards prescribed in WAC 296-306-260 and 296-306-265, as applicable.

(3) Rollover protective structures and supporting attachment shall meet the minimum performance criteria detailed in WAC (~~296-306-~~

260)) 296-303-26001 and 296-306-265, as applicable, or shall be designed, fabricated, and installed in a manner which will support, based on the ultimate strength of the metal, at least two times the weight of the prime mover applied at the point of impact.

(a) The design objective shall be to minimize the likelihood of a complete overturn and thereby minimize the possibility of the operator being crushed as a result of a rollover or upset.

(b) The design shall provide a vertical clearance of at least 52 inches from the work deck to the ROPS at the point of ingress or egress.

(4) Remounting. ROPS removed for any reason, shall be remounted with equal quality, or better, bolts or welding as required for the original mounting.

(5) Labeling. Each ROPS shall have the following information permanently affixed to the structure:

(a) Manufacturer or fabricator's name and address;

(b) ROPS model number, if any;

(c) Machine make, model, or series number that the structure is designed to fit.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-265 PROTECTIVE FRAME (ROPS) TEST PROCEDURES AND PERFORMANCE REQUIREMENTS FOR WHEEL-TYPE AGRICULTURAL AND INDUSTRIAL TRACTORS USED IN AGRICULTURE. (1) Definitions applicable to this section. (a) SAE J333a, Operator Protection for Wheel-Type Agricultural and Industrial Tractors (July 1970) defines "agricultural tractor" as a "wheel-type vehicle of more than 20 engine horsepower designed to furnish the power to pull, carry, propel, or drive implements that are designed for agricultural usage." Since this chapter applies only to agriculture work, the following definition of "agricultural tractor" is adopted for purposes of this part: "Agricultural tractor" means a wheel-type vehicle of more than 20 engine horsepower, which is designed to furnish the power to pull, propel, or drive implements.

(b) "Industrial tractor" means that class of wheeled type tractor of more than 20 engine horsepower (other than rubber-tired loaders and dozers described in WAC ((296-306-260)) 296-306-26001), used in operations such as landscaping, construction services, loading, digging, grounds keeping, and highway maintenance.

(c) The following symbols, terms, and explanations apply to this section:

Eis = Energy input to be absorbed during side loading. $E_{is} = 723 + 0.4 W \text{ ft.-lb. (E'is} = 100 + 0.12 W', \text{m.-kg.)}$

Eir = Energy input to be absorbed during rear loading. $E_{ir} = 0.47 W \text{ ft. - lb. (E'ir} = 0.14 W', \text{m. - kg.)}$

W = Tractor weight as prescribed in WAC 296-306-265 (5)(a) and (5)(c) in lb. (W', kg).

L = Static load, lb. (kg.).

D = Deflection under L, in. (mm.).

L-D = Static load-deflection diagram.

Lm-Dm = Modified static load-deflection diagram (Figure V,-20). To account for increase in strength due to increase in strain rate, raise L in plastic range to $L \times K$.

K = Increase in yield strength induced by higher rate of loading (1.3 for hot rolled low carbon steel 1010-1030). Low carbon is preferable; however, if higher carbon or other material is used, K must be determined in the laboratory. Refer to Charles H. Norris, et al., Structural Design for Dynamic Loads (1959), p. 3.

Lmax = Maximum observed static load.

Load

Limit = Point on L-D curve where observed static load is 0.8 Lmax (refer to Figure V-19).

Eu = Strain energy absorbed by the frame, ft.-lb. (m. - kg) area under Lm-Dm curve.

FER = Factor of energy ratio, $FER = E_{u}/E_{is}$; also = E_{u}/E_{ir} .

Pb = Maximum observed force in mounting connection under static load, L, lb. (kg.).

FSB = Design margin for mounting connection $FSB = (P_{u}/P_{b}) - 1$.

H = Vertical height of lift of 4,410 lb. (2,000 kg.) weight, in. (H', mm.). The weight shall be pulled back so that the height of its center of gravity above the point of impact is defined as follows: $H = 4.92 + 0.00190 W$ or $(H' = 125 + 0.107 W')$ (Figure V-(+4)) 24).

((+)) (d) Source of standard. The standard in this section is derived from, and restates, Society of Automotive Engineers Standard

J334a (July 1970), Protective Frame Test Procedures and Performance Requirements. This standard shall be resorted to in the event that questions of interpretation arise. The standard appears in the 1971 SAE handbook.

(2) General.

(a) The purpose of this section is to set forth requirements for frames for the protection of operators of wheel type agricultural and industrial tractors to minimize the possibility of operator injury resulting from accidental upsets during normal operation. With respect to agricultural and industrial tractors, the provisions of WAC 296-306-260 and 296-306-270 for rubber-tired dozers and rubber-tired loaders may be utilized in lieu of the requirements of this section.

(b) The protective frame which is the subject of this standard is a structure mounted to the tractor that extends above the operator's seat and conforms generally to Figure V-15.

(c) If an overhead weather shield is attached to the protective frame, it may be in place during tests: PROVIDED, That it does not contribute to the strength of the protective frame. If such an overhead weather shield is attached, it must meet the requirements of subsection (10) of this section.

(d) For overhead protection requirements, see WAC 296-306-270.

(e) If protective enclosures are used on wheel-type agricultural and industrial tractors, they shall meet the requirements of Society of Automotive Engineers Standard J168 (July 1970), Protective Enclosures, Test Procedures, and Performance Requirements.

(3) Applicability. The requirements of this section apply to wheel-type agricultural tractors used in agriculture work and to wheel-type industrial tractors used in construction type work. See subsection (1) of this section for definitions of agricultural tractors and industrial tractors.

(4) Performance requirements.

(a) Either a laboratory test or a field test is required in order to determine the performance requirements set forth in subsection (10) of this section.

(b) A laboratory test may be either static or dynamic. The laboratory test must be under conditions of repeatable and controlled loading in order to permit analysis of the protective frame.

(c) A field upset test, if used, shall be conducted under reasonably controlled conditions, both rearward and sideways, to verify the effectiveness of the protective frame under actual dynamic conditions.

(5) Test procedure—General.

(a) The tractor used shall be the tractor with the greatest weight on which the protective frame is to be used.

(b) A new protective frame and mounting connections of the same design shall be used for each test procedure.

(c) Instantaneous and permanent frame deformation shall be measured and recorded for each segment of the test.

(d) Dimensions relative to the seat shall be determined with the seat unloaded and adjusted to its highest and most rearward latched position provided for a seated operator.

(e) If the seat is offset, the frame loading shall be on the side with the least space between the centerline of the seat and the upright.

(f) The low temperature impact strength of the material used in the protective structure shall be verified by suitable material tests or material certifications in accordance with WAC 296-306-26001 (7)(b)(iv).

(6) Test procedure for vehicle overturn.

(a) Vehicle weight. The weight of the tractor, for purposes of this section, includes the protective frame, all fuels, and other components required for normal use of the tractor. Ballast must be added if necessary to achieve a minimum total weight of 130 lb. (59 kg.) per maximum power takeoff horsepower at rated engine speed. The weight of the front end must be at least 33 lb. (15 kg.) per maximum power takeoff horsepower. In case power takeoff horsepower is unavailable, 95 percent of net engine flywheel horsepower shall be used.

(b) Agricultural tractors shall be tested at the weight set forth in subdivision (a) of this subsection.

(c) Industrial tractors shall be tested with items of integral or mounted equipment and ballast that are sold as standard equipment or approved by the vehicle manufacturer for use with the vehicle where the protective frame is expected to provide protection for the operator with such equipment installed. The total vehicle weight and front end weight as tested shall not be less than the weights established in subdivision (a) of this subsection.

(d) The test shall be conducted on a dry, firm soil bank as illustrated in Figure V-16. The soil in the impact area shall have an average cone index in the 0.6 in. (153 mm.) layer not less than 150 according to American Society of Agricultural Engineers Recommendations ASAE

R313, Soil Cone Penetrometer. The path of travel of the vehicle shall be $12^\circ \pm 2^\circ$ to the top edge of the bank.

(e) The upper edge of the bank shall be equipped with an 18 in. (457 mm.) high ramp as described in Figure V-16 to assist in tipping the vehicle.

(f) The front and rear wheel tread settings, where adjustable, shall be at the position nearest to halfway between the minimum and maximum settings obtainable on the vehicle. Where only two settings are obtainable, the minimum setting shall be used.

(g) Vehicle overturn test—Sideways and rearward. (i) The tractor shall be driven under its own power along the specified path of travel at a minimum speed of 10 m.p.h. (16 km./hr.) or maximum vehicle speed if under 10 m.p.h. (16 km./hr.) up the ramp as described in subdivision (e) of this subsection to induce sideways overturn.

(ii) Rear upset shall be induced by engine power with the tractor operating in gear to obtain 3-5 m.p.h. (4.8-8 km./hr.) at maximum governed engine r.p.m. preferably by driving forward directly up a minimum slope of two vertical to one horizontal. The engine clutch may be used to aid in inducing the upset.

(7) Other test procedures. When the field upset test is not used to determine ROPS performance, either the static test or the dynamic test, contained in subsection (8) or (9) of this section, shall be made.

(8) Static test.

(a) Test conditions.

(i) The laboratory mounting base shall include that part of the tractor chassis to which the protective frame is attached including the mounting parts.

(ii) The protective frame shall be instrumented with the necessary equipment to obtain the required load deflection data at the locations and directions specified in Figure V-17, V-18, and V-19.

(iii) The protective frame and mounting connections shall be instrumented with the necessary recording equipment to obtain the required load-deflection data to be used in calculating FSB (see subsection (1)(c) of this section). The gauges shall be placed on mounting connections before the installation load is applied.

(b) Test procedure.

(i) The side load application shall be at the upper extremity of the frame upright at a 90° angle to the centerline of the vehicle. The side load "L" shall be applied according to Figure V-17. "L" and "D" shall be recorded simultaneously. The test shall be stopped when:

(A) The strain energy absorbed by the frame is equal to the required input energy (Eis) or

(B) Deflection of the frame exceeds the allowable deflection, or

(C) The frame load limit occurs before the allowable deflection is reached in the side load.

(ii) The L-D diagram, as shown by means of a typical example in Figure V-20, shall be constructed, using the data obtained in accordance with item (i) of this subdivision.

(iii) The modified Lm-Dm diagram shall be constructed according to item (ii) of this subdivision and according to Figure V-21. The strain energy absorbed by the frame (Eu) shall than [then] be determined.

(iv) Eis, FER, and FSB shall be calculated.

(v) The test procedure shall be repeated on the same frame utilizing L (rear input; see Figure V-19) and Eir. Rear load application shall be uniformly distributed along a maximum projected dimension of 27 in. (686 mm.) and a maximum area of 160 sq. in. (1,032 sq. cm.) normal to the direction of load application. The load shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright.

(9) Dynamic test.

(a) Test conditions.

(i) The protective frame and tractor shall meet the requirements of subsection (6)(b) or (c) of this section, as appropriate.

(ii) The dynamic loading shall be produced by use of a 4,410 lb. (2,000 kg.) weight acting as a pendulum. The impact face of the weight shall be 27 plus or minus 1 in. by 27 plus or minus 1 in. (686 + or - 25 mm.) and shall be constructed so that its center of gravity is within 1 in. (25.4 mm.) of its geometric center. The weight shall be suspended from a pivot point 18-22 ft. (5.5-6.7 m.) above the point of impact on the frame and shall be conveniently and safely adjustable for height. (See Figure V-((22)) 21.)

(iii) For each phase of testing, the tractor shall be restrained from moving when the dynamic load is applied. The restraining members shall be of 0.5-0.63 in. (12.5-16 mm.) steel cable and points of attaching restraining members shall be located an appropriate distance behind the rear axle and in front of the front axle to provide a 15° - 30°

angle between a restraining cable and the horizontal. The restraining member shall either be in the plane in which the center gravity of the pendulum will swing or more than one restraining cable shall give a resultant force in this plane. (See Figure V-((23)) 22.)

(iv) The wheel tread setting shall comply with the requirements of subsection (6)(f) of this section. The tires shall have no liquid ballast and shall be inflated to the maximum operating pressure recommended by the tire manufacturer. With specified tire inflation, the restraining cables shall be tightened to provide tire deflection of 6-8 percent of nominal tire section width. After the vehicle is properly restrained, a wooden beam 6 x 6 in. (15 x 15 cm.) shall be driven tightly against the appropriate wheels and clamped. For the test to the side, an additional wooden beam shall be placed as a prop against the wheel nearest the operator's station and shall be secured to the floor so that it is held tightly against the wheel rim during impact. The length of this beam shall be chosen so that when it is positioned against the wheel rim it is at an angle of 25° - 40° to the horizontal. It shall have a length 20-25 times its depth and a width two to three times its depth. (See Figures V-((23)) 22 and V-((24)) 23.)

(v) Means shall be provided indicating the maximum instantaneous deflection along the line of impact. A simple friction device is illustrated in Figure V-((24)) 23.

(vi) No repair or adjustments may be carried out during the test.

(vii) If any cables, props, or blocking shift or break during the test, the test shall be repeated.

(b) Test procedure.

(i) General. The frame shall be evaluated by imposing dynamic loading to rear followed by a load to the side on the same frame. The pendulum dropped from the height (see definition "H" in subsection (1)(c) of this section) imposes the dynamic load. The position of the pendulum shall be so selected that the initial point of impact on the frame shall be in line with the arc of travel of the center of gravity of the pendulum. A quick release mechanism should be used but, if used, shall not influence the attitude of the block.

(ii) Impact at rear. The tractor shall be properly restrained according to subdivisions (a)(iii) and (iv) of this section. The tractor shall be positioned with respect to the pivot point of the pendulum such that the pendulum is 20° from the vertical prior to impact, as shown in Figure V-((23)) 22. The impact shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright of a new frame.

(iii) Impact at side. The block and restraining shall conform to subdivisions (a)(iii) and (iv) of this subsection. The point of impact shall be that structural member of the protective frame likely to hit the ground first in a sideways accidental upset. The side impact shall be applied to the side opposite that used for rear impact.

(10) Performance requirements.

(a) General.

(i) The frame, overhead weather shield, fenders, or other parts in the operator area may be deformed but shall not shatter or leave sharp edges exposed to the operator, or violate dimensions as shown in Figures V-((+7)) 16 and V-((+8)) 17 as follows:

D = 2 in. (51 mm.) inside of frame upright to vertical centerline of seat.

E = 30 in. (762 mm.).

F = Not less than 0 in. and not more than 12 in. (305 mm.), measured at centerline front of seat backrest to crossbar along the line of load application as shown in Figure V-17.

G = 24 in. (610 mm.).

(ii) The material and design combination used in the protective structure must be such that the structure can meet all prescribed performance tests at zero degrees Fahrenheit in accordance with WAC 296-306-26001 (7)(b)(iv).

(b) Vehicle overturn performance requirements. The requirements of this subsection (10) must be met in both side and rear overturns.

(c) Static test performance requirements. Design factors shall be incorporated in each design to withstand an overturn test as prescribed in this subsection (10). The structural requirements will be generally met if FER is greater than 1 and FSB is greater than K-1 in both side and rear loadings.

(d) Dynamic test performance requirements. Design factors shall be incorporated in each design to withstand the overturn test prescribed in this subsection (10). The structural requirements will be generally met if the dimensions in this subsection (10) are adhered to in both side and rear loads.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-306-27095 EXHIBIT B—FIGURES V-1 THROUGH V-28.

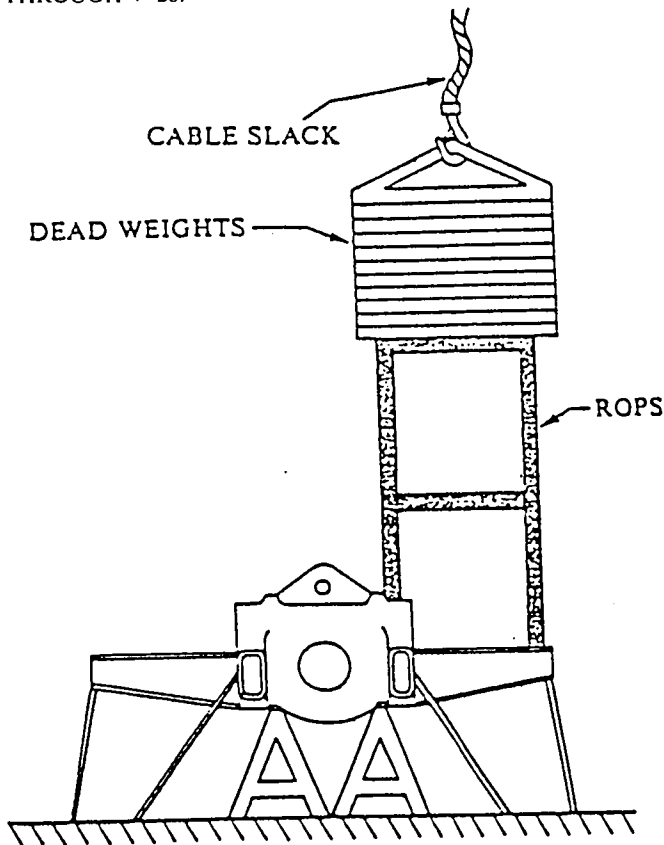


Figure V-1
Vertical loading setup for all types of equipment described in WAC ((296-306-270)) 296-306-26001(2).

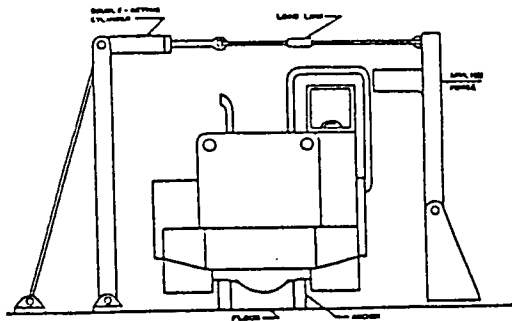


Figure V-2
Test setup for rubber-tired self-propelled scrapers.

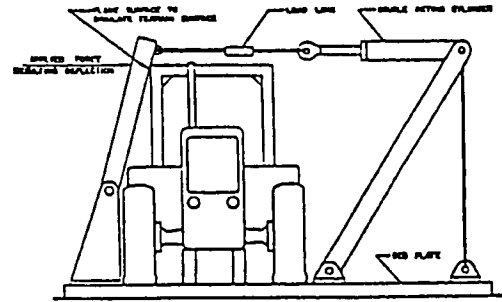


Figure V-3
Test setup for rubber-tired front-end loaders, rubber-tired ((dozens)) dozers, and motor graders.

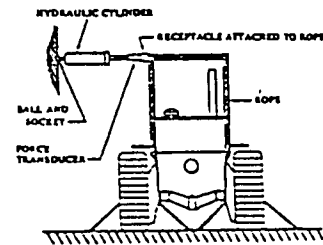
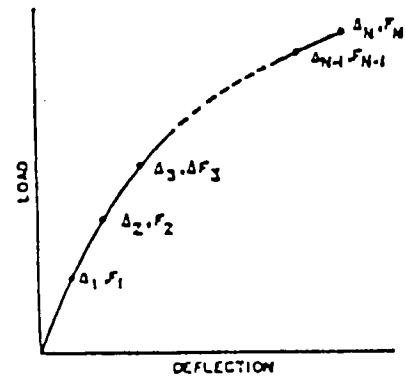


Figure V-4
Side-loading setup for crawler tractors and crawler loaders.



Δ - TOTAL DEFLECTION
F - FORCE APPLIED

$$\text{AREA} = \frac{\Delta_1 F_1}{2} + (\Delta_2 - \Delta_1) \frac{F_1 + F_2}{2} + (\Delta_3 - \Delta_2) \frac{F_2 + F_3}{2} + \dots + (\Delta_N - \Delta_{N-1}) \frac{F_{N-1} + F_N}{2}$$

Figure V-5
Determination of energy area under force deflection curve for all types of ROPS equipment defined in WAC 296-306-26001(2).

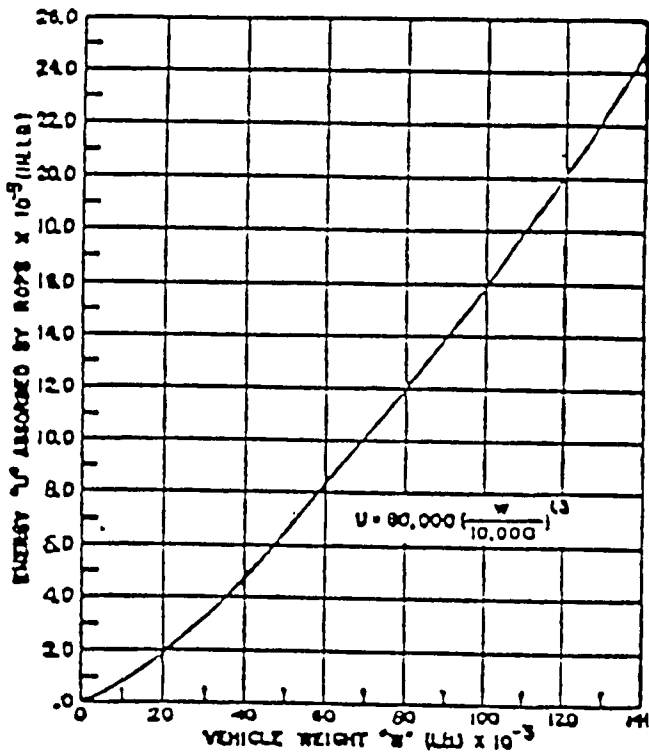


Figure V-6

Energy absorbed versus vehicle weight.

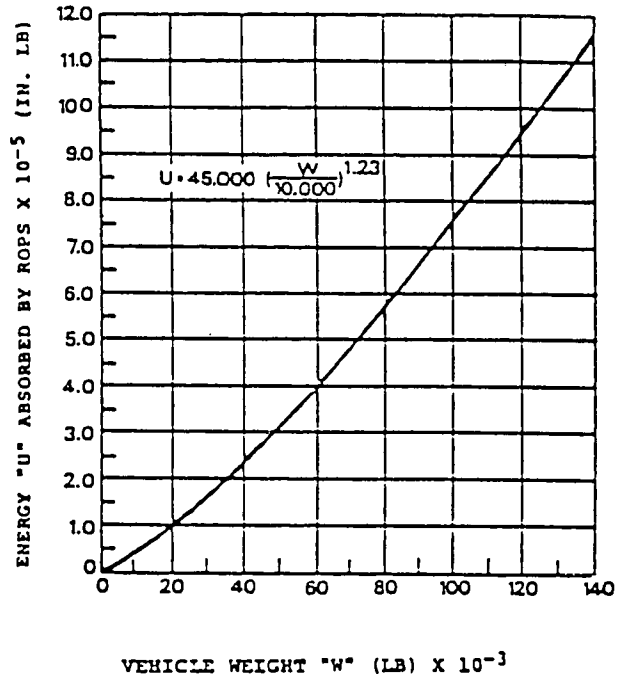


Figure V-8

Energy absorbed versus vehicle weight.

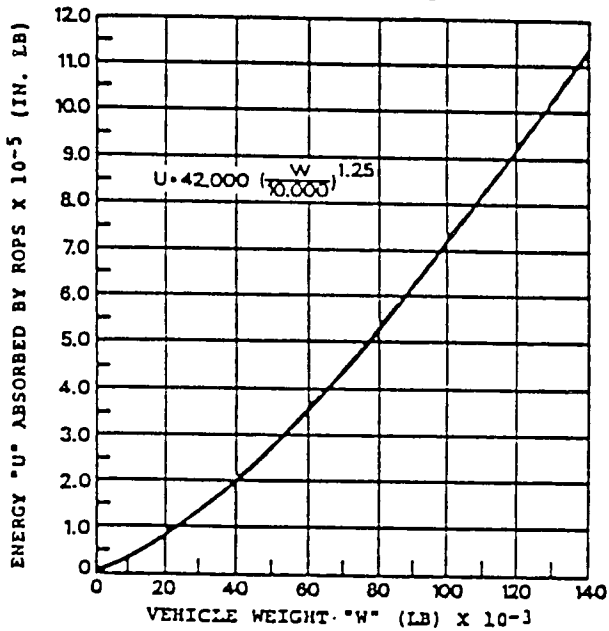


Figure V-7

Energy absorbed versus vehicle weight.

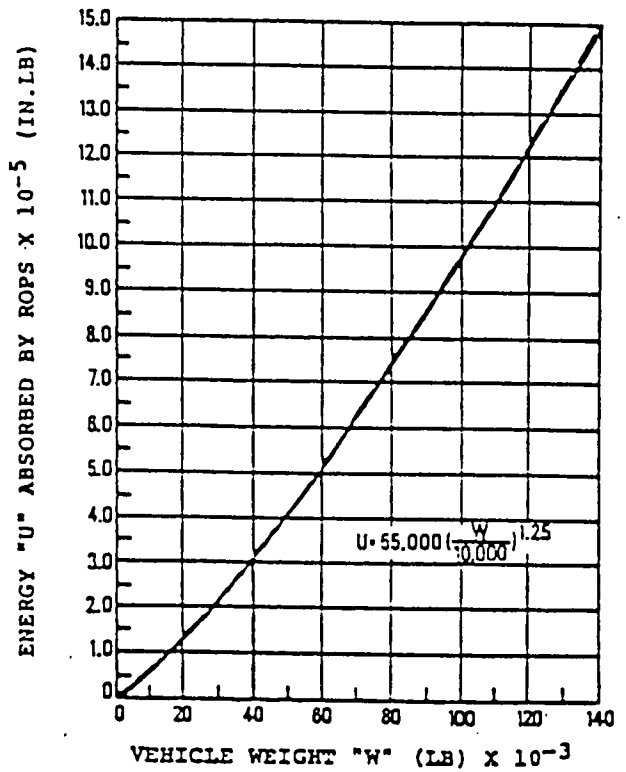


Figure V-9

Energy absorbed versus vehicle weight.

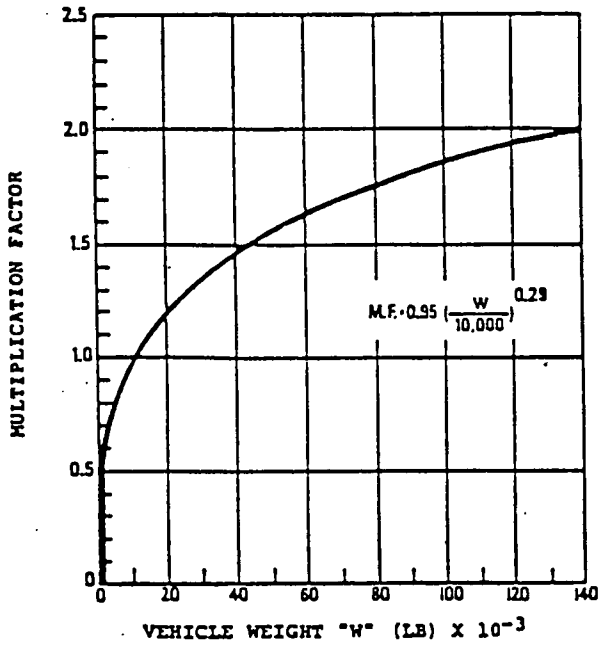


Figure V-10
Minimum horizontal load factor for self-propelled scrapers.

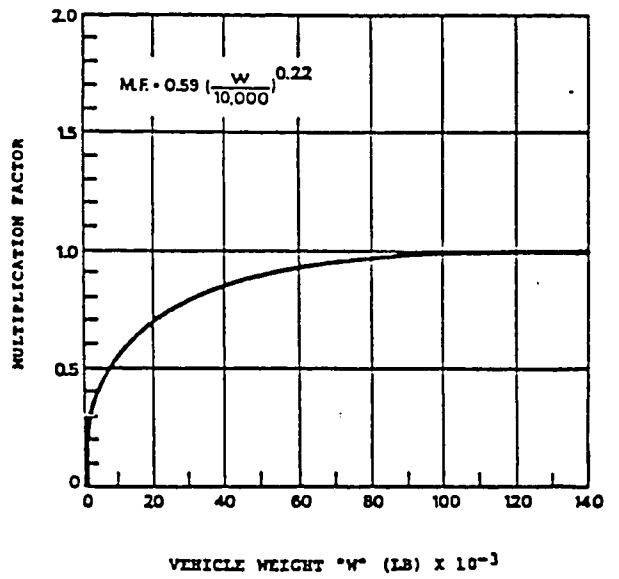


Figure V-12
Minimum horizontal load factor for crawler tractors and crawler-type loaders.

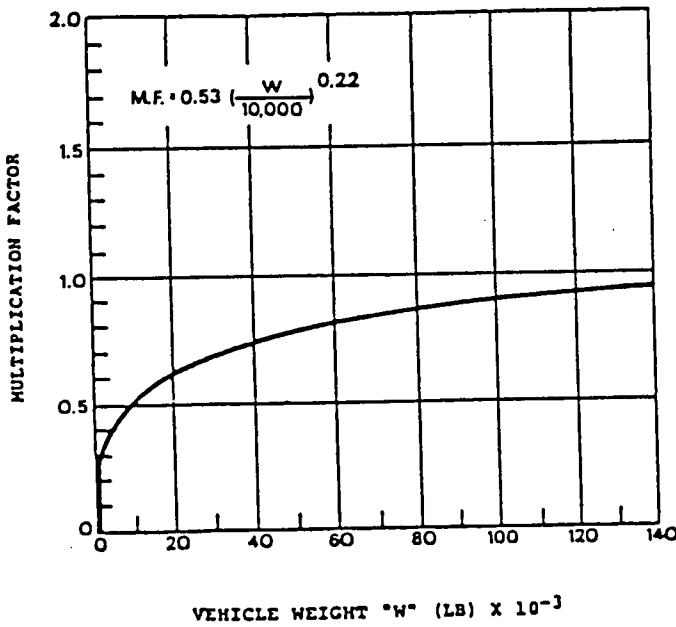


Figure V-11
Minimum horizontal load factor for rubber-tired loaders and dozers.

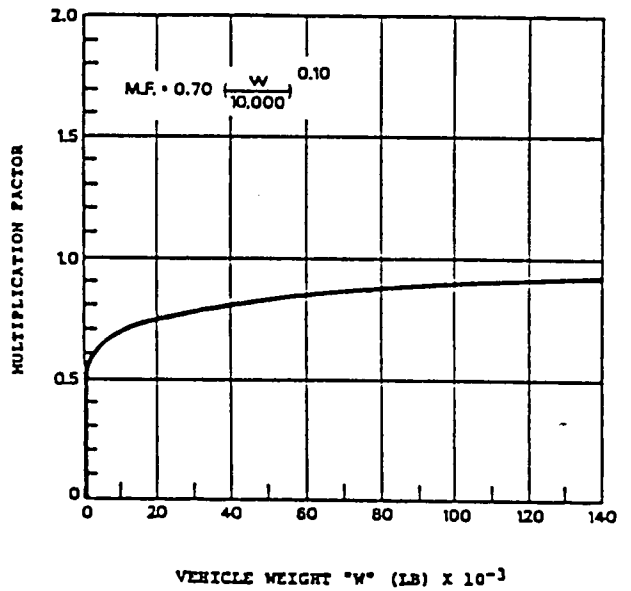


Figure V-13
Minimum horizontal load factor for motor graders.

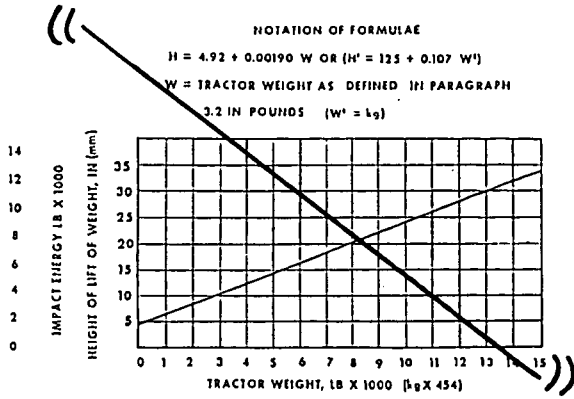


Figure V-14
 Impact energy and corresponding lift height of 4,410 lb. (2,000 kg weight.)

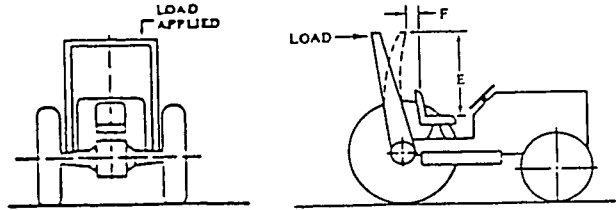


Figure V-17
 Rear load application.

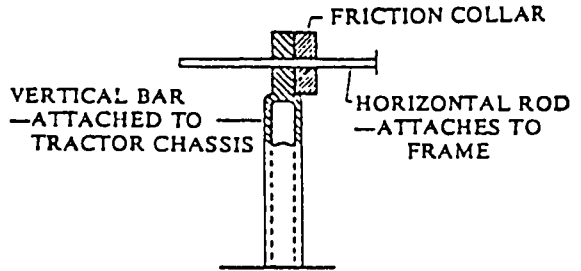


Figure V-18
 Method of measuring instantaneous deflection.

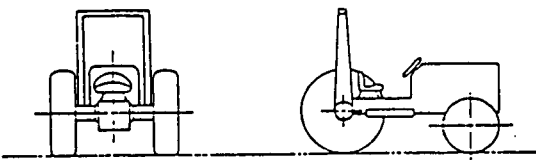


Figure V-14
 Typical frame configuration.

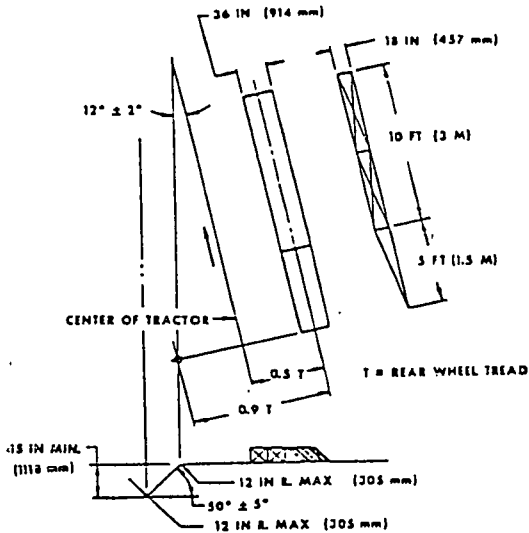


Figure V-15
 Bank and ramp configuration for side overturn testing.

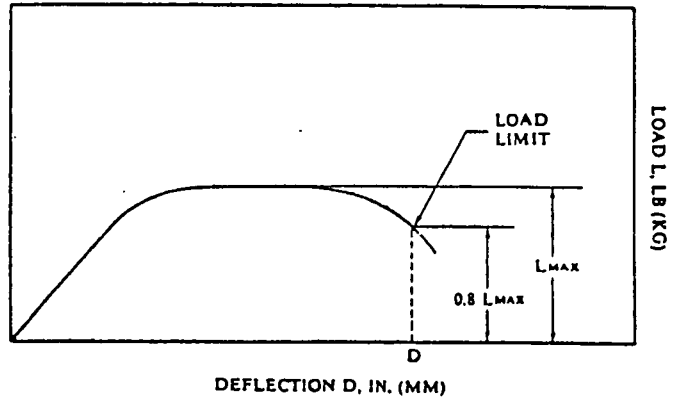


Figure V-19
 Typical L-D diagram.

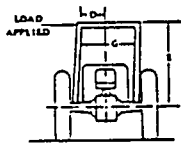


Figure V-16
 Side load application.

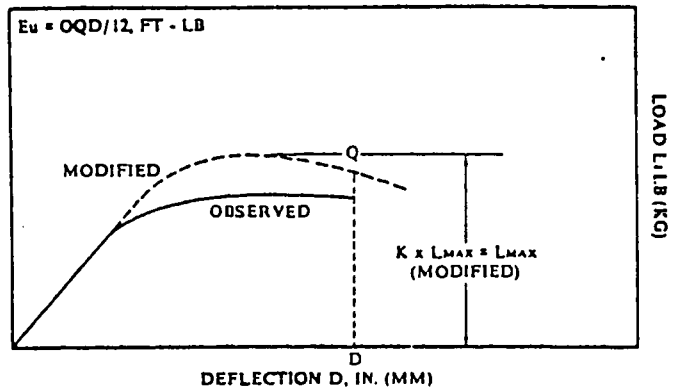


Figure V-20
 Typical modified L_m-D_m diagram.

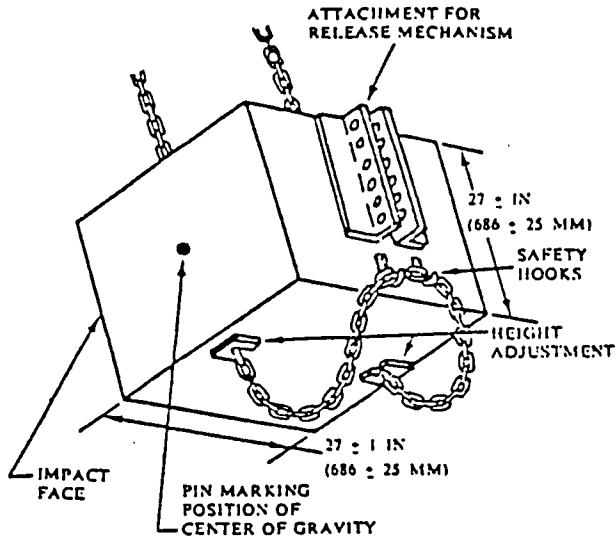


Figure V-((22)) 21
Pendulum.

NOTATION OF FORMULAE

$$H = 4.92 + 0.00190 W \text{ OR } (H' = 125 + 0.107 W')$$

W = TRACTOR WEIGHT AS DEFINED IN PARAGRAPH 3.2 IN POUNDS (W' = kg)

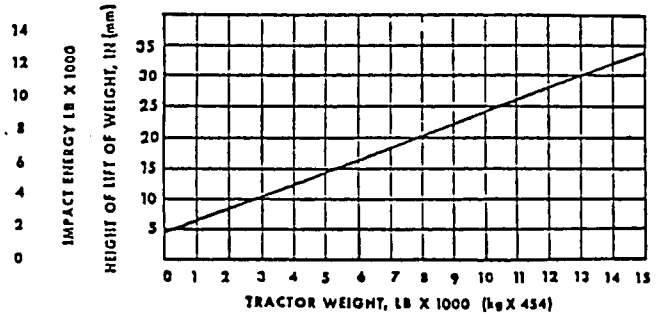


Figure V-24
Impact energy and corresponding lift height of 4,410 lb. (2,000 kg.) weight.

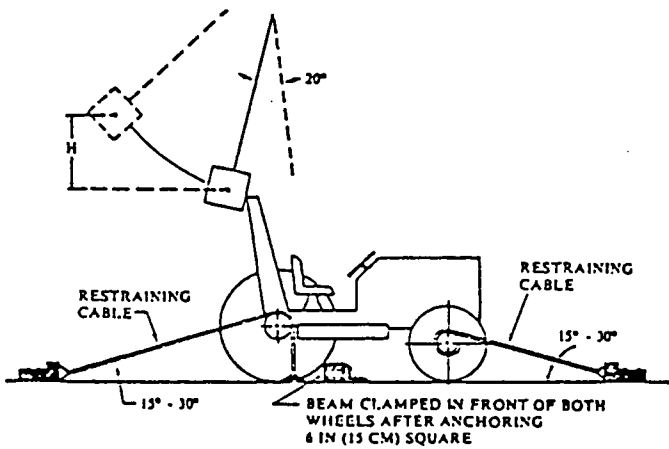


Figure V-((23)) 22
Method of impact from rear.

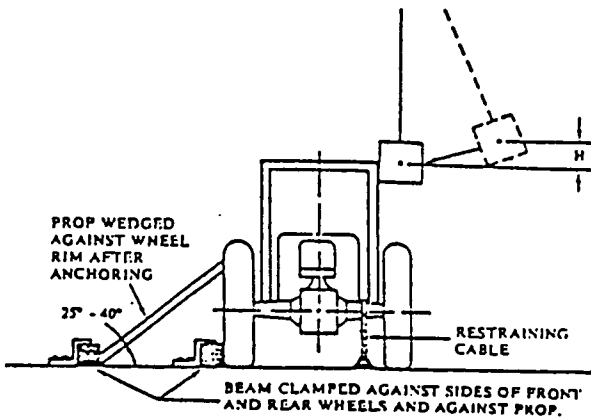


Figure V-((24)) 23
Method of impact from side.

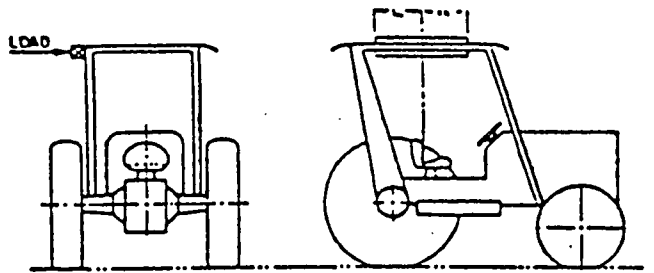


Figure V-25
Location for side load.

ALL POSSIBLE LATERAL WORKING POSITIONS OF SEAT

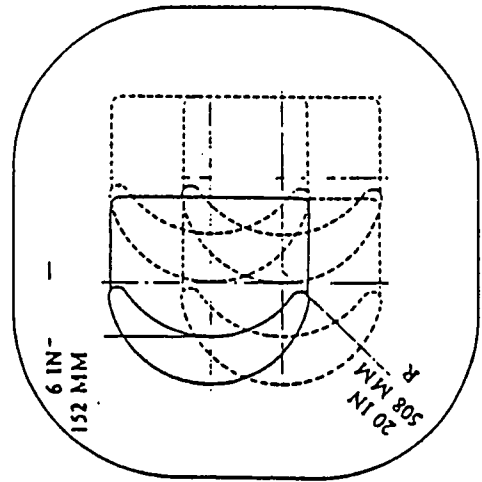


Figure V-26
Zone of protection for drop test.

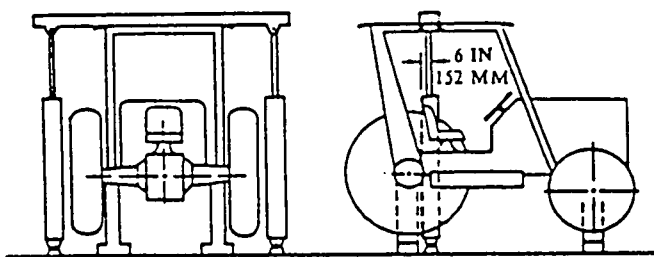


Figure V-27
Method of load application for crush test.

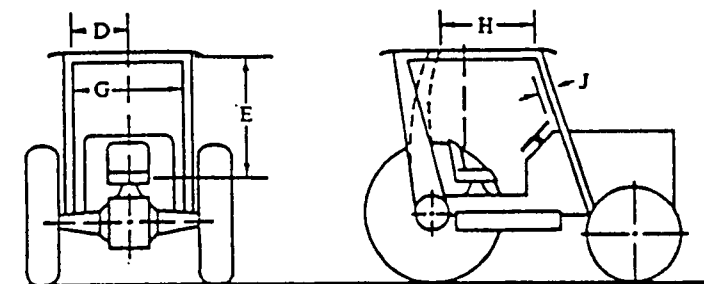


Figure V-28
Protected zone during crush and drop tests.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-306-310 FIELD SANITATION—DEFINITIONS.

(1) "Agricultural employer" means any person, corporation, association, or other legal entity that owns or operates an agricultural establishment or on whose premises or in whose interest an agricultural establishment is operated and any person, corporation, association, or other legal entity who is responsible for the management and condition of an agricultural establishment or who acts directly or indirectly in the interest of an employer in relation to any employee.

(2) "Agricultural establishment" is a business operation that uses paid employees in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

(3) "Accessible" means no more than one-fourth mile or five minutes travel time from the work location served.

(4) "Hand-labor operations" means agricultural activities or operations performed by hand or with hand tools. Some examples of "hand-labor operations" are the hand cultivation, weeding, planting or harvesting of vegetables, nuts, fruit, seedlings or other crops, including mushrooms, and the hand packing into containers. "Hand-labor" does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

(5) "Handwashing facility" means a facility providing a tap with an adequate supply of water, approved by the local health authority. Soap, single-use hand towels and either a basin or other suitable container for washing shall be provided.

(6) "Potable water" means water ~~((that))~~ which meets the quality standards for drinking purposes ~~((by the state or local authority having jurisdiction or water that meets the quality standards prescribed by the local health authority in accordance with the United States Environmental Protection Agency's National Interim Primary Drinking Water~~

~~Regulations, published in 40 CFR Part 141)) of state or local authority having jurisdiction or water that meets the quality standards prescribed by the United States Environmental Protection Agency's Interim Primary Drinking Water Regulations, published in 40 CFR Part 141, and 40 CFR 147.2000.~~

(7) "Toilet" means a fixed or portable facility designed for the purpose of adequate collection and containment of both defecation and urination. "Toilet" includes biological, chemical, flush and combustion toilets, or sanitary privies.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-306-320 FIELD SANITATION—REQUIREMENTS. Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

(1) Orientation: Orientation shall be given verbally to all employees in a manner readily understandable by each employee and shall include:

(a) Potable water: The location(s) of potable water supplies;

(b) Nonpotable water: Identification of all nonpotable water at the worksite and prohibition of the use of nonpotable water with an explanation of the possible consequences of using nonpotable water;

(c) Handwashing facilities: The location(s) of handwashing facilities with an explanation of when and how they should be used and the consequences of nonuse; and

(d) Toilet facilities: The location(s) of toilet facilities with an explanation of the necessity to use them and to keep them sanitary as well as the possible consequences of nonuse.

(2) Potable drinking water.

(a) The water shall be provided and shall be placed in locations readily accessible to all employees.

(b) Potable water containers shall be refilled daily or more often as necessary.

(c) Potable water dispensers shall be designed, constructed, and serviced so that sanitary conditions are maintained. They shall be capable of being closed and shall be equipped with a tap.

(d) Open containers such as barrels, pails, or tanks for drinking water from which water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

(e) Marking: Any container used to distribute drinking water shall be clearly marked, in English and with appropriate international symbol as to the nature of its contents.

(f) Use: Any container used to distribute drinking water shall not be used for any other purpose.

(g) The water shall be suitably cool and in sufficient amounts, taking into account the air temperature, humidity, and the nature of the work performed, to meet employees' needs.

Note: Suitably cool water should be sixty degrees Fahrenheit or less. During hot weather, workers may require up to three gallons of water per day.

(h) The use of common drinking cups or dippers is prohibited. Water shall be dispensed in single-use drinking cups, personal containers, or by water fountains. Single-use drinking cups mean a container of any type or size whether disposable or not, and may include personal containers so long as the option to use a personal container is exercised by the employee, not the employer.

(i) Employees shall not be permitted to drink from irrigation ditches, creeks or rivers. Potable water shall meet the quality standards for drinking purposes ~~((by the))~~ of state or local authority having jurisdiction or ~~((water))~~ that meets ~~((the))~~ quality standards prescribed by the ~~((local health department in accordance with the))~~ United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141 and 40 CFR 147.2400.

(3) Handwashing facilities.

(a) One handwashing facility, providing a tap with an adequate supply of water, soap, single-use hand towels and either a basin or other suitable container for washing shall be provided for each twenty employees or fraction thereof.

Note: Nonpotable water shall not be used for washing any portion of the person, except as specifically permitted by the health authorities having jurisdiction.

(b) Running water: Each facility shall be provided with running water.

(c) Soap: Each facility shall be provided with a dispenser containing handsoap or a similar cleansing agent.

(d) Towels: Each facility shall be provided with individual single-use hand towels.

(e) Cleanliness: Facilities shall be maintained in a clean and sanitary condition in accordance with appropriate public health sanitation practices.

(f) Waste: Waste receptacles shall be provided. Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to toilet facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities as required by (h)(i) of this subsection, the facilities shall be located at the point of closest vehicular access.

(4) Toilet facilities.

(a) One toilet facility shall be provided for each twenty employees or fraction thereof.

(b) Each employer shall ensure, at the beginning of each day, that the toilets are inspected. If any toilet facility fails to meet the requirements of this section, immediate corrective action shall be taken. Inspections shall be documented and the record shall be maintained at the work site for at least seventy-two hours.

(c) Toilet facilities shall be adequately ventilated; appropriately screened, and have self-closing doors that can be closed and latched from the inside and shall be constructed to ensure privacy.

(d) Cleanliness: Facilities shall be maintained in a clean, sanitary, and functional condition and in accordance with the appropriate public health sanitation practices.

(e) Toilets shall be supplied with toilet paper.

(f) Waste: Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to hand washing facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities as required by (h)(i) of this subsection, the facilities shall be located at the point of closest vehicular access.

WSR 91-04-078

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 6, 1991, 12:35 p.m.]

Original Notice.

Title of Rule: Rules relating to the use of desiccants and defoliants, chapter 16-230 WAC.

Purpose: Amend area descriptions and restrictions, change permit requirements, housekeeping.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: Chapters 17.21 and 15.58 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cliff Weed, 406 General Administration Building, Olympia, WA 98504, (206) 753-5064.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Sets restrictions on the use and application of desiccants and defoliants in Walla Walla County for the protection of susceptible crops.

Proposal Changes the Following Existing Rules: Amends area descriptions to fit current boundaries in Walla Walla County; requires permit for both ground and aerial application of desiccants and defoliants in Area 1; and housekeeping amendments.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Walla Walla County Extension Service, 314 West Main, Walla Walla, WA 99362, on March 18, 1991, at 9:30 a.m.

Submit Written Comments to: Cliff Weed, 406 General Administration Building, AX-41, Olympia, WA 98504, by March 18, 1991.

Date of Intended Adoption: April 2, 1991.

February 6, 1991

Art G. Losey

Assistant Director

AMENDATORY SECTION (Amending Order 1598, filed 4/26/79)

WAC 16-230-150 AREA UNDER ORDER—RESTRICTED USE DESICCANTS AND DEFOLIANTS. (1) Area under order: All counties located east of the crest of the Cascade Mountains (~~including additional restrictions for Walla Walla County~~).

(2) Restricted use desiccants and defoliants: The following desiccants and defoliants are (~~by this order~~) declared to be restricted use desiccants and defoliants in the area under order: (~~(6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidinium dibromide, hereinafter commonly referred to as) Diquat; Paraquat ((dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride, hereinafter commonly referred to as Paraquat, Mono (N,N dimethylalkylamino) salt of 7-oxabicyclo (2,2,1) heptane-2,3-dicarboxylic acid, hereinafter commonly referred to as the amine salt of); and Endothal ((and Dinoseb (2-sec-Butyl-4,6-dinitrophenol), hereinafter commonly referred to as Dinitro).~~)

(3) Additional restrictions shall apply for certain areas of Walla Walla County (see WAC 16-230-190).

AMENDATORY SECTION (Amending Order 1938, filed 7/2/87)

WAC 16-230-160 DESICCANTS AND DEFOLIANTS—GROUND EQUIPMENT—NOZZLE AND PRESSURE REQUIREMENTS FOR THE ENTIRE AREA UNDER ORDER. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Nozzle requirements - a minimum orifice diameter of (~~0.072~~) .052 inches shall be used for application of all restricted use desiccants and defoliants: PROVIDED, That (~~applications of Dinitro may use a minimum orifice diameter of 0.052 inches. PROVIDED FURTHER, That~~) a RD-2 Raindrop nozzle shall be allowed.

(2) Pressure requirements - maximum pressure at the nozzles for all applications of restricted use desiccants and defoliants shall be 30 psi.

(3) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply restricted use desiccants and defoliants within the area as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives, and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.

(4) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliants.

AMENDATORY SECTION (Amending Order 1767, filed 7/6/82)

WAC 16-230-170 DESICCANTS AND DEFOLIANTS—AERIAL EQUIPMENT—BOOM LENGTH, PRESSURE, NOZZLE REQUIREMENT, NOZZLE HEIGHT OF DISCHARGE AND SMOKE DEVICE REQUIREMENTS FOR THE ENTIRE AREA UNDER ORDER. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Boom length restrictions:

(a) Fixed wing: The working boom length shall not exceed 3/4 of the distance from the center of aircraft to wing tip on each side of aircraft.

(b) Helicopters: The working boom length shall not exceed 6/7 of the distance from the center of rotor to rotor tip on each side of the aircraft for rotors 40 feet or under or 3/4 of the distance from the center of rotor to rotor tip on each side of the aircraft where the rotor exceeds 40 feet while applying restricted use desiccants and defoliant.

(2) Pressure restrictions: Maximum pressure at the nozzles for all aerial applications of restricted use desiccants and defoliant shall be 25 psi.

(3) Nozzle requirements for applications of restricted use desiccants and defoliant:

(a) Fixed wing:

(i) Aircraft shall not be equipped with core plates or any device or mechanism which would cause a sheet, cone, fan or other dispersion of the discharged material. Nozzle orifices shall not be less than 0.094 inches: PROVIDED, That the RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of 0.156 inches;

(ii) Nozzles shall be directed downward and backward 135 degrees from the direction of flight.

(b) Helicopter:

(i) Straight stream jet nozzles, without core plates, with a minimum orifice diameter of 0.063 inches;

(ii) Straight stream jet nozzles with a minimum orifice diameter of 0.125 inches with No. 46 core plates or larger;

(iii) RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of ~~((0.156))~~ .075 inches;

(iv) Nozzles shall be directed downward and backward 135 degrees from the direction of flight for applications over 50 miles per hour and 90 degrees downward and backward for applications under 50 miles per hour.

(4) Height of discharge requirements by aircraft of restricted use desiccants and defoliant: The nozzles must be closed while either descending onto or ascending from the target field, and also ascending or descending over an obstacle or obstruction within the target field that would alter the height of application more than ten feet.

(5) Smoke device requirements: All aircraft applying restricted use desiccants and defoliant shall utilize a smoke device to determine wind directions and temperature inversion situations.

(6) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply restricted use desiccants and defoliant within the area under order as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.

(7) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliant.

(8) Aerial applications of desiccants and defoliant are prohibited within a distance of one mile of the city limits of any incorporated city or town and the same distance from the center of any unincorporated city or town comprised of ten or more inhabited, closely grouped residences.

AMENDATORY SECTION (Amending Order 1682, filed 4/4/80)

WAC 16-230-180 DESICCANTS AND DEFOLIANTS—WEATHER AND EVENING CUTOFF REQUIREMENTS. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Weather conditions: Restricted use desiccants and defoliant shall not be applied when there is a temperature inversion, or if wind or weather conditions are such that damage could result to susceptible crops or ornamentals: PROVIDED, That aircraft applications of Paraquat shall be prohibited until the temperature inversion ceiling at the site of application is 1,000 feet or greater. Aircraft must be equipped with thermometers to detect the height of the inversion.

(2) Evening cutoff: All applications of restricted use desiccants and defoliant shall be prohibited from three hours prior to sunset to one hour after sunrise the following morning ~~((except for applications of Paraquat in Area 2 and 3 of Walla Walla County (see WAC 16-230-190)))~~: PROVIDED, That ground applications ~~((of Dinitro may begin at sunrise the following morning))~~ in Areas 2 and 3 of Walla Walla County may begin at sunrise: PROVIDED FURTHER, That ground

applications may be allowed at other times by obtaining a written permit from the department.

AMENDATORY SECTION (Amending Order 1938, filed 7/2/87)

WAC 16-230-190 RESTRICTIONS ON THE USE OF DESICCANTS AND DEFOLIANTS IN WALLA WALLA COUNTY. The following restrictions shall apply in Walla Walla County:

(1) Area 1 description - town of Walla Walla and vicinity: This area includes all lands lying within the town of Walla Walla and vicinity beginning at the Washington ~~((state line at the common boundary line between Sections 15 and 16, T6N, R34E, north along Hoon Road and continuing north on McDonald Bridge Road, across U.P.R.R. and Highway 12, thence north four miles more or less to the northwest corner of Section 10, T7N, R34E; thence east twenty miles to the northeast corner of Section 11, T7N, R37E; thence south seven miles more or less to the Washington-Oregon state line, thence west))~~ -Oregon border and the west section line of Section 15, T6N, R34E; thence north along section lines and McDonald Road approximately seven miles to the southwest corner of Section 3, T7N, R34E; thence east along section lines approximately twenty miles to the southeast corner of Section 2, T7N, R37E; thence south approximately seven miles to the Washington-Oregon border; thence west approximately twenty miles to point of beginning.

(2) Area 1 restrictions:

~~((a))~~ During the period of February 15 through November 1 of any year, any aerial or ground application of ~~((Paraquat or Diquat or any mixture containing Paraquat or Diquat))~~ restricted use desiccants and defoliant shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

~~((b))~~ The loading and/or mixing of dinitro, Paraquat or Diquat for aerial application is prohibited on any airstrip, airfield or any location within Area 1 of Walla Walla County. Aerial application equipment used for dinitro, Paraquat or Diquat applications shall be decontaminated prior to bringing the application equipment back into Area 1 of Walla Walla County: PROVIDED, That the loading and/or mixing of Paraquat shall be allowed at the Walla Walla airport and those aircraft are restricted to exit and enter the airport to the north over Sections 10 and 11, T7N, R36E: PROVIDED FURTHER, That the department may issue a permit for loading and mixing of dinitro at a specified location and between specified dates upon receipt of a written request:

(c) Aerial applications of dinitro are prohibited during the period of August 25 through October 31 of any year.

(d) During the period of August 25 through October 31 of any year, diesel and other fuel oils shall be prohibited in dinitro tank mixes.

(e) During the period of August 25 through October 31 of any year, the ground application of dinitro or any mixture containing dinitro shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(f) During the period of August 1 through August 24 of any year, aerial applications of dinitro are prohibited within one-half mile of commercially grown alfalfa hay: PROVIDED, That the department may issue permits for aerial application within these areas:

(g) During the period of August 1 through October 31 of any year, any person applying dinitro shall keep records on forms prescribed by the director which shall include the following:

(i) The name and address of the person for whom the pesticide was applied;

(ii) The location of the land and number of acres where dinitro was applied;

(iii) The year, month, day, and time that dinitro was applied;

(iv) The product name of the dinitro applied;

(v) The direction and estimated velocity of the wind and temperature at the time the dinitro was applied;

(vi) The amount of dinitro applied per acre;

(vii) The type of carrier(s) and number of gallons per acre applied;

(h) The records required by (g) of this subsection shall be completed and available to the department the same day dinitro was applied. These records shall be kept for a period of one year from the date of application of dinitro. The director upon written request shall forthwith be furnished a copy of the records.

(i) Applications of dinitro by licensed commercial applicators shall be exempt from (g) and (h) of this subsection: PROVIDED, That the licensed applicator's records shall comply with RCW 17.21.100 and

WAC 16-228-190(1) through 16-228-190(4). PROVIDED FURTHER, That such records shall include the number of acres of application:))

(3) Area 2 description - southern portion of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington-Oregon border and the west section line of Section ((14, T6N, R33E, thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence east along the Dodd Road to the Touchet River; thence northerly along the Touchet River to north section line of Section 6, T8N, R34E; thence east along section lines twenty-two miles more or less to the northeast corner of Section 2, T8N, R37E; thence south along section lines seven miles more or less to the southeast corner of Section 2, T7N, R37E; thence west along section lines twenty miles more or less to the southwest corner of Section 3, T7N, R34E; thence south along section lines seven miles more or less to the Washington-Oregon border; thence west along the border five miles more or less)) 18, T6N, R33E; thence north along section lines approximately eight miles to the intersection with Nine Mile Road in Section 6, T7N, R33E; thence northeast along Nine Mile Road and Dodd Road approximately four miles to the intersection with the Touchet North Road in Section 23, T8N, R33E; thence northerly along the Touchet North Road approximately two miles to the Touchet River near the southeast corner of Section 11, T8N, R33E; thence northeasterly along the Touchet River approximately three miles to the north section line of Section 6, T8N, R34E; thence east along section lines approximately twenty-two miles to the northeast corner of Section 2, T8N, R37E; thence south along section lines approximately seven miles to the southeast corner of Section 2, T7N, R37E; thence west along section lines approximately twenty miles to the southwest corner of Section 3, T7N, R34E; thence south along section lines approximately seven miles to the Washington-Oregon border; thence west along the border approximately nine miles to the point of beginning.

(4) Area 2 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, any aerial application of Paraquat or any mixture containing Paraquat shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(ii) Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature the following morning has risen at least 10 degrees above the night low temperature.

(b) Diquat restrictions:

During the period of February 15 through November 1 of any year, any application of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only ((upon obtaining a permit from the Washington state department of agriculture.

(c) Dinitro restrictions:

(i) During the period of August 1 through August 24 of any year, aerial applications of dinitro are prohibited within one-half mile of commercially grown alfalfa hay. PROVIDED, That the department may issue permits for aerial application within these areas. The permits, if issued, may in addition to other application restrictions prohibit certain carriers or diluents for the dinitro:

(ii) During the period of August 25 through October 31 of any year, aerial applications of dinitro or any mixes containing dinitro are prohibited. PROVIDED, That the department may issue a written permit for such aerial applications:

(d) Records required by subsection (2)(g) through (i) of this section shall also apply to applications of dinitro in Area 2.

(5) Area 3 description - an area lying west of Area 2 in the southern part of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington-Oregon border and the east section line of Section 15, T6N, R33E; thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence southwest along the Dodd Road and Maxwell Road four miles more or less to its intersection with the western section line of Section 6, T7N, R33E; thence south along the section lines eight miles more or less to the Washington-Oregon border; thence east along the Washington-Oregon border four miles more or less to the point of beginning.

(6) Area 3 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, any application of Paraquat or any mixture containing Paraquat shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(ii) Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature the following morning has risen at least 10 degrees above the night low temperature.

(b) Diquat restrictions:

During the period of February 15 through November 1 of any year, any application of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only upon obtaining a written permit from the Washington state department of agriculture.

(c) Dinitro restrictions:

During the period of August 1 through October 31 of any year, aerial applications of dinitro are prohibited within one-half mile from the center of the town of Touchet, and within one-half mile of commercially grown alfalfa hay. PROVIDED, That the Washington state department of agriculture may issue permits for aerial applications within these areas:

(d) Records required by subsection (2)(g) through (i) of this section shall also apply to applications of dinitro in Area 3).

WSR 91-04-079

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 91-10—Filed February 6, 1991, 1:22 p.m.]

Original Notice.

Title of Rule: WAC 173-19-4205 City of Tumwater shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: This amendment revises the shoreline master program for the city of Tumwater.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Nora Jewett, Mailstop PV-11, Olympia, Washington 98502, (206) 459-6789; Implementation and Enforcement: D. Rodney Mack, Mailstop PV-11, Olympia, Washington 98502, (206) 459-6777.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed amendment to the city of Tumwater shoreline master program would allow the land use hearing examiner to review city shoreline permit applications.

Proposal Changes the Following Existing Rules: Amends WAC 173-19-4205.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Tumwater City Hall, 555 Israel Road Southwest, Tumwater, WA 98501, on Wednesday, March 18, 1991, at 7:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, Mailstop PV-11, Olympia, Washington 98504, by March 25, 1991.

Date of Intended Adoption: April 2, 1991.

February 5, 1991
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order 90-07 [90-33], filed 5/16/90 [10/2/90])

WAC 173-19-4205 TUMWATER, CITY OF. City of Tumwater master program approved May 21, 1976. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved April 2, 1991.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 91-04-080

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Order 91-09—Filed February 6, 1991, 1:27 p.m.]

Date of Adoption: February 6, 1991.

Purpose: New section to chapter 173-500 WAC to create a new process by which the state, the local government and affected federally recognized tribe(s) can come together and, in cooperation, design a strategy to address critical water resource situations.

Citation of Existing Rules Affected by this Order: The proposed rule adds a new section to chapter 173-500 WAC.

Statutory Authority for Adoption: Chapters 34.05 and 90.54 RCW.

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

Reasons for this Finding: The department has determined that critical water resource situations exist, or potentially exist, involving water supply and related water quality, and that given the dependence of the state on ground and surface water to meet basic human water needs, those problems result in public health and safety concerns. The department has determined, in consultation with the tribes, local governments and interested parties, that critical water resource situations exist in several water basins within the state. These critical situations may include existing or potential problems with water supply and related water quality. Given the dependence of the state on ground and surface water to meet basic human water needs, those problems result in public health and safety concerns. At the present time

regulations do not provide a mechanism to the state, the tribes and the local governments to allow them to negotiate and cooperatively design planning strategies to address these situations. Adoption of this rule may avoid or defer litigation to resolve the critical water resource issues and to ensure consistency of the separate planning activities of each entity.

Effective Date of Rule: Immediately.

February 6, 1991
Fred Olson
Deputy Director

NEW SECTION Chapter 173-500 WAC

NEW SECTION

WAC 173-500-080 CRITICAL WATER RESOURCE SITUATION RESPONSE PROCESS. *In areas subject to the department of Ecology's jurisdiction, where there may be current or anticipated critical water resource or related water quality concerns, the local government(s), the state or the affected federally recognized tribes(s) may request that representatives from all three governmental entities and, as needed, appropriate federal agencies agree to the designation of the area as a critical water resource situation. All represented parties must agree to the designation. Upon designation, an intergovernmental group will be convened.*

The purpose of the intergovernmental group is to cooperatively design a consultation strategy to address the problem(s) which triggered this critical situation response process.

The legal rights and remedies available to the three governmental entities shall not be compromised or abridged by participation in the critical situation response process. However, all of the parties agree to undertake a good faith effort to resolve the critical water resource situation without first resorting to legal action.

When the intergovernmental group determines that a critical water resource situation exists or requires further evaluation or data collection, the parties will consider applying those tools necessary to protect the resources. These tools must be exercised within 12 months or as otherwise agreed to by the parties, and include, but are not limited to: targeted conservation, efficiency, re-use, compliance and enforcement; dispute resolution assistance, Memoranda of Understanding and other agreements; local government restrictions on permit issuance or moratoria; basin withdrawal by adoption of administrative regulations under RCW 90.54.050 or limited state permit issuance.

WSR 91-04-081 PROPOSED RULES DEPARTMENT OF GENERAL ADMINISTRATION

[Filed February 6, 1991, 1:36 p.m.]

Original Notice.

Title of Rule: WAC 236-12-290 Parking fees; and 236-12-300 Monthly parking fee payments.

Purpose: To increase revenues generated from parking facilities on the State Capitol grounds, to encourage employee commutes in high occupancy vehicles, and to amend the authority of the Department of General Administration in the management of parking on the State Capitol grounds.

Statutory Authority for Adoption: RCW 46.08.150 and 46.08.172.

Statute Being Implemented: RCW 46.08.150 and 46.08.172.

Summary: The proposed rules changes increase parking fees on the State Capitol grounds, and redefine categories of users and vehicles for establishing those fees. The Department of General Administration is authorized to establish other permits, create reserved parking areas, and issue a fee schedule for each. Criteria for considering future rate increases are established. Procedures for monthly parking fee collection, and relinquishing of parking permits, are amended as well.

Reasons Supporting Proposal: RCW 46.08.172 directs the director of general administration to establish an equitable and consistent employee parking rental fee on the State Capitol grounds, taking into account the market rate of comparable privately-owned rental parking; fees have not been increased since 1969. Changes in fee collection procedures are intended to improve the efficiency of parking administration for facility users and office of parking services staff.

Name of Agency Personnel Responsible for Drafting: Vicki Toyohara, Division of Administrative Services, AX-22, 218 General Administration Building, Olympia, WA 98504, 753-4243; Implementation and Enforcement: Louis P. Cooper, Jr., Division of Transportation Services, Plaza Garage, Level D, Olympia, WA 98504, 753-2755.

Name of Proponent: Washington State Department of General Administration, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 236-12-290, this proposed rule establishes increased parking fees as directed by statute, creates different fees for employee vehicle parking permits and agency stall permits, outlines the Department of General Administration's authority to create parking permits and reserved parking areas and fee schedules, and establishes the factors to be considered when determining future parking rate changes. The purpose is to increase parking fees which have not been changed since 1969, to make parking fee revenues cover a larger portion of parking facility debt service and maintenance and operations costs, and to amend and clarify the procedures by which the Department of General Administration manages parking on the State Capitol grounds, including authority to establish additional permits as needed, designate reserved parking areas, and establish fee schedules. The anticipated effects are reduced incidence of long-term parking in metered parking areas, increased use of high-occupancy vehicles and nonmotorized transport for employee commute trips and less reliance on Capitol land grant timber revenues to support parking facility costs; and WAC 236-12-300, payroll deduction becomes the

exclusive method by which monthly parking fees are collected, and persons holding monthly parking permits must still notify the office of parking services prior to terminating their permits, but personal notice is no longer required. The purpose and the anticipated effect are the same: To simplify the parking facility management process for the office of parking services and for parking facility users.

Proposal Changes the Following Existing Rules: WAC 236-12-290, the following changes are made in regard to parking on the State Capitol grounds: Motor vehicles are consolidated into a single class for purposes of determining parking fees, separate fees are established for employee vehicle parking permits and agency stall parking permits, metered and handicapped parking rates fees are designated, the Department of General Administration is authorized to issue additional types of parking permits as needed, and to set their fees by a fee schedule which [will] be on file at the Department of General Administration and available upon request, the director of general administration is authorized to create reserved parking spaces in areas, and to establish a fee schedule for such reserved parking, factors which the director of general administration will consider in determining whether to adjust parking fees on the State Capitol grounds are established and monthly parking fees are increased from \$3/\$5/\$10 to \$15 for all employee vehicle parking permits, \$30 for all agency stall parking permits, and metered parking fees are increased from 25 cents to 50 cents per hour; and WAC 236-12-300, parking fee collection is changed from cash, check or payroll deduction to payroll deduction only and an employee terminating use of a parking permit shall notify the office of parking services prior to such termination, but is no longer required to do so in person.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: First Floor Auditorium, General Administration Building, 11th and Columbia Street, Olympia, Washington 98504, on March 12, 1991, at 9:00 a.m.

Submit Written Comments to: K. Wendy Holden, Director, Department of General Administration, 218 General Administration Building, AX-22, Olympia, WA 98504, by March 10, 1991.

Date of Intended Adoption: March 15, 1991.

February 6, 1991
Louis P. Cooper, Jr.
Assistant Director

AMENDATORY SECTION (Amending Order 85-02, filed 9/5/85)

WAC 236-12-290 PARKING FEES. (1) The fees for rental parking shall be as follows:

PARKING FEES	AUTOMOBILE	((MOTOR- CYCLE/ MOTOR- DRIVEN CYCLE
)
(a) Covered space (garage)	\$ 10.00/month	\$5.00/month
(b) Open space (lots/streets)	\$ 5.00/month	\$3.00/month
(c) Parking by the day	\$ 1.00 per day maximum	
(d) No charge for visitors or tourists except where mechanical devices or meters are installed for general or specific area use.))		

PARKING FEES

MOTOR VEHICLE
MOTORCYCLE
MOTOR-DRIVEN
CYCLE/MOPEL

(a) Agency stalls	\$30.00 per month
(b) Employee vehicles	\$15.00 per month
(c) Handicapped employee vehicles	\$15.00 per month
(d) Metered parking	\$.50 per hour

(e) No charge for carpools/vanpools to which permits have been issued in accordance with WAC 236-12-295.

(f) In addition to the permits issued under (a), (b), (c), (d), and (e) of this subsection, the department may issue other permits including but not limited to agency prepaid monthly, service/delivery and temporary/daily permits; the department will establish a fee schedule for such permits other than permits issued under (a), (b), (c), (d), and (e) of this subsection, and will keep such fee schedule on file at 218 General Administration Building, Mailstop: AX-22, Olympia, Washington 98504 and will make it available to any person upon request.

(g) The director has authority to create reserved parking spaces/areas and to determine the rates for such parking; the director will establish a fee schedule for reserved parking spaces/areas and will keep such fee schedule on file at 218 General Administration Building, Mailstop: AX-22, Olympia, Washington 98504 and will make it available to any person upon request.

(2) In determining whether to adjust rental parking fees, the director will consider one or more of the following factors:

- (a) Parking facility costs;
- (b) Available commuting alternatives;
- (c) Change in the demand for parking facilities;
- (d) Transportation demand management requirements;
- (e) Market rates of comparable privately owned or leased property;

and
(f) Other circumstances as determined by the director, whereby a change in parking fees is necessary.

AMENDATORY SECTION (Amending Order 78-3, filed 4/7/78)

WAC 236-12-300 MONTHLY PARKING FEE PAYMENTS. ~~((Fees are payable in advance. Payments may be made by cash or check or by payroll deduction plan. For the payroll deduction plan, monthly payments should be accomplished by the initiation of a form to be designated by the director. Since retroactive deductions are not authorized, cash or check payments must be made for any month in which a payroll deduction has not been withheld. Checks should be made payable to the department of general administration and forwarded)) Employee rental parking fees and any and all employee parking permit fees shall be by payroll deduction. The director will designate a form which will be completed and submitted to the Parking Office, 218 General Administration Building, ((Mail Stop EF-13. Payment must be received not later than the tenth day of each month)) Mailstop: AX-22, Olympia, Washington 98504. The person to whom the ((parking space is rented)) permit is issued, upon termination of use of ((his parking space)) such permit, shall ((personally)) notify the parking office prior to such termination of use.~~

WSR 91-04-082

**WITHDRAWAL OF PROPOSED RULES
WESTERN WASHINGTON UNIVERSITY**

[Filed February 6, 1991, 2:16 p.m.]

We are hereby withdrawing WSR 90-13-081 and 90-17-030 concerning bicycle regulations on the campus of Western Washington University.

Dennis A. Kole
Assistant Attorney General

**WSR 91-04-083
PROPOSED RULES
BOARD OF TAX APPEALS**
[Filed February 6, 1991, 2:31 p.m.]

Original Notice.

Title of Rule: WAC 456-10-360 Conversion of hearing; and 456-10-547 Hearings—Reporting—Recording devices.

Purpose: Amend existing rule on conversion of hearing to conform with statute. Provide rule for recording hearings at informal hearings.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 82.03.140 and 82.03.170.

Summary: The proposed rules provide 30 days for the Department of Revenue to request a formal hearing, and adds a rule concerning recording of informal hearings.

Reasons Supporting Proposal: The proposed rules clarify existing procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, 910 5th Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules provide 30 days for the Department of Revenue to request a formal hearing thereby conforming the rule to the statute, and provide for recording hearings at informal hearings.

Proposal Changes the Following Existing Rules: Proposed WAC 456-10-360 changes the time to request a formal hearing from 10 days to 30 days.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The rules are exempt from the statute because the rules are procedural in nature and have no significant business impact.

Hearing Location: Hearing Room, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504-2712, on March 14, 1991, at 10:00 a.m.

Submit Written Comments to: David Akana, Board of Tax Appeals, 910 5th Avenue S.E., Mailstop EW-12, Olympia, WA 98504-2712, by March 6, 1991.

Date of Intended Adoption: March 14, 1991.

February 6, 1991
David Akana
Executive Director

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-360 CONVERSION OF HEARING. (1) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130(2) (appeal from the boards of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within thirty ~~((ten))~~ days of receipt of the notice of appeal, file with the board a notice of its intention that

the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

NEW SECTION

WAC 456-10-547 HEARINGS—REPORTING—RECORDING—RECORDING DEVICES. (1) All hearings shall be recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

WSR 91-04-084
PROPOSED RULES
BOARD OF TAX APPEALS
 [Filed February 6, 1991, 2:33 p.m.]

Original Notice.

Title of Rule: WAC 456-09-210 Appearance and practice before the board; 456-09-325 Date of filing—Facsimile; and 456-09-365 Conversion of hearing.

Purpose: Amend existing rule on conversion of hearing to conform with statute. Clarify rules on filing and appearances.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 82.03.140 and 82.03.170.

Summary: The proposed rules provide 30 days for the Department of Revenue to request a formal hearing, and clarifies rules concerning filing and appearances.

Reasons Supporting Proposal: The proposed rules clarify existing rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, 910 5th Avenue S.E., Olympia, WA 98504-2712, (206) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules provide 30 days for the Department of Revenue to request a formal hearing thereby conforming the rule to the statute, and clarify rules concerning filing and appearances.

Proposal Changes the Following Existing Rules: Proposed WAC 456-09-210 deletes reference to practice by attorneys from another state, conforming with RCW 34.05.428; proposed WAC 456-09-325 clarifies that the date stamp is that of the board's; and proposed WAC 456-09-365 changes the time to request a formal hearing from 10 days to 30 days.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The rules are exempt from the statute because the rules are procedural in nature and have no significant business impact.

Hearing Location: Hearing Room, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504-2712, on March 14, 1991, at 10:00 a.m.

Submit Written Comments to: David Akana, Board of Tax Appeals, 910 5th Avenue S.E., Mailstop EW-12, Olympia, WA 98504-2712, by March 6, 1991.

Date of Intended Adoption: March 14, 1991.

February 6, 1991
 David Akana
 Executive Director

AMENDATORY SECTION (Amending Order 90-03 [WSR 90-11-105], filed 5/22/90)

WAC 456-09-210 APPEARANCE AND PRACTICE BEFORE THE BOARD—WHO MAY APPEAR. Practice before the board in formal proceedings shall be limited to the following:

(1) Taxpayers who are natural persons representing themselves;

(2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;

(3) ~~((Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in the state of Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;~~

~~((4))~~ An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation; and

~~4((5))~~ Other persons permitted by law.

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

AMENDATORY SECTION (Amending Order 90-03 [WSR 90-11-105], filed 5/22/90)

WAC 456-09-325 DATE OF FILING—FACSIMILE. (1) Except as provided in subsection (3) of this section, the date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office. The board's date stamp placed thereon shall be prima facie evidence of the date of receipt.

(2) Except as provided in subsection (3) of this section, all documents may be filed with the board via facsimile machine. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's facsimile shall be prima facie evidence of the date and time of receipt of transmission.

(b) The original document must be filed with the board within ten days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

(3) In appeals pursuant to RCW 82.03.130(2) (appeal from board of equalization) the date of filing shall be the date of receipt by the county auditor or, in King County, the clerk of the county council. The date stamp placed on the notice of appeal by the auditor or clerk shall be prima facie evidence of the date of receipt.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

WAC 456-09-365 CONVERSION OF HEARING. (1) The assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130(2) (appeals from the board of equalization) may, within twenty days from the date of receipt of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) In appeals under RCW 82.03.190 and 82.03.130(5), except as otherwise provided in this subsection and subsection (2) of this section, the department of revenue may, within ~~thirty~~ ~~((ten))~~ days of receipt of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

WSR 91-04-085
WITHDRAWAL OF PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed February 6, 1991, 2:41 p.m.]

Please be advised the Washington State Liquor Control Board voted to withdraw amendatory language to WAC 314-52-015 and new language for WAC 314-52-016 as detailed in WSR 90-21-038. The board originally heard the proposal on November 28, 1990. An intended date of adoption of January 2, 1991, was changed to January 30, 1991, with the appropriate notification being printed in the Register. Following lengthy discussion on the matter, the board did vote to withdraw the proposed language on January 30, 1991. A procedural review of the board's action was conducted on February 6, 1991, and the board voted unanimously to withdraw the language as indicated by this letter.

Paula O'Connor
 Chairman

WSR 91-04-086
PROPOSED RULES
HEALTH CARE AUTHORITY
 [Filed February 6, 1991, 3:08 p.m.]

Original Notice.

Title of Rule: Continued SEBB medical/dental coverage under COBRA.

Purpose: To clarify how SEBB medical and dental coverage continues under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

Other Identifying Information: WAC 182-12-215, OTS-4768:1.

Statutory Authority for Adoption: RCW 41.05.010 and 41.05.025.

Reasons Supporting Proposal: Clarifies definitions and compliance with COBRA.

Name of Agency Personnel Responsible for Drafting: Kristen West, 4505 Woodview Drive S.E., 438-7990; **Implementation:** Sharon Thompson; and **Enforcement:** Margaret T. Stanley.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule clarifies that dependent parents for tax purposes who qualify for coverage on their children's SEBB health and dental plans also qualify for continued coverage on a self-pay basis should they or their children become ineligible for SEBB coverage.

Proposal Changes the Following Existing Rules: This repeals WAC 182-12-127 and 182-12-210 and consolidates the provisions under the new section WAC 182-12-215. It clarifies the definition of a dependent parent. It also allows for the HCA to comply with COBRA amendments without revising HCA WACS.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: SEBB Meeting, Sea-Tac Auditorium, on March 13, 1991, at 1 p.m.

Submit Written Comments to: Kristen West, by March 13, 1991.

Date of Intended Adoption: March 13, 1991.

February 6, 1991
 Kristen A. West
 Assistant Administrator
 for Legislative and
 Governmental Affairs

NEW SECTION

WAC 182-12-215 CONTINUED SEBB MEDICAL/DENTAL COVERAGE UNDER COBRA. Enrollees and eligible dependents who become ineligible for SEBB medical/dental coverage and who qualify for continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), including any amendments hereinafter enacted, may continue their SEBB plan coverage by self-payment of plan premiums in accordance with COBRA statutes and regulations. Parents of an enrollee who qualify as dependents under the Internal Revenue Code and who were covered as dependents under SEBB medical/dental plans prior to July 1, 1990, shall be deemed "dependents" for purposes of COBRA coverage.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 182-12-127 EXTENSION OF RETIREE DEPENDENTS' ELIGIBILITY.

WAC 182-12-210 EXTENDED SELF-PAY MEDICAL AND DENTAL COVERAGE.

WSR 91-04-087
PROPOSED RULES
HEALTH CARE AUTHORITY
 [Filed February 6, 1991, 3:10 p.m.]

Original Notice.

Title of Rule: Model rules of procedure and appeals from Health Care Authority decisions.

Purpose: To establish a formal appeals process for enrollees of a Health Care Authority administered insurance plan aggrieved by a decision of the agency or its agent.

Other Identifying Information: Chapter 182-16 WAC, Practice and procedure, OTS-4921:1.

Statutory Authority for Adoption: RCW 34.05.250.

Purpose: This WAC defines terms and an appeals process for enrollees of a Health Care Authority administered insurance plan aggrieved by a decision. It specifies [specifies] the content and process for filing a notice of appeal with the Health Care Authority administrator and requesting a hearing. It also specifies [specifies] that the Health Care Authority administrator has the authority to render the final decision.

Name of Agency Personnel Responsible for Drafting: Kristen West, 4505 Woodview Drive S.E., 438-7990; **Implementation:** Sharon Thompson; and **Enforcement:** Margaret T. Stanley.

Name of Proponent: Margaret Stanley, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will establish a clear, fair and consistent process for appealing decisions made by the Health Care Authority or its agent related to the scope of health benefit coverage, denials of claims, determinations of eligibility or cancellations or nonrenewals of coverage.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: SEBB Meeting, Sea-Tac Auditorium, on March 13, 1991, at 1 p.m.

Submit Written Comments to: Kristen West, by March 13, 1991.

Date of Intended Adoption: March 13, 1991.

February 6, 1991
Kristen A. West
Assistant Administrator
for Legislative and
Governmental Affairs

Chapter 182-16 WAC
PRACTICE AND PROCEDURE

NEW SECTION

WAC 182-16-010 ADOPTION OF MODEL RULES OF PROCEDURE. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use by this agency. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this title, the procedural rules adopted in this title shall govern.

NEW SECTION

WAC 182-16-020 DEFINITIONS. As used in this chapter the term:

- (1) "Administrator" shall mean the administrator of the health care authority;
- (2) "Agency" shall mean the health care authority;
- (3) "Agent" shall mean a person, association, or corporation acting on behalf of the health care authority pursuant to a contract between the health care authority and the person, association, or corporation.

NEW SECTION

WAC 182-16-030 APPEALS FROM AGENCY DECISIONS—APPLICABILITY. Any enrollee of a health care authority-administered insurance plan aggrieved by a decision of the agency or its agent concerning any matter related to scope of coverage, denials of claims, determinations of eligibility, or cancellations or nonrenewals of coverage may obtain administrative review of such decision by filing a notice of appeal with the administrator of the health care authority. Review of decisions made by HMOs or similar health care contractors will be pursuant to the grievance/arbitration provisions of those plans and are not subject to these rules. Except that decisions concerning eligibility determinations are reviewable only by the health care authority.

NEW SECTION

WAC 182-16-040 APPEALS—NOTICE OF APPEAL CONTENTS. Any person aggrieved by a decision of the health care authority may appeal that decision by filing a notice of appeal with the administrator. The notice of appeal must contain:

- (1) The name and mailing address of the enrollee;
- (2) The name and mailing address of the appealing party;
- (3) The name and mailing address of the appealing party's representative, if any;
- (4) A statement identifying the decision appealed from and that portion of the decision considered unjust or unlawful;

(5) A clear and concise statement of facts in support of appealing party's position;

(6) A statement indicating whether the aggrieved person desires a hearing;

(7) The type of relief sought;

(8) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his/her signature and the signature of his/her representative, if any;

(9) The appealing party shall file, personally or by mail, with the health care authority the original and two copies of the notice of appeal. The notice of appeal must be received by the health care authority within sixty days after the decision of the agency staff or agent was mailed to the appealing party. The agency shall acknowledge receipt of the copies filed with the agency and the agency's stamp placed upon such copies shall be prima facie evidence of the date of receipt;

(10) Within thirty days after receipt of notice of appeal, the agency shall notify the appellant of any obvious errors or omissions, and request any additional information.

NEW SECTION

WAC 182-16-050 APPEALS—HEARINGS. (1) If, in his/her notice of appeal, the person aggrieved does not request a hearing on the matter, the administrator shall consider all information submitted by the parties and render a decision which shall be deemed the final decision of the agency. A copy of that decision accompanied by a written statement of the reasons for the decision shall be served upon the enrollee or person aggrieved and the agency staff or agent who rendered the decision appealed from.

(2) If, in his/her notice of appeal the person aggrieved requests a hearing, the agency shall set the time and place of the hearing and give not less than seven days notice to all parties and persons who have filed written petitions to intervene.

(3) The administrator shall preside at all hearings resulting from the filings of appeals.

(4) All hearings shall be conducted in compliance with these rules, chapter 34.05 RCW and chapter 10-08 WAC as applicable.

(5) Following completion of the hearing, the administrator shall render a decision which shall be the final decision of the agency. A copy of that decision accompanied by a written statement of the reasons for the decision shall be served on all parties and persons who have intervened.

WSR 91-04-088
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed February 6, 1991, 3:46 p.m.]

Original Notice.

Title of Rule: WAC 392-121-184 Running start program.

Purpose: To set forth policies and procedures governing the running start program.

Statutory Authority for Adoption: RCW 28A.600.390.

Statute Being Implemented: RCW 28A.600.390.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation: R. Schley and M. Costello, Superintendent of Public Instruction, Old Capitol Building, (206) 753-1717; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

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

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Wanamaker Conference Room, Old Capitol Building, Olympia, Washington 98504, on March 22, 1991, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, Olympia, WA 98504, by March 15, 1991.

Date of Intended Adoption: March 29, 1991.

February 6, 1991
Judith A. Billings
Superintendent of
Public Instruction

NEW SECTION

WAC 392-121-184 RUNNING START PROGRAM REQUIREMENTS. The provisions of this chapter shall govern the substantiation of claims for running start program basic education allocation moneys to the extent the provisions of this chapter supplement and do not conflict with the provisions of chapter 392-127 WAC. See the special running start program definitions of full-time equivalent students in WAC 392-127-715 through 392-127-725, enrollment limitations in WAC 392-127-775, and related finance reporting requirements and limitations in WAC 392-127-795 through 392-127-820.

WSR 91-04-089
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed February 6, 1991, 3:47 p.m.]

Original Notice.

Title of Rule: WAC 392-140-257 Finance—Special allocations—1990-91 Early intervention services allocation—Allowable expenditures for 1990-91 early intervention and prevention services.

Purpose: To revise allowable activities and objects for educational service district (ESD) expenditures.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: Section 514(14), chapter 16, Laws of 1990 1st ex. sess.

Summary: Allowable ESD expenditures for early intervention and prevention services are amended by deleting Activity 51—Supervision and coordination and adding Object O—Debit Transfer.

Reasons Supporting Proposal: Activity 51 pertains to transportation only. Debit transfers are a legitimate way of charging costs to the program.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-2298; Implementation: Thomas J. Case, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6708; and

Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

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

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Superintendent of Public Instruction, Old Capitol Building, Olympia, Washington 98504, on March 22, 1991, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson, Superintendent of Public Instruction, Legal Services, Olympia, Washington 98504, by March 15, 1991.

Date of Intended Adoption: March 29, 1991.

February 6, 1991
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 36, filed 11/15/90, effective 12/16/90)

WAC 392-140-257 1990-91 EARLY INTERVENTION SERVICES ALLOCATION—DEFINITION—ALLOWABLE EXPENDITURES FOR 1990-91 EARLY INTERVENTION AND PREVENTION SERVICES. As used in WAC 392-140-250 through 392-140-267 "allowable expenditures for 1990-91 early intervention and prevention services" means expenditures meeting the following requirements:

(1) Expenditures are for services provided during the 1990-91 school year which include but are not limited to services provided by school counselors, school psychologists, school nurses, school social workers, licensed mental health professionals, child psychiatrists, appropriate health care providers, and social service caseworkers or social workers on contract.

(2) Expenditures are for additional staff, to contract for staff or services, or to conduct training related to the district's early intervention and prevention program.

(3) Direct expenditures are accounted for as follows:

(a) School district expenditures are accounted for in the following program and activity combinations as defined in the Accounting Manual for Public School Districts in the State of Washington:

- (i) Program: 58 - Special and pilot programs
- (ii) Activity: 21 - Supervision-instruction
24 - Guidance and counseling
25 - Psych-speech-hearing
26 - Health services

(b) Educational service district expenditures are accounted for in the following program, activity, and object of expenditure combinations as defined in the Accounting Manual for Educational Service Districts in the State of Washington:

- (i) Program: 40 - Student counseling and testing
- (ii) Activity: 21 - Staff development
((51 - Supervision and coordination))
98 - General support
- (iii) Any object of expenditure but (:

 - 0 - Debit transfer)
 - 1 - Credit transfer

(4) Reasonable indirect expenditures attributable to early intervention and prevention services can be charged to the program.

WSR 91-04-090
PROPOSED RULES
DEPARTMENT OF
INFORMATION SERVICES
 [Filed February 6, 1991, 4:09 p.m.]

Original Notice.

Title of Rule: Chapter 143-06 WAC, Access to public records.

Purpose: Adopt records indexing rules required by chapter 175, Laws of 1989, and RCW 42.17.260.

Statutory Authority for Adoption: RCW 43.17.060.

Statute Being Implemented: RCW 42.17.260.

Summary: RCW 42.17.260(4) requires that by July 1, 1990, each state agency shall by rule, establish and implement a system of indexing for the identification and location of certain categories of records.

Name of Agency Personnel Responsible for Drafting and Implementation: Louis Thursten, PC-11, Olympia, Washington, 586-6051; and Enforcement: Tim Schoth, PC-11, Olympia, Washington, 586-9099.

Name of Proponent: Washington State Department of Information Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Pursuant to legislated changes to the Administrative Procedure Act, we are required to adopt amendments to chapter 143-06 WAC, Access to public records, to conform with RCW 42.17.260, documents and indexes to be made public. This law requires that each state agency shall, by rule, establish and implement a system of indexing for the identification and location of certain categories of records.

Proposal Changes the Following Existing Rules: The rule will be in conformance with the new statutory requirement.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: 1110 South Jefferson, Olympia, WA 98502, on March 12, 1991, at 1 p.m.

Submit Written Comments to: Louis Thursten, by March 1, 1991.

Date of Intended Adoption: March 15, 1991.

February 6, 1991

Dennis E. Jones

Acting Director

AMENDATORY SECTION (Amending Order 88-1, filed 10/11/88)

WAC 143-06-130 RECORDS INDEX. The department has available to all persons a current index which provides identifying information as to the records of the board and department. Agency records are indexed and retained as follows:

The generic index for department records is located in the office of the DIS Public Records Officer, at 1110 South Jefferson, Olympia, Washington 98504. This index lists public records as required by RCW 42.17.260, and indicates the division of the department in which they are located. Specific forms and documents are retained in the divisions as identified on the records retention schedules established by the division of state archives of the office of the secretary of state. These schedules are available to the public through the public records officer.

WSR 91-04-091
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 91-06—Filed February 6, 1991, 4:39 p.m.]

Original Notice.

Title of Rule: Chapter 173-270 WAC, Puget Sound highway runoff program.

Purpose: Enhance quality of highway runoff from state highways in the Puget Sound basin.

Statutory Authority for Adoption: Chapters 90.48 and 90.70 RCW.

Statute Being Implemented: Chapters 90.48 and 90.70 RCW.

Summary: Chapter 173-270 WAC is mandated by the 1991 Puget Sound water quality management plan which was adopted by the Puget Sound Water Quality Authority.

Reasons Supporting Proposal: The Puget Sound Water Quality Authority was created by the state legislature to create a single entity with adequate resources to develop a comprehensive plan for water quality protection in Puget Sound to be implemented by existing state and local agencies.

Name of Agency Personnel Responsible for Drafting: Gary Kruger, Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, 438-7529; Implementation and Enforcement: Mike Llewelyn, Mailstop PV-11, Olympia, Washington 98504-8711, 438-7090.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule applies to the Washington State Department of Transportation (WSDOT) in the Puget Sound basin. WSDOT will be required to adopt a highway runoff manual to direct stormwater management for its new and existing facilities; adopt a vegetation management program to establish and maintain stable plant communities that resist encroachment by undesirable plants, meet WSDOT standards, be cost effective and protect the public investment with minimal negative impact on the environment; required best management practices (BMPs) as part of new construction; inventory and retrofit existing state highways where practicable; and submit biennial reports to ecology to assist WSDOT management and to assist ecology determine how well the highway runoff program is doing.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Economic Compliance Document: The purpose of amending chapter 173-270 WAC is to require the Washington State Department of Transportation (WSDOT) to manage highway runoff and its impacts on water quality. WSDOT must adopt a manual containing required best management practices (BMPs) for improving water quality. WSDOT must develop a vegetative management program that addresses integrated pest management, pesticide use, and protection of water quality. WSDOT must incorporate the BMPs into its

new construction projects. WSDOT must prepare and maintain an inventory of all state highways in the Puget Sound basin. WSDOT must formulate and implement monitoring of BMP effectiveness and pesticide impacts. WSDOT must report to ecology every second year on monitoring, pesticide use, handling of contaminated soils, use of deicing chemicals, maintenance of BMPs, the inventory and priority list of Puget Sound highways, the water quality capital improvement program, the inventory of disposal sites and the status of roadside management by district and maintenance area.

Small Business Economic Impact Statement: The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an impact on more than 20 percent of all industry or 10 percent of the businesses in any one industry be reviewed and altered to minimize their impact on small businesses. Small businesses are defined as businesses which have less than 50 employees. The amendment proposed has been reviewed. This amendment will impose costs on state agencies. The rule will not have a direct impact on small businesses. WSDOT may not choose to reimburse local governments for costs imposed on them. The rule should not be interpreted so as to require the renegotiation of charges for stormwater facilities which have been allocated between WSDOT and local governments. Memorandum, November 7, 1989, from Charles F. Secrest, AAG, to Jack McIntosh. Confirmed via personal conversation with AAG Secrest, June 8, 1990. This may raise costs for local governments due to prior arrangements and contracts for handling of stormwater facilities the effects of which will change on an unpredictable basis. In so far as the rule has an impact on local governments and their stormwater programs it may have an indirect impact on the fees charged for stormwater quality and quantity control. Annual fees vary widely throughout the basin, ranging from \$10 to larger amounts for businesses with a large impermeable surface. Small increases in these fees will have a negligible impact on businesses. No small business economic impact statement is required.

Hearing Location: March 13, 1991, Wednesday, at 9 a.m., Bremerton City Hall, Council Chambers, 239 4th Street, Bremerton, WA; on March 14, 1991, Thursday, 1:30 p.m., Everett City Hall, Council Chambers, 3002 Wetmore, Everett, WA; and on March 15, 1991, Friday, 9 a.m., Tacoma Municipal Building, Council Chambers, 747 Market Street, Tacoma, WA.

Submit Written Comments to: Gary Kruger, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, by March 22, 1991.

Date of Intended Adoption: May 21, 1991.

February 6, 1991

Fred Olson

Deputy Director

Chapter 173-270 WAC
PUGET SOUND HIGHWAY RUNOFF PROGRAM

NEW SECTION

WAC 173-270-010 PURPOSE, AUTHORITY, AND APPLICABILITY. (1) Purpose. The purpose of this chapter is to:

(a) Control highway runoff into waters of the state to the maximum extent possible under state law;

(b) Establish procedures and criteria for WSDOT's highway runoff program mandated by the Puget Sound water quality management plan pursuant to chapter 90.70 RCW; and

(c) Provide for appropriate consultation and coordination with tribes, local governments, and other interested and affected parties.

(2) Authority. The authority for this chapter is provided by chapters 90.48 and 90.70 RCW.

(3) Applicability. This chapter applies to all state highway rights of way in the Puget Sound basin which WSDOT owns or controls by long-term lease or easement, or for which WSDOT has maintenance responsibility. This chapter is applicable subject to the availability of appropriated funds or other funding sources.

Note: Copies of statutes and administrative rules incorporated by reference as a part of this chapter are available at ecology offices in Lacey, Washington during regular business hours.

NEW SECTION

WAC 173-270-020 DEFINITIONS. The definitions in this section apply to this chapter unless the context requires otherwise.

(1) "Average daily traffic" or "ADT" means the total traffic volume during a given time period (in whole days) greater than one day and less than one year divided by the number of days in that time period. ADT is determined by WSDOT.

(2) "Best management practices" or "BMPs" means physical, structural, and/or managerial practices that when used singly or in combination prevent or reduce pollution of water and have been approved by ecology. BMPs are listed and described in the manual defined in subsection (9) of this section.

(3) "Broadcast application" means a uniform application of pesticides to an entire area.

(4) "Buffer zone" means the minimum distance that a pesticide is permitted to be applied from a physical feature or sensitive area.

(5) "Capital improvement program plan" means a schedule of permanent physical structural improvements budgeted to fit financial resources.

(6) "Ecology" means the Washington state department of ecology.

(7) "EPA" means the U.S. Environmental Protection Agency.

(8) "Experimental BMP" means any treatment or methodology proposed for treatment of highway runoff that is not in the highway runoff manual, defined in subsection (9) of this section, and is being studied by WSDOT and/or ecology for adoption as a BMP.

(9) "Highway runoff manual" means the manual adopted by WSDOT and approved by ecology that contains BMPs to prevent or reduce pollution, and described in WAC 173-270-030.

(10) "Integrated pest management" or "IPM" means the selection, integration, and implementation of pest control that consists of: Prevention of pest problems; monitoring and evaluation of pests, damage and results of treatment; acknowledgment of population levels of pests that can be tolerated based on legal, economic, health, or aesthetic thresholds; use of natural control agents in an ecosystem; reliance to the maximum extent possible on nonhazardous biological, mechanical, and cultural treatment of pests; application of pesticides in a manner that minimizes damage to the ecosystem's natural controls and integrity; and use of pesticides only after all other methods have been evaluated.

(11) "Local government" means a county, city, town, or special purpose district that has authority to manage stormwater.

(12) "New construction" means the addition of one or more lanes, ramps, bridges, or other major structures to an existing state highway or the construction of a new state highway.

(13) "Pest" means any 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 director of the WSDA may declare by regulation to be a pest, including but not limited to, any insect, other arthropod, fungus, rodent, nematode, mollusk, or weed.

(14) "Pest treatment" means mechanical, biological, cultural, or chemical procedures or methods to manage, control, or reduce the influence of a pest.

(15) "Pesticide" means as defined by chapter 17.21 RCW, the Washington Pesticide Act, and regulated by the United States Environmental Protection Agency and WSDA.

(16) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely

to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial use, or to livestock, wild animals, birds, fish, or other aquatic life.

(17) "Puget Sound basin" means the waters of Puget Sound south of Admiralty Inlet including Hood Canal and Saratoga Passage; the waters north to the Canadian border, including portions of the Strait of Georgia; the Strait of Juan de Fuca south of the Canadian border; and all land draining into these waters as mapped in WAC 173-500-040 Water resource inventory areas numbers 1 through 19.

(18) "Quality assurance and control plan" means a collection of policies, objectives, principles, and procedures for attaining data of known and accepted quality and establishes standards of performance for sampling, monitoring, and measurement.

(19) "Sensitive area" means an area or that due to its ground or surface water characteristics may be adversely affected or altered directly or indirectly by pollution and requires special vegetation management, stormwater management, or other practices.

(20) "Spot treatment" means the application of pesticides to a selected individual area or species.

(21) "Stormwater management manual" means the technical manual prepared by ecology for use by local governments and WSDOT that contains BMPs to prevent or reduce pollution in stormwater.

(22) "Stormwater treatment" means chemical, biological, or mechanical procedures or structural methods to remove, reduce, or neutralize pollution.

(23) "Waters of the state" means lakes, rivers, ponds streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

(24) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are identified and delineated by the "Federal Manual for Identifying Jurisdictional Wetlands" dated January 19, 1989.

(25) "WSDA" means the Washington state department of agriculture.

(26) "WSDOT" means the Washington state department of transportation.

NEW SECTION

WAC 173-270-030 BEST MANAGEMENT PRACTICES. (1) Approved manual required. Six months after the effective date of ecology's stormwater management manual or six months after the effective date of this chapter, whichever is later, WSDOT shall submit to ecology a highway runoff manual. If WSDOT proposes to adopt a manual other than ecology's stormwater management manual as its highway runoff manual, WSDOT shall formally consult with the tribes and local governments about the contents of the highway runoff manual. The highway runoff manual shall be consistent with ecology's stormwater management manual and shall be adopted by WSDOT only after obtaining ecology's approval. After obtaining ecology's approval, WSDOT shall use the highway runoff manual to direct stormwater management for its existing and new facilities and rights of way in the Puget Sound basin.

(2) Amendments to manual.

(a) Ecology initiates amendments. If ecology amends its stormwater management manual to change or add a BMP or other technical requirement that applies to highways, ecology shall notify WSDOT in writing and send WSDOT a copy of the amendment. This notification shall include ecology's determination as to whether the highway runoff manual complies with the amendment. If the highway runoff manual does not comply with the amendment, WSDOT shall submit proposed amendments within sixty days unless ecology agrees to a time extension. Such proposed amendment shall be subject to ecology's review and approval.

(b) WSDOT initiates amendments. Amendments proposed by WSDOT to the approved highway runoff manual shall be submitted to ecology for review and approval. WSDOT shall formally consult with affected tribes and local governments during the development of proposed amendments. Ecology shall review and approve, conditionally approve or deny the proposed amendments within sixty days from the submittal date.

(3) More stringent standards.

(a) WSDOT shall use the minimum standards established in the highway runoff manual but may use more stringent standards.

(b) When a state highway is located in the jurisdiction of a local government that is required by ecology to utilize more stringent standards to protect the quality of receiving waters, WSDOT shall comply with the same standards to promote uniform stormwater treatment.

(c) WSDOT shall comply with standards identified in watershed action plans for WSDOT rights of ways as required by WAC 400-12-570.

(4) Project coordination. WSDOT shall consult with appropriate tribes and local governments and evaluate local conditions for design, construction, and maintenance of stormwater facilities as indicated in WSDOT's utilities manual. Other agencies and organizations that have an interest or expertise in stormwater may also be consulted. WSDOT, tribes, and local governments are encouraged to jointly develop and maintain stormwater facilities.

(5) Contents of manual. The highway runoff manual shall include, but not be limited to, the following:

(a) BMPs for the control of erosion and sedimentation from construction sites, including standards for operation and maintenance;

(b) Hydrologic analysis procedures, including selection of design storms and estimation of runoff;

(c) Design, operation, and maintenance standards for retention and/or detention facilities and conveyance systems that shall emphasize systems which maximize water quality benefits as well as water quantity control, such as inclusion of biofiltration techniques where practicable;

(d) BMPs for the control of pests, excluding weed control which shall be addressed in the vegetation management program described in WAC 173-270-040;

(e) BMPs for the selection and use of deicing chemicals and traction grit which, as a minimum, shall consist of the following: (i) Traction grit particles should be as large as suitable for application on highways for traction purposes because large particles are less readily transported into waters of the state; (ii) selection and use of deicing chemicals shall include consideration of potential effects on water quality and the beneficial uses of potentially affected waters; (iii) stockpiles containing deicing chemicals shall be investigated for existing and potential water quality problems; and (iv) stockpiles that have an identified problem shall be covered, curbed, diked, placed on an impervious surface, and/or located so runoff can not carry dissolved chemicals into waters of the state; and

(f) BMPs for waste disposal from highway runoff system maintenance.

(6) Experimental BMPs.

(a) WSDOT request. WSDOT may request in writing that ecology approve the use of an experimental BMP for one or several sites. The request shall include, but need not be limited to, a description of: (i) The experimental BMP; (ii) why the experimental BMP is being requested; (iii) why the BMPs in the highway runoff manual are not appropriate; (iv) applicable construction techniques; (v) the site or sites at which use of the experimental BMP is proposed; (vi) the characteristics of the site or sites; (vii) design criteria for the experimental BMP; (viii) maintenance procedures; (ix) cost estimates; (x) monitoring procedures; (xi) the time needed for monitoring; (xii) the anticipated results; (xiii) if appropriate, an approved BMP that could be used if the experimental BMP fails; and (xiv) consultation with interested and affected parties including tribes, local governments, and contiguous property owners.

(b) Ecology review and approval. After reviewing WSDOT's request, ecology may approve, conditionally approve, or deny the use of the experimental BMP for specific sites. Any approval shall be for a period of time not to exceed four years unless ecology determines, upon request and justification by WSDOT, that unusual circumstances justify a longer time period.

(c) Evaluation criteria. In evaluating an experimental BMP, ecology shall consider factors it deems appropriate, including, but not limited to: The experimental BMP's effectiveness in protecting water quality and beneficial uses; its reliability, cost, ease of construction; and maintenance requirements.

(d) BMP status. Before ecology's authorization for WSDOT's use of the experimental BMP expires, WSDOT shall consult with affected tribes, local governments, or property owners. WSDOT shall document the results of the experimental BMP and shall determine whether to request amendment of the highway runoff manual to include the experimental BMP as an approved BMP. Before ecology's authorization expires, WSDOT shall either request an amendment to the highway

runoff manual under subsection (2)(b) of this section or inform ecology in writing that it is not proposing to amend the highway runoff manual to include the BMP. Based upon the predicted results in the original request, monitoring data and other information relevant to WSDOT's request, ecology shall determine whether an experimental BMP that is not proposed to be included in the highway runoff manual shall be replaced with an approved BMP.

NEW SECTION

WAC 173-270-040 VEGETATION MANAGEMENT PROGRAM. (1) General. The purposes of vegetation management in highway rights of way are to establish and maintain stable plant communities that resist encroachment by undesirable plants, noxious weeds, and other pests; meet WSDOT operational, health, natural resources, and environmental standards; be cost effective; and protect the public investment with minimal negative impacts on the environment.

(2) Program required. WSDOT shall prepare and implement a vegetation management program for all state highways within the Puget Sound basin. WSDOT shall obtain ecology's preliminary approval of the program before WSDOT conducts a public hearing. WSDOT shall formally consult with the tribes and local governments during preparation of the proposed program. After the public hearing, WSDOT shall obtain ecology's approval before WSDOT adopts the program. The program shall be adopted by September 30, 1991. WSDOT and ecology shall review the program at least every two years beginning September 30, 1993. Either ecology or WSDOT may initiate amendment of the program. Amendments shall be prepared, approved, and adopted in accordance with the procedures of this subsection for the initial development of the vegetation management program.

(3) Contents of program.

(a) The vegetation management program shall include, but need not be limited to vegetation management policies; technical guidelines; procedures to implement policies and guidelines; and roadside management plan procedures and standards.

(b) Vegetation management policies. These policies, at a minimum, shall address:

- (i) Operational, aesthetic, and environmental standards;
- (ii) Integrated pest management;
- (iii) Coordination between WSDOT and local governments, abutting property owners, and tribes, including public notification, option to maintain by contiguous property owner and the option to maintain by a preferred management technique of the contiguous property owner;
- (iv) Recordkeeping;
- (v) Training and education for vegetation management employees; and
- (vi) Testing for pesticides at storage, loading, and mixing areas and, if necessary, in ground water and nearby surface water that may be contaminated by or affected by pesticides.

(c) Technical guidelines. These guidelines, at a minimum, shall address:

(i) Integrated pest management which shall address monitoring, establishing injury levels, setting action levels, selecting treatment, and evaluating treatment.

(A) Monitoring. Monitoring guidelines shall provide for: Identification of the potential pest and/or problem and sensitive areas; and observation of the vegetation on the site, or the site itself for potential pest problems at regular intervals. The schedule and methods of monitoring shall be appropriate to minimize the severity of damage caused by the pest.

(B) Establishing injury levels. Guidelines for establishing injury levels shall provide for determination of when a pest is likely to cause significant damage and require action to prevent unacceptable damage or public safety problems. Accurate records shall be kept so adequate data is available to make decisions. A problem shall be noted before any action is taken.

(C) Setting action levels. Guidelines for setting action levels shall provide for prioritization of target species and determination of when to initiate action so that unacceptable injury levels are not reached.

(D) Selecting treatment. Selection of pest treatment strategies and tactics shall provide for safety of highway users; protect the environment and human health; and provide for the stewardship of the public investment. This shall include an effort to minimize the use of chemical controls.

(E) Evaluating treatment. After pest treatment, the site shall be inspected to determine whether the pest treatment had the desired results. Adequate time shall be provided for the pest treatment to function before it is evaluated. If the pest treatment did not have the desired results, the treatment may be modified. Desired results may be examined to determine if they were realistic and/or appropriate;

(ii) Measures to reduce the amount of pesticides used to the least possible including measures to reduce the use of any state restricted use pesticides on WSDA's list for the protection of ground water found in WAC 16-228-164;

(iii) Criteria for the selection of pesticides that shall include, but not be limited to, target specificity, toxicity, persistence, migration characteristics, time of application and site conditions of treatment area, including slope and permeability;

(iv) Procedures for sampling and analysis for pesticide contamination in storage, loading, and mixing areas and, if appropriate, ground water and surface water with the use of Puget Sound protocols for sediment sampling of marine sediment for EPA priority pollutants is recommended where appropriate;

(v) A spill cleanup plan;

(vi) Methods for safe transportation of pesticides;

(vii) A recordkeeping system on pesticide use, including format;

(viii) Criteria for the identification of sensitive areas;

(ix) Buffer zones to protect waters of the state, public and private supply wells and watersheds, irrigation ditches, ecology regulated areas, and sensitive areas;

(x) Pesticide storage including a requirement that pesticides shall be stored in a secure building with an impermeable floor and controlled drains;

(xi) Vegetation selection in accordance with WSDOT's design manual with emphasis given to reduced maintenance; and

(xii) Vegetation management personnel training and education.

(d) Procedures for the implementation of the policies and guidelines.

(e) Procedures and standards for the preparation and implementation of roadside management plans for specific segments of state highway to assist WSDOT field crews manage state highway rights of way according to the approved vegetation management policies and technical guidelines. WSDOT shall consult with affected tribes, local governments, and other interested parties during preparation of these procedures and standards. WSDOT shall consult with affected tribes, local governments, and other interested parties during preparation of roadside management plans. These plans, at a minimum, shall address:

(i) Goals and objectives;

(ii) Identification of sensitive areas and minimum buffer zones;

(iii) Maintenance activities;

(iv) Budget estimates; and

(v) Evaluation methods and standards.

NEW SECTION

WAC 173-270-050 NEW CONSTRUCTION. WSDOT shall incorporate BMPs in all new construction projects for which design is started after the effective date of this chapter. For projects that are being designed or constructed when this chapter becomes effective, WSDOT shall implement BMPs to the maximum extent practicable to protect water quality. If the cost of constructing water quality BMPs makes a project that is being designed when this chapter becomes effective impracticable, then such BMPs shall be retrofitted at a later date. WSDOT shall submit water pollution control plans to ecology for review and approval for new construction and shall obtain other appropriate authorizations prior to construction.

NEW SECTION

WAC 173-270-060 EXISTING FACILITIES. (1) Inventory required. WSDOT shall prepare and maintain an inventory of all state highways in the Puget Sound basin. The purpose of the inventory is to determine where water quality BMPs need to be installed, to assist identification of priority projects, and to provide a basis for the evaluation of the program. WSDOT shall begin its inventory on highways with an ADT of fifty thousand or greater. The inventory and rating of highways with an ADT of less than fifty thousand shall be sufficient to provide projects for the six-year capital improvement program plan.

(2) Contents of inventory. The inventory shall be developed for homogeneous highway segments and shall include, but not be limited to:

(a) Highway segment identification including name, location, type, traffic volume classification, local government(s) with jurisdiction, interested tribes, and WSDOT district;

(b) Status of stormwater management as follows: (i) BMPs are present and/or a local government is receiving and/or treating the highway runoff; (ii) BMPs are feasible or the local government will receive and/or treat highway runoff; or (iii) BMPs are not practicable; and

(c) Name of any water quality project completed since the effective date of this chapter, length of project, year of construction, and cost.

(3) Priority rating and ranking.

(a) WSDOT shall establish an annual project priority list for each WSDOT district within the Puget Sound basin. For each fiscal year WSDOT shall select needed improvements for each district inventoried as required by subsection (1) of this section. WSDOT shall divide these needed improvements into projects, considering funds available but in no case less than one project per year in each district unless all needed projects are completed.

(b) Priority rating criteria. WSDOT shall develop a priority rating and ranking system and submit it to ecology for concurrence.

(c) Priority ranking. WSDOT, using the priority ratings and rankings prepared using the system required in subsection (2)(b) of this section, shall determine which projects are to be implemented in each WSDOT district during the fiscal year. WSDOT may modify this ranking for good reason including the participation in a joint project proposed by a local government or tribe.

(4) Capital improvement program plan.

(a) The capital improvement program plan is to promote efficient use of resources, to coordinate projects, to aid compliance with the long-range program targets set forth in subsection (5) of this section and to ensure that difficult projects and those that require lengthy lead time are constructed in a reasonable time.

(b) WSDOT shall prepare a biennially updated water quality capital improvement program plan. WSDOT shall consult with ecology, tribes, and local governments throughout the planning process including the inventory. The capital improvement program plan shall be for a six-year period and include the following:

(i) An inventory of potential projects for the six-year period, including fiscal, technical, work force, legislative requirements, restrictions, and an initial evaluation of their relative priority;

(ii) A schedule for potential execution of projects in a long-range program list which considers priority relationships of projects coupled with legislative, fiscal, technical, and work force restrictions;

(iii) Selection of projects for early action from this schedule; and

(iv) Formal adoption by WSDOT after public review.

(c) Ecology shall review the proposed WSDOT capital improvement program plan and submit written comments to WSDOT before public review and again before adoption by WSDOT.

(d) After a public hearing, WSDOT shall adopt the capital improvement program plan after making appropriate revisions deemed necessary by public input.

(5) Long-range program.

(a) WSDOT shall complete all practicable BMP projects or transmit highway runoff to tribes or local governments for stormwater treatment for highways with an ADT of fifty thousand and greater by December 31, 2005, and for other highways by December 31, 2015.

(b) At least every six years WSDOT and ecology shall evaluate these target dates. Ecology or WSDOT may initiate revision of the target dates. In evaluating any proposed revision of a target date, ecology and WSDOT are to consider factors including, but not limited to, the number and projected costs of the projects yet to be completed, the degree of difficulty to construct the remaining sites, the projected level of funding, any revisions to the state water quality standards and any revisions to the manual required by WAC 173-270-030(1).

(6) Negotiations. Before transmitting to or requesting treatment of highway runoff by a tribe, local government or property owner, WSDOT shall negotiate with the tribe, local government, or property owner. WSDOT shall provide relevant information that shall include, but not be limited to, existing agreements to accept highway runoff, characteristics of the highway runoff, the reasons WSDOT is not treating the runoff on its own right of way and any proposed financial considerations for quality and/or quantity control.

(7) Disposal sites. WSDOT shall prepare an inventory, by district and maintenance area, of all sites, including all known inactive sites, where WSDOT disposes highway sweepings and sediments from stormwater facilities maintenance activities. Inventory information for WSDOT owned and leased sites and sites WSDOT for which has an easement shall include a scaled map illustrating property boundaries and the extent of the fill area, and where possible, an estimate of the volume of the fill present.

NEW SECTION

WAC 173-270-070 MONITORING. (1) BMP effectiveness monitoring.

(a) Monitoring procedures. WSDOT shall formulate and implement monitoring procedures for each type of BMP employed. The procedures shall include a quality assurance and control plan.

(b) Waivers. After application by WSDOT, ecology may grant a waiver from monitoring a BMP if ecology determines there is adequate knowledge about the BMP's water quality performance.

(2) Pesticide monitoring. WSDOT shall formulate a pesticide monitoring policy, including but not limited to, threshold determination and frequency of monitoring. WSDOT also shall formulate procedures for monitoring pesticides, including the use of benthic organisms.

NEW SECTION

WAC 173-270-080 REPORTING. (1) Biennial report required. WSDOT shall prepare and submit to ecology a report by September 30 of each odd-numbered year beginning September 30, 1991.

(2) Content of report. The biennial report shall include, but is not limited to:

(a) Monitoring report for both approved and experimental BMPs and pesticides describing monitoring procedures and interpreting results. Included may be recommendations to improve monitoring procedures, findings on which BMPs are the most effective, combinations of BMPs that optimize pollution removal, and recommendations for experimental BMPs;

(b) A pesticide usage inventory, including (i) the amount of pesticides by product by pounds of active ingredient applied for shoulder residual, landscaped areas, brush control, general weed control, noxious weed control, spot treatment and broadcast application by district, area, highway segment, and if feasible, by county and (ii) an analysis and interpretation shall be included with the data;

(c) Storage, loading, and mixing area soil and ground water contamination report for the presence of pesticides, including any cleanup efforts required, proposed, or completed since the adoption of this chapter;

(d) A deicing chemicals and traction grit usage report including:

(i) Product and quantities of deicing chemicals used in the Puget Sound basin by WSDOT district and maintenance area including chemical properties and known effects upon water quality;

(ii) Stockpile locations, with quantities of traction grit abrasive and deicing chemicals used during each season;

(iii) Cleanup practices to prevent or lessen traction grit and deicing chemical entry into waters of the state;

(iv) Locations prohibiting use of deicing chemicals or specific products due to water quality considerations;

(v) Training of personnel;

(vi) Experiments conducted on new products or procedures and experiments that WSDOT proposes;

(e) BMP maintenance report. Reports that shall submit BMP maintenance reports to ecology that shall include, but are not limited to:

(i) Dates that segments of state highway BMPs are inspected and/or maintained;

(ii) The general condition of BMPs;

(iii) Maintenance accomplished;

(iv) The need to reconstruct any BMPs;

(v) Any evaluation of a BMP type;

(vi) Estimated cost to maintain a BMP;

(vii) Suggested improvements to BMPs or their maintenance procedures; and

(viii) Training of personnel;

(f) Inventory for state highways with a fifty thousand ADT or greater required by WAC 173-270-060(1);

(g) Priority list for state highways with less than fifty thousand ADT required by WAC 173-270-060(4);

(h) Capital improvement program required by WAC 173-270-060(3);

(i) Inventory of all WSDOT highway disposal sites required by WAC 173-270-060(6); and

(j) Status of roadside management plans by district and maintenance area.

NEW SECTION

WAC 173-270-090 ENFORCEMENT. Water quality requirements of this chapter shall be enforced through all methods available

to ecology, including, but not limited to, those described in chapter 90.48 RCW. For all nonwater quality shortfalls WSDOT shall submit written explanation to ecology, together with proposed remedies.

NEW SECTION

WAC 173-270-100 SEVERABILITY. If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
16-228-164	AMD-P	91-02-106	16-231-615	AMD-P	91-02-106	16-471-010	NEW	91-03-046
16-230-110	REP-P	91-02-106	16-231-620	AMD-P	91-02-106	16-471-015	NEW	91-03-046
16-230-115	REP-P	91-02-106	16-231-700	AMD-P	91-02-106	16-471-020	NEW	91-03-046
16-230-120	REP-P	91-02-106	16-231-705	AMD-P	91-02-106	16-471-030	NEW	91-03-046
16-230-150	AMD-P	91-04-078	16-231-715	AMD-P	91-02-106	16-471-040	NEW	91-03-046
16-230-160	AMD-P	91-04-078	16-231-720	AMD-P	91-02-106	16-471-050	NEW	91-03-046
16-230-170	AMD-P	91-04-078	16-231-800	AMD-P	91-02-106	16-471-060	NEW	91-03-046
16-230-180	AMD-P	91-04-078	16-231-805	AMD-P	91-02-106	16-471-070	NEW	91-03-046
16-230-190	AMD-P	91-04-078	16-231-825	AMD-P	91-02-106	16-471-080	NEW	91-03-046
16-230-400	AMD-P	91-02-106	16-231-840	AMD-P	91-02-106	16-482-001	AMD-P	91-03-105
16-230-410	AMD-P	91-02-106	16-231-900	AMD-P	91-02-106	16-482-005	NEW-P	91-03-105
16-230-440	AMD-P	91-02-106	16-231-905	AMD-P	91-02-106	16-482-006	NEW-P	91-03-105
16-230-450	AMD-P	91-02-106	16-231-935	AMD-P	91-02-106	16-482-007	NEW-P	91-03-105
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16-230-605	AMD-P	91-02-106	16-232-100	AMD-P	91-02-106	16-482-017	NEW-P	91-03-105
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16-230-670	AMD-P	91-02-106	16-232-200	AMD-P	91-02-106	16-494-001	AMD-P	91-04-066
16-230-675	AMD-P	91-02-106	16-232-205	AMD-P	91-02-106	16-494-010	AMD-P	91-04-066
16-231-001	AMD-P	91-02-106	16-232-220	AMD-P	91-02-106	16-494-012	NEW-P	91-04-066
16-231-033	REP-P	91-02-106	16-232-225	AMD-P	91-02-106	16-494-013	NEW-P	91-04-066
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16-231-148	REP-P	91-02-106	16-232-305	AMD-P	91-02-106	16-494-020	AMD-P	91-04-066
16-231-200	AMD-P	91-02-106	16-232-315	AMD-P	91-02-106	16-494-030	AMD-P	91-04-066
16-231-205	AMD-P	91-02-106	16-232-950	REP-P	91-02-106	16-494-042	AMD-P	91-04-066
16-231-210	AMD-P	91-02-106	16-316-280	AMD-P	91-04-066	16-494-043	NEW-P	91-04-066
16-231-235	AMD-P	91-02-106	16-316-285	AMD-P	91-04-066	16-494-044	AMD-P	91-04-066
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16-231-305	AMD-P	91-02-106	16-333-205	NEW-P	91-04-068	16-494-047	NEW-P	91-04-066
16-231-310	AMD-P	91-02-106	16-333-210	NEW-P	91-04-068	16-494-062	AMD-P	91-04-066
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16-231-340	AMD-P	91-02-106	16-333-220	NEW-P	91-04-068	16-494-064	NEW-P	91-04-066
16-231-343	REP-P	91-02-106	16-333-225	NEW-P	91-04-068	16-497-001	AMD-P	91-04-067
16-231-400	AMD-P	91-02-106	16-333-230	NEW-P	91-04-068	16-497-005	NEW-P	91-04-067
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16-231-505	AMD-P	91-02-106	16-354-020	AMD-P	91-04-067	16-603-010	NEW-P	91-04-076
16-231-510	AMD-P	91-02-106	16-354-030	AMD-P	91-04-067	16-752-300	AMD	91-03-045
16-231-525	AMD-P	91-02-106	16-354-040	AMD-P	91-04-067	16-752-305	AMD	91-03-045
16-231-530	AMD-P	91-02-106	16-354-070	AMD-P	91-04-067	16-752-310	RE-AD	91-03-045
16-231-600	AMD-P	91-02-106	16-354-100	AMD-P	91-04-067	16-752-315	AMD	91-03-045
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182-16-050	NEW-P	91-04-087	230-25-110	AMD-P	91-03-062	246-922-190	RECOD	91-03-095
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192-12-305	REP-E	91-03-054	230-25-330	NEW-P	91-03-062	246-922-210	RECOD	91-03-095
192-12-310	REP-E	91-03-054	230-30-075	AMD-C	91-03-049	246-922-220	RECOD	91-03-095
192-12-320	AMD-E	91-03-054	230-30-080	AMD-C	91-03-049	246-922-230	RECOD	91-03-095
192-12-330	AMD-E	91-03-054	230-40-125	AMD-C	91-03-049	246-922-240	RECOD	91-03-095
192-12-370	NEW-E	91-03-054	230-50-030	AMD	91-03-063	246-922-250	RECOD	91-03-095
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220-16-220	AMD-P	91-03-153	232-12-007	AMD-P	91-03-133	246-922-270	RECOD	91-03-095
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220-20-01700A	NEW-E	91-03-108	232-28-022	AMD-P	91-03-130	246-924-020	RECOD	91-04-020
220-32-05100D	REP-E	91-04-031	232-28-226	NEW-P	91-03-138	246-924-030	RECOD	91-04-020
220-32-05100E	NEW-E	91-04-031	232-28-215	REP-W	91-02-113	246-924-040	RECOD	91-04-020
220-32-05700F	NEW-E	91-03-083	232-28-224	NEW-W	91-02-113	246-924-050	RECOD	91-04-020
220-40-030	AMD-P	91-03-153	232-28-226	NEW-P	91-03-138	246-924-060	RECOD	91-04-020
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220-44-050	AMD-P	91-03-152	232-28-228	NEW-P	91-03-134	246-924-080	RECOD	91-04-020
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220-56-100	AMD-P	91-03-153	240-15-030	AMD	91-02-111	246-924-190	NEW	91-04-021
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220-56-175	AMD-P	91-03-153	246-205-020	NEW	91-04-007	246-924-230	RECOD	91-04-020
220-56-180	AMD-P	91-03-153	246-205-030	NEW	91-04-007	246-924-240	RECOD	91-04-020
220-56-185	AMD-P	91-03-153	246-205-040	NEW	91-04-007	246-924-250	RECOD	91-04-020
220-56-190	AMD-P	91-03-153	246-205-050	NEW	91-04-007	246-924-260	RECOD	91-04-020
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220-56-235	AMD-P	91-03-153	246-205-080	NEW	91-04-007	246-924-290	RECOD	91-04-020
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220-56-282	AMD-P	91-03-153	246-205-120	NEW	91-04-007	246-924-330	NEW	91-04-021
220-56-350	AMD-P	91-03-153	246-205-990	NEW	91-04-007	246-924-340	NEW	91-04-021
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220-57-205	AMD-P	91-03-151	246-853-250	NEW-P	91-03-117	246-924-370	RECOD	91-04-020
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220-57-460	AMD-P	91-03-153	246-922-020	RECOD	91-03-095	250-44-130	AMD-E	91-04-045
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220-57-490	AMD-P	91-03-151	246-922-050	RECOD	91-03-095	260-36-200	NEW	91-03-033
220-57-497	AMD-P	91-03-153	246-922-060	RECOD	91-03-095	260-60-060	AMD-W	91-03-064
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230-04-022	AMD-P	91-03-062	246-922-100	RECOD	91-03-095	284-30-610	NEW	91-03-073
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230-04-187	NEW-P	91-03-062	246-922-120	RECOD	91-03-095	284-44-400	REP-P	91-04-057
230-04-190	AMD-P	91-03-062	246-922-130	RECOD	91-03-095	284-46-010	REP-P	91-04-057
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230-12-100	NEW-P	91-03-062	246-922-150	RECOD	91-03-095	292-10-020	NEW	91-04-060
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292-10-060	NEW	91-04-060	296-127	AMD-C	91-03-113	308-31-240	DECOD	91-03-095
292-10-070	NEW	91-04-060	296-155-205	AMD-P	91-04-077	308-31-250	DECOD	91-03-095
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296-21-013	AMD-W	91-02-114	296-155-230	REP	91-03-044	308-31-270	DECOD	91-03-095
296-22-053	AMD-W	91-02-114	296-155-24501	NEW	91-03-044	308-31-280	DECOD	91-03-095
296-22-082	AMD-W	91-02-114	296-155-24503	NEW	91-03-044	308-31-500	DECOD	91-03-095
296-22-205	AMD-W	91-02-114	296-155-24505	NEW	91-03-044	308-31-510	DECOD	91-03-095
296-23-07907	AMD-W	91-02-114	296-155-24510	NEW	91-03-044	308-31-520	DECOD	91-03-095
296-23A-340	AMD-W	91-02-114	296-155-24515	NEW	91-03-044	308-31-530	DECOD	91-03-095
296-24-020	AMD	91-03-044	296-155-24520	NEW	91-03-044	308-31-540	DECOD	91-03-095
296-24-065	AMD	91-03-044	296-155-24521	NEW	91-03-044	308-31-550	DECOD	91-03-095
296-24-084	AMD	91-03-044	296-155-24525	NEW	91-03-044	308-31-560	DECOD	91-03-095
296-24-11001	AMD-P	91-04-077	296-155-363	AMD-P	91-04-077	308-31-570	DECOD	91-03-095
296-24-11003	AMD-P	91-04-077	296-155-36313	AMD-P	91-04-077	308-52-135	AMD-E	91-04-033
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296-24-11007	AMD-P	91-04-077	296-155-480	AMD	91-03-044	308-53	DECOD-C	91-03-116
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296-24-11013	AMD-P	91-04-077	296-155-48531	AMD	91-03-044	308-56A-460	AMD	91-04-025
296-24-11015	AMD-P	91-04-077	296-155-48533	AMD	91-03-044	308-57-005	NEW	91-04-026
296-24-11017	AMD-P	91-04-077	296-155-500	AMD	91-03-044	308-57-010	NEW	91-04-026
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296-24-23303	NEW-C	91-03-043	296-155-66005	REP	91-03-044	308-57-410	NEW	91-04-026
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296-62-07719	AMD	91-03-044	296-306-260	AMD-P	91-04-077	308-96A-070	AMD	91-04-025
296-62-07721	AMD	91-03-044	296-306-265	AMD-P	91-04-077	308-96A-073	NEW	91-04-025
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296-62-07731	AMD	91-03-044	296-306-310	AMD-P	91-04-077	308-96A-075	AMD	91-04-025
296-62-07733	AMD	91-03-044	296-306-320	AMD-P	91-04-077	308-96A-345	AMD	91-04-024
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296-62-14503	AMD-P	91-04-077	308-31-020	DECOD	91-03-095	308-96A-510	NEW	91-03-091
296-62-3050	AMD-P	91-04-077	308-31-025	DECOD	91-03-095	308-96A-520	NEW	91-03-091
296-62-3090	AMD-P	91-04-077	308-31-030	DECOD	91-03-095	308-96A-530	NEW	91-03-091
296-99-050	AMD-P	91-04-077	308-31-040	DECOD	91-03-095	308-96A-540	NEW	91-03-091
296-115-005	AMD	91-03-044	308-31-050	DECOD	91-03-095	308-96A-550	NEW	91-03-091
296-115-010	AMD	91-03-044	308-31-057	DECOD	91-03-095	308-96A-560	NEW	91-03-091
296-115-015	AMD	91-03-044	308-31-060	DECOD	91-03-095	308-122-001	DECOD	91-04-020
296-115-025	AMD	91-03-044	308-31-100	DECOD	91-03-095	308-122-005	DECOD	91-04-020
296-115-035	AMD	91-03-044	308-31-110	DECOD	91-03-095	308-122-006	DECOD	91-04-020
296-115-060	AMD	91-03-044	308-31-120	DECOD	91-03-095	308-122-060	DECOD	91-04-020
296-115-070	AMD	91-03-044	308-31-210	DECOD	91-03-095	308-122-200	DECOD	91-04-020

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
308-122-200	AMD	91-04-021	315-11-200	REP	91-03-034	352-32-010	AMD-P	91-03-142
308-122-211	DECOD	91-04-020	315-11-201	REP	91-03-034	352-32-035	AMD-P	91-03-142
308-122-215	DECOD	91-04-020	315-11-202	REP	91-03-034	352-32-045	AMD-P	91-03-142
308-122-220	DECOD	91-04-020	315-11-210	REP	91-03-034	352-32-200	AMD-P	91-03-140
308-122-225	DECOD	91-04-020	315-11-211	REP	91-03-034	352-32-210	AMD-P	91-03-140
308-122-230	DECOD	91-04-020	315-11-212	REP	91-03-034	352-32-250	AMD-P	91-03-142
308-122-235	DECOD	91-04-020	315-11-220	REP	91-03-034	352-32-252	AMD-P	91-03-142
308-122-280	DECOD	91-04-020	315-11-221	REP	91-03-034	352-32-270	AMD-P	91-03-142
308-122-350	DECOD	91-04-020	315-11-222	REP	91-03-034	356-06-040	AMD-C	91-03-068
308-122-360	DECOD	91-04-020	315-11-230	REP	91-03-034	356-10-050	AMD	91-03-070
308-122-360	AMD	91-04-021	315-11-231	REP	91-03-034	356-15-020	AMD-P	91-04-046
308-122-370	DECOD	91-04-020	315-11-232	REP	91-03-034	356-15-080	AMD	91-03-069
308-122-380	REP	91-04-021	315-11-240	REP	91-03-034	356-22-130	AMD	91-03-071
308-122-390	REP	91-04-021	315-11-241	REP	91-03-034	356-22-230	AMD-C	91-03-068
308-122-400	REP	91-04-021	315-11-242	REP	91-03-034	360-35-010	NEW	91-04-056
308-122-410	REP	91-04-021	315-11-250	REP	91-03-034	360-35-020	NEW	91-04-056
308-122-420	REP	91-04-021	315-11-251	REP	91-03-034	360-35-030	NEW	91-04-056
308-122-430	DECOD	91-04-020	315-11-252	REP	91-03-034	360-35-040	NEW	91-04-056
308-122-440	DECOD	91-04-020	315-11-260	REP	91-03-034	360-35-050	NEW	91-04-056
308-122-450	DECOD	91-04-020	315-11-261	REP	91-03-034	360-35-060	NEW	91-04-056
308-122-500	REP	91-04-021	315-11-262	REP	91-03-034	360-35-070	NEW	91-04-056
308-122-505	DECOD	91-04-020	315-11-270	REP	91-03-034	360-35-080	NEW	91-04-056
308-122-510	DECOD	91-04-020	315-11-271	REP	91-03-034	360-35-090	NEW	91-04-056
308-122-515	DECOD	91-04-020	315-11-272	REP	91-03-034	360-35-100	NEW	91-04-056
308-122-515	AMD	91-04-021	315-11-280	REP	91-03-034	360-35-110	NEW	91-04-056
308-122-520	DECOD	91-04-020	315-11-281	REP	91-03-034	365-90-010	AMD	91-04-017
308-122-520	AMD	91-04-021	315-11-282	REP	91-03-034	365-90-020	AMD	91-04-017
308-122-525	DECOD	91-04-020	315-11-290	REP	91-03-034	365-90-030	REP	91-04-017
308-122-530	DECOD	91-04-020	315-11-291	REP	91-03-034	365-90-040	AMD	91-04-017
308-122-535	DECOD	91-04-020	315-11-292	REP	91-03-034	365-90-050	REP	91-04-017
308-122-540	DECOD	91-04-020	315-11-300	REP	91-03-034	365-90-070	AMD	91-04-017
308-122-545	DECOD	91-04-020	315-11-301	REP	91-03-034	365-90-080	AMD	91-04-017
308-122-600	DECOD	91-04-020	315-11-302	REP	91-03-034	365-90-090	AMD	91-04-017
308-122-610	DECOD	91-04-020	315-11-310	REP	91-03-034	371-08	AMD-C	91-03-027
308-122-620	DECOD	91-04-020	315-11-311	REP	91-03-034	371-12	REP-C	91-03-027
308-122-630	DECOD	91-04-020	315-11-312	REP	91-03-034	371-08-001	NEW	91-03-028
308-122-640	DECOD	91-04-020	315-11-320	REP	91-03-034	371-08-002	NEW	91-03-028
308-122-650	DECOD	91-04-020	315-11-321	REP	91-03-034	371-08-005	AMD	91-03-028
308-122-660	DECOD	91-04-020	315-11-322	REP	91-03-034	371-08-010	AMD	91-03-028
308-122-660	AMD	91-04-021	315-11-330	REP	91-03-034	371-08-015	REP	91-03-028
308-122-670	DECOD	91-04-020	315-11-331	REP	91-03-034	371-08-020	AMD	91-03-028
308-122-670	AMD	91-04-021	315-11-332	REP	91-03-034	371-08-030	AMD	91-03-028
308-122-680	DECOD	91-04-020	315-11-340	REP	91-03-034	371-08-031	REP	91-03-028
308-122-690	DECOD	91-04-020	315-11-341	REP	91-03-034	371-08-032	AMD	91-03-028
308-122-695	DECOD	91-04-020	315-11-342	REP	91-03-034	371-08-033	NEW	91-03-028
308-122-700	DECOD	91-04-020	315-11-350	REP	91-03-034	371-08-035	AMD	91-03-028
308-122-710	DECOD	91-04-020	315-11-351	REP	91-03-034	371-08-040	AMD	91-03-028
308-122-720	DECOD	91-04-020	315-11-352	REP	91-03-034	371-08-045	REP	91-03-028
308-124A-430	AMD-P	91-03-047	315-11-360	REP	91-03-034	371-08-065	AMD	91-03-028
308-124H-010	AMD-P	91-03-047	315-11-361	REP	91-03-034	371-08-071	AMD	91-03-028
308-124H-025	AMD-P	91-03-047	315-11-362	REP	91-03-034	371-08-075	AMD	91-03-028
308-124H-540	AMD-P	91-03-047	315-11-370	REP	91-03-034	371-08-080	AMD	91-03-028
308-125-010	NEW	91-04-074	315-11-371	REP	91-03-034	371-08-085	AMD	91-03-028
308-125-020	NEW	91-04-074	315-11-372	REP	91-03-034	371-08-095	REP	91-03-028
308-125-030	NEW	91-04-074	315-11-380	REP	91-03-034	371-08-100	AMD	91-03-028
308-125-040	NEW	91-04-074	315-11-381	REP	91-03-034	371-08-102	REP	91-03-028
308-125-050	NEW	91-04-074	315-11-382	REP	91-03-034	371-08-104	AMD	91-03-028
308-125-060	NEW	91-04-074	315-11-390	REP	91-03-034	371-08-105	REP	91-03-028
308-125-070	NEW	91-04-074	315-11-391	REP	91-03-034	371-08-106	NEW	91-03-028
308-125-080	NEW	91-04-074	315-11-392	REP	91-03-034	371-08-110	REP	91-03-028
308-125-090	NEW	91-04-074	315-11-590	AMD	91-03-036	371-08-115	REP	91-03-028
308-125-100	NEW	91-04-074	315-11-591	AMD	91-03-036	371-08-120	REP	91-03-028
308-125-110	NEW	91-04-074	315-11-610	NEW	91-03-036	371-08-125	AMD	91-03-028
308-125-120	NEW	91-04-074	315-11-611	NEW	91-03-036	371-08-130	AMD	91-03-028
308-125-130	NEW	91-04-074	315-11-611	AMD-P	91-03-112	371-08-131	REP	91-03-028
308-125-140	NEW	91-04-074	315-11-612	NEW	91-03-036	371-08-132	REP	91-03-028
308-125-150	NEW	91-04-074	315-11-620	NEW-P	91-03-112	371-08-135	REP	91-03-028
308-125-160	NEW	91-04-074	315-11-621	NEW-P	91-03-112	371-08-140	AMD	91-03-028
308-125-170	NEW	91-04-074	315-11-622	NEW-P	91-03-112	371-08-144	AMD	91-03-028
308-125-180	NEW	91-04-074	315-11-630	NEW-P	91-03-112	371-08-146	NEW	91-03-028
308-125-190	NEW	91-04-074	315-11-631	NEW-P	91-03-112	371-08-147	NEW	91-03-028
308-125-200	NEW	91-04-074	315-11-632	NEW-P	91-03-112	371-08-148	NEW	91-03-028
308-125-210	NEW	91-04-074	315-12-140	REP	91-03-035	371-08-155	AMD	91-03-028
308-138-055	REP-P	91-03-117	315-12-145	NEW	91-03-036	371-08-156	AMD	91-03-028
314-52-015	AMD-C	91-03-007	352-12-010	AMD-P	91-03-142	371-08-160	REP	91-03-028
314-52-015	AMD-W	91-04-085	352-12-020	AMD-P	91-03-142	371-08-162	NEW	91-03-028
315-06-120	AMD	91-03-036	352-12-030	AMD-P	91-03-142	371-08-163	REP	91-03-028

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371-08-165	AMD	91-03-028	388-150-210	AMD-E	91-03-128	392-115-090	NEW-P	91-03-001
371-08-175	REP	91-03-028	388-150-280	AMD-P	91-03-127	392-115-095	NEW-P	91-03-001
371-08-180	AMD	91-03-028	388-150-280	AMD-E	91-03-128	392-115-100	NEW-P	91-03-001
371-08-183	AMD	91-03-028	388-150-390	AMD-P	91-03-127	392-115-105	NEW-P	91-03-001
371-08-184	NEW	91-03-028	388-150-390	AMD-E	91-03-128	392-115-110	NEW-P	91-03-001
371-08-186	AMD	91-03-028	388-150-450	AMD-P	91-03-127	392-115-115	NEW-P	91-03-001
371-08-187	AMD	91-03-028	388-150-450	AMD-E	91-03-128	392-115-120	NEW-P	91-03-001
371-08-188	AMD	91-03-028	388-155	NEW-C	91-03-038	392-115-125	NEW-P	91-03-001
371-08-189	AMD	91-03-028	388-155-005	NEW	91-04-048	392-115-130	NEW-P	91-03-001
371-08-190	REP	91-03-028	388-155-010	NEW	91-04-048	392-115-135	NEW-P	91-03-001
371-08-195	AMD	91-03-028	388-155-020	NEW	91-04-048	392-115-140	NEW-P	91-03-001
371-08-196	AMD	91-03-028	388-155-040	NEW	91-04-048	392-115-145	NEW-P	91-03-001
371-08-200	AMD	91-03-028	388-155-050	NEW	91-04-048	392-115-150	NEW-P	91-03-001
371-08-201	REP	91-03-028	388-155-060	NEW	91-04-048	392-115-155	NEW-P	91-03-001
371-08-205	REP	91-03-028	388-155-070	NEW	91-04-048	392-121-108	AMD	91-02-096
371-08-210	REP	91-03-028	388-155-080	NEW	91-04-048	392-121-133	AMD	91-02-096
371-08-215	AMD	91-03-028	388-155-090	NEW	91-04-048	392-121-136	AMD	91-02-096
371-08-220	AMD	91-03-028	388-155-100	NEW	91-04-048	392-121-182	AMD	91-02-096
371-08-230	AMD	91-03-028	388-155-110	NEW	91-04-048	392-121-184	NEW-P	91-04-088
371-08-240	AMD	91-03-028	388-155-120	NEW	91-04-048	392-121-265	AMD	91-02-097
371-08-245	REP	91-03-028	388-155-130	NEW	91-04-048	392-121-268	AMD	91-02-097
371-12-010	REP	91-03-028	388-155-140	NEW	91-04-048	392-121-269	NEW	91-02-097
371-12-020	REP	91-03-028	388-155-150	NEW	91-04-048	392-121-270	AMD	91-02-097
371-12-030	REP	91-03-028	388-155-160	NEW	91-04-048	392-121-272	AMD	91-02-097
371-12-040	REP	91-03-028	388-155-165	NEW	91-04-048	392-121-280	AMD	91-02-097
371-12-050	REP	91-03-028	388-155-170	NEW	91-04-048	392-121-295	AMD	91-02-097
371-12-060	REP	91-03-028	388-155-180	NEW	91-04-048	392-121-297	REP	91-02-097
371-12-070	REP	91-03-028	388-155-190	NEW	91-04-048	392-121-299	AMD	91-02-097
371-12-080	REP	91-03-028	388-155-200	NEW	91-04-048	392-122-010	AMD	91-03-118
371-12-090	REP	91-03-028	388-155-210	NEW	91-04-048	392-122-100	AMD	91-03-118
371-12-100	REP	91-03-028	388-155-220	NEW	91-04-048	392-122-106	AMD	91-03-118
371-12-110	REP	91-03-028	388-155-230	NEW	91-04-048	392-122-107	AMD	91-03-118
371-12-120	REP	91-03-028	388-155-240	NEW	91-04-048	392-122-110	AMD	91-03-118
371-12-130	REP	91-03-028	388-155-250	NEW	91-04-048	392-122-115	REP	91-03-118
388-14-385	AMD-P	91-04-002	388-155-260	NEW	91-04-048	392-122-120	AMD	91-03-118
388-14-385	AMD-E	91-04-003	388-155-270	NEW	91-04-048	392-122-125	REP	91-03-118
388-14-415	AMD-P	91-04-002	388-155-280	NEW	91-04-048	392-122-145	AMD	91-03-118
388-14-415	AMD-E	91-04-003	388-155-290	NEW	91-04-048	392-122-165	NEW	91-03-118
388-14-435	NEW-P	91-04-002	388-155-295	NEW	91-04-048	392-122-200	AMD	91-03-118
388-14-435	NEW-E	91-04-003	388-155-310	NEW	91-04-048	392-122-206	NEW	91-03-118
388-14-440	NEW-P	91-04-002	388-155-320	NEW	91-04-048	392-122-210	AMD	91-03-118
388-14-440	NEW-E	91-04-003	388-155-330	NEW	91-04-048	392-122-215	REP	91-03-118
388-14-445	NEW-P	91-04-002	388-155-340	NEW	91-04-048	392-122-230	AMD	91-03-118
388-14-445	NEW-E	91-04-003	388-155-350	NEW	91-04-048	392-122-235	AMD	91-03-118
388-14-450	NEW-P	91-04-002	388-155-360	NEW	91-04-048	392-122-240	REP	91-03-118
388-14-450	NEW-E	91-04-003	388-155-370	NEW	91-04-048	392-122-245	REP	91-03-118
388-15-208	AMD-S	91-04-039	388-155-380	NEW	91-04-048	392-122-250	REP	91-03-118
388-15-209	AMD-S	91-04-039	388-155-390	NEW	91-04-048	392-122-270	AMD	91-03-118
388-15-212	AMD-S	91-04-039	388-155-400	NEW	91-04-048	392-122-600	AMD	91-03-118
388-15-215	AMD-S	91-04-039	388-155-410	NEW	91-04-048	392-122-605	AMD	91-03-118
388-15-216	AMD-S	91-04-039	388-155-420	NEW	91-04-048	392-122-610	AMD	91-03-118
388-24-050	AMD-E	91-04-042	388-155-430	NEW	91-04-048	392-122-700	AMD	91-03-118
388-24-050	AMD-P	91-04-043	388-155-440	NEW	91-04-048	392-122-800	AMD	91-03-118
388-44-145	AMD-C	91-03-039	388-155-450	NEW	91-04-048	392-122-805	AMD	91-03-118
388-44-145	AMD-C	91-04-047	388-155-460	NEW	91-04-048	392-122-910	NEW	91-03-118
388-49-505	AMD-P	91-04-035	388-155-470	NEW	91-04-048	392-125-014	NEW-P	91-03-050
388-49-505	AMD-E	91-04-036	388-155-480	NEW	91-04-048	392-125-015	AMD-P	91-03-050
388-77-010	AMD	91-04-041	388-155-490	NEW	91-04-048	392-125-020	AMD-P	91-03-050
388-77-230	REP	91-04-041	388-155-500	NEW	91-04-048	392-125-025	AMD-P	91-03-050
388-77-320	AMD	91-04-041	391-101-015	NEW	91-02-095	392-125-026	NEW-P	91-03-050
388-77-500	AMD	91-04-041	392-115-005	NEW-P	91-03-001	392-125-027	NEW-P	91-03-050
388-77-515	AMD	91-04-041	392-115-010	NEW-P	91-03-001	392-125-030	AMD-P	91-03-050
388-77-520	AMD	91-04-041	392-115-015	NEW-P	91-03-001	392-125-085	AMD-P	91-03-050
388-77-530	REP	91-04-041	392-115-020	NEW-P	91-03-001	392-127-700	NEW	91-03-129
388-77-555	AMD	91-04-041	392-115-025	NEW-P	91-03-001	392-127-703	NEW	91-03-129
388-77-600	AMD	91-04-041	392-115-030	NEW-P	91-03-001	392-127-705	NEW	91-03-129
388-77-610	AMD	91-04-041	392-115-035	NEW-P	91-03-001	392-127-710	NEW	91-03-129
388-77-615	AMD	91-04-041	392-115-040	NEW-P	91-03-001	392-127-715	NEW	91-03-129
388-86-00901	AMD-P	91-04-040	392-115-045	NEW-P	91-03-001	392-127-720	NEW	91-03-129
388-86-00901	AMD-E	91-04-044	392-115-050	NEW-P	91-03-001	392-127-725	NEW	91-03-129
388-150-005	AMD-P	91-03-127	392-115-055	NEW-P	91-03-001	392-127-730	NEW	91-03-129
388-150-005	AMD-E	91-03-128	392-115-060	NEW-P	91-03-001	392-127-735	NEW	91-03-129
388-150-100	AMD-P	91-03-127	392-115-065	NEW-P	91-03-001	392-127-740	NEW	91-03-129
388-150-100	AMD-E	91-03-128	392-115-070	NEW-P	91-03-001	392-127-745	NEW	91-03-129
388-150-180	AMD-P	91-03-127	392-115-075	NEW-P	91-03-001	392-127-750	NEW	91-03-129
388-150-180	AMD-E	91-03-128	392-115-080	NEW-P	91-03-001	392-127-755	NEW	91-03-129
388-150-210	AMD-P	91-03-127	392-115-085	NEW-P	91-03-001	392-127-760	NEW	91-03-129

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392-127-765	NEW	91-03-129	415-112-725	NEW	91-03-016	448-13-030	NEW-S	91-03-123
392-127-770	NEW	91-03-129	415-112-727	NEW	91-03-016	448-13-040	NEW-S	91-03-123
392-127-775	NEW	91-03-129	419-14-030	AMD-P	91-03-107	448-13-050	NEW-S	91-03-123
392-127-780	NEW	91-03-129	419-14-040	AMD-P	91-03-107	448-13-060	NEW-S	91-03-123
392-127-785	NEW	91-03-129	419-14-090	AMD-P	91-03-107	448-13-070	NEW-S	91-03-123
392-127-790	NEW	91-03-129	419-14-100	AMD-P	91-03-107	448-13-080	NEW-S	91-03-123
392-127-795	NEW	91-03-129	419-14-110	AMD-P	91-03-107	448-13-090	NEW-S	91-03-123
392-127-800	NEW	91-03-129	419-18-030	AMD-P	91-03-106	448-13-100	NEW-S	91-03-123
392-127-805	NEW	91-03-129	419-18-040	AMD-P	91-03-106	448-13-110	NEW-S	91-03-123
392-127-810	NEW	91-03-129	419-18-050	AMD-P	91-03-106	448-13-120	NEW-S	91-03-123
392-127-815	NEW	91-03-129	419-18-060	AMD-P	91-03-106	448-13-130	NEW-S	91-03-123
392-127-820	NEW	91-03-129	419-18-070	AMD-P	91-03-106	448-13-140	NEW-S	91-03-123
392-127-825	NEW	91-03-129	434-42-900	NEW-P	91-03-125	448-13-150	NEW-S	91-03-123
392-127-830	NEW	91-03-129	434-42-900	NEW-E	91-03-126	448-13-160	NEW-S	91-03-123
392-140-257	AMD-P	91-04-089	434-42-905	NEW-P	91-03-125	448-13-170	NEW-S	91-03-123
392-140-340	NEW	91-02-094	434-42-905	NEW-E	91-03-126	448-13-180	NEW-S	91-03-123
392-140-341	NEW	91-02-094	434-42-910	NEW-P	91-03-125	448-13-190	NEW-S	91-03-123
392-140-342	NEW	91-02-094	434-42-910	NEW-E	91-03-126	448-13-200	NEW-S	91-03-123
392-140-343	NEW	91-02-094	434-42-915	NEW-P	91-03-125	448-13-210	NEW-S	91-03-123
392-140-345	NEW	91-02-094	434-42-915	NEW-E	91-03-126	448-13-220	NEW-S	91-03-123
392-140-346	NEW	91-02-094	434-42-920	NEW-P	91-03-125	448-14-010	REP-P	91-03-124
392-140-347	NEW	91-02-094	434-42-920	NEW-E	91-03-126	448-14-020	REP-P	91-03-124
392-140-348	NEW	91-02-094	434-42-925	NEW-P	91-03-125	448-14-030	REP-P	91-03-124
392-140-349	NEW	91-02-094	434-42-925	NEW-E	91-03-126	448-15-010	NEW-P	91-03-124
392-140-350	NEW	91-02-094	434-42-930	NEW-P	91-03-125	448-15-020	NEW-P	91-03-124
392-140-351	NEW	91-02-094	434-42-930	NEW-E	91-03-126	448-15-030	NEW-P	91-03-124
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392-140-353	NEW	91-02-094	434-42-935	NEW-E	91-03-126	448-15-050	NEW-P	91-03-124
392-140-354	NEW	91-02-094	434-42-940	NEW-P	91-03-125	448-15-060	NEW-P	91-03-124
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392-140-357	NEW	91-02-094	434-42-945	NEW-E	91-03-126	456-09-210	AMD-P	91-04-084
392-140-358	NEW	91-02-094	434-42-950	NEW-P	91-03-125	456-09-325	AMD-P	91-04-084
392-140-359	NEW	91-02-094	434-42-950	NEW-E	91-03-126	456-09-365	AMD-P	91-04-084
392-140-360	NEW	91-02-094	434-42-955	NEW-P	91-03-125	456-10-360	AMD-P	91-04-083
392-140-361	NEW	91-02-094	434-42-955	NEW-E	91-03-126	456-10-547	NEW-P	91-04-083
392-140-362	NEW	91-02-094	434-42-960	NEW-P	91-03-125	458-20-109	PREP	91-03-057
392-140-363	NEW	91-02-094	434-42-960	NEW-E	91-03-126	458-20-110	PREP	91-03-058
392-140-364	NEW	91-02-094	434-42-965	NEW-P	91-03-125	458-20-126	PREP	91-04-062
392-140-365	NEW	91-02-094	434-42-965	NEW-E	91-03-126	458-20-151	PREP	91-04-061
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392-140-368	NEW	91-02-094	434-42-975	NEW-P	91-03-125	460-16A-200	NEW	91-04-008
392-140-369	NEW	91-02-094	434-42-975	NEW-E	91-03-126	460-16A-205	NEW	91-04-008
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415-100-051	NEW	91-03-013	448-12-240	REP-S	91-03-123	460-31A-505	REP	91-04-012
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415-104-205	NEW	91-03-014	448-12-270	REP-S	91-03-123	460-31A-520	REP	91-04-012
415-104-211	NEW	91-03-014	448-12-280	REP-S	91-03-123	460-31A-525	REP	91-04-012
415-104-215	NEW	91-03-014	448-12-290	REP-S	91-03-123	460-31A-530	REP	91-04-012
415-108-320	NEW	91-03-015	448-12-300	REP-S	91-03-123	460-31A-535	REP	91-04-012
415-108-322	NEW	91-03-015	448-12-320	REP-S	91-03-123	460-31A-540	REP	91-04-012
415-108-324	NEW	91-03-015	448-12-330	REP-S	91-03-123	460-31A-545	REP	91-04-012
415-108-326	NEW	91-03-015	448-12-340	REP-S	91-03-123	460-31A-550	REP	91-04-012
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460-31A-575	REP	91-04-012	460-36A-180	REP	91-04-012	480-09-610	AMD-P	91-02-105
460-31A-580	REP	91-04-012	460-36A-185	REP	91-04-012	480-09-736	AMD-P	91-02-105
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460-31A-595	REP	91-04-012	460-42A-081	AMD	91-04-010	480-12-520	NEW	91-03-101
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460-31A-605	REP	91-04-012	460-46A-040	AMD	91-04-011	480-70-060	AMD	91-03-053
460-31A-610	REP	91-04-012	460-46A-050	AMD	91-04-011	480-70-070	AMD	91-03-053
460-31A-615	REP	91-04-012	460-46A-055	NEW	91-04-011	480-70-100	AMD	91-03-053
460-31A-620	REP	91-04-012	460-46A-061	NEW	91-04-011	480-70-130	AMD	91-03-053
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460-31A-650	REP	91-04-012	463-06-010	AMD	91-03-090	480-70-340	AMD	91-03-053
460-31A-655	REP	91-04-012	463-10-010	AMD	91-03-090	480-70-350	AMD	91-03-053
460-31A-660	REP	91-04-012	463-14-030	AMD	91-03-090	480-70-360	AMD	91-03-053
460-31A-665	REP	91-04-012	463-14-080	AMD	91-03-090	480-70-390	AMD	91-03-053
460-31A-670	REP	91-04-012	463-18-020	AMD	91-03-090	480-70-400	AMD	91-03-053
460-31A-675	REP	91-04-012	463-26-120	AMD	91-03-090	480-70-405	AMD	91-03-053
460-31A-680	REP	91-04-012	463-26-130	AMD	91-03-090	480-70-420	AMD	91-03-053
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460-31A-690	REP	91-04-012	463-28-080	AMD	91-03-090	480-70-500	AMD	91-03-053
460-31A-695	REP	91-04-012	463-38-041	AMD	91-03-090	480-70-570	AMD	91-03-053
460-31A-700	REP	91-04-012	463-38-042	AMD	91-03-090	480-80-047	NEW-P	91-03-051
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460-31A-710	REP	91-04-012	463-39-130	REP	91-03-090	480-80-047	NEW-P	91-03-121
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460-34A-030	REP	91-04-012	468-16-020	NEW	91-04-014	480-120-415	NEW	91-03-052
460-34A-035	REP	91-04-012	468-16-030	NEW	91-04-014	480-120-420	NEW	91-03-052
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460-34A-040	REP	91-04-012	468-16-050	NEW	91-04-014	480-120-430	NEW	91-03-052
460-34A-045	REP	91-04-012	468-16-060	NEW	91-04-014	480-120-435	NEW	91-03-052
460-34A-050	REP	91-04-012	468-16-070	NEW	91-04-014	480-140-020	AMD-P	91-03-099
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460-34A-060	REP	91-04-012	468-16-090	NEW	91-04-014	490-100-010	AMD-E	91-03-037
460-34A-065	REP	91-04-012	468-16-100	NEW	91-04-014	490-100-012	REP-E	91-03-037
460-34A-070	REP	91-04-012	468-16-110	NEW	91-04-014	490-100-030	AMD-E	91-03-037
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460-34A-105	REP	91-04-012	468-16-180	NEW	91-04-014	490-100-090	AMD-E	91-03-037
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460-34A-130	REP	91-04-012	478-276-060	AMD-P	91-04-058	490-100-135	NEW-E	91-03-037
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