

FEBRUARY 5, 1992

OLYMPIA, WASHINGTON

ISSUE 92-03



IN THIS ISSUE

Accountancy, Board of
Agriculture, Department of
Beef Commission
Bellingham Technical College
Business Assistance Center
Chiropractic Disciplinary Board
Clemency and Pardons Board
Community Development, Department of
Convention and Trade Center
Ecology, Department of
Economic Development Finance Authority
Egg Commission
Employment Security Department
Environmental Hearings Office
Fisheries, Department of
Forest Practices Board
Gambling Commission
Health Care Authority
Health, Department of
Higher Education Coordinating Board
Higher Education Personnel Board
Hispanic Affairs, Commission on
Judicial Conduct, Commission on
Labor and Industries, Department of
Licensing, Department of
Liquor Control Board
Lottery Commission
Maritime Commission
Natural Resources, Department of
Olympic Air Pollution Control Authority
Optometry Board
Personnel Appeals Board
Personnel Board
Pharmacy, Board of
Pierce College
Pilotage Commissioners, Board of
Professional Licensing Services
Public Disclosure Commission
Public Instruction, Superintendent of
Puget Sound Air Pollution Control Agency
Real Estate Commission
Revenue, Department of
Shoreline Community College
Skagit Valley College
Social and Health Services, Department of
Southwest Air Pollution Control Authority
State Employees Benefits Board
Strawberry Commission
Trade and Economic Development, Department
of
Transportation Commission
Transportation, Department of
University of Washington
Utilities and Transportation Commission
Veterinary Board of Governors
Whatcom Community College
Wildlife Commission
Workforce Training and Education Coordinating
Board

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than January 22, 1992

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).

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of February 1992 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 1992 pursuant to RCW 63.14.130(1)(a) is eleven point seven five percent (11.75%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is ten point seven five percent (10.75%) for the first calendar quarter of 1992.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is ten point zero percent (10.00%) for the first calendar quarter of 1992.

WASHINGTON STATE REGISTER

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WASHINGTON STATE REGISTER

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

Raymond W. Haman
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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 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.

1991 – 1992

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		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing on or after</i>
91-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
91-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
91-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
91-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
91-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
91-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
91-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
91-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
91-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1992
92-01	Nov 21	Dec 5	Dec 19, 1991	Jan 2, 1992	Jan 22
92-02	Dec 5	Dec 19, 1991	Jan 2, 1992	Jan 15	Feb 4
92-03	Dec 26, 1991	Jan 8, 1992	Jan 22	Feb 5	Feb 25
92-04	Jan 8	Jan 22	Feb 5	Feb 19	Mar 10
92-05	Jan 22	Feb 5	Feb 19	Mar 4	Mar 24
92-06	Feb 5	Feb 19	Mar 4	Mar 18	Apr 7
92-07	Feb 19	Mar 4	Mar 18	Apr 1	Apr 21
92-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5
92-09	Mar 25	Apr 8	Apr 22	May 6	May 26
92-10	Apr 8	Apr 22	May 6	May 20	Jun 9
92-11	Apr 22	May 6	May 20	Jun 3	Jun 23
92-12	May 6	May 20	Jun 3	Jun 17	Jul 7
92-13	May 20	Jun 3	Jun 17	Jul 1	Jul 21
92-14	Jun 3	Jun 17	Jul 1	Jul 15	Aug 4
92-15	Jun 24	Jul 8	Jul 22	Aug 5	Aug 25
92-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8
92-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22
92-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6
92-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27
92-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10
92-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24
92-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
92-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
92-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1993

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

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 92-03-001
RULES COORDINATOR
DEPARTMENT OF LICENSING
[Filed January 2, 1992, 4:24 p.m.]

I have designated Walt Fahrer, Management Analyst, as the rules coordinator for the Department of Licensing and its associated boards and committees with rule-making authority.

In accordance with RCW 34.05.310, please publish the mailing address for our rules coordinator in the state register: Walt Fahrer, Office of Budget and Program Support, Highways-Licenses Building, Olympia, Washington 98504, (206) 586-3503, 321-3503 scan.

Mary Riveland
Director

WSR 92-03-002
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD
[Filed January 3, 1992, 10:16 a.m.]

Date of Adoption: December 18, 1991.

Purpose: To establish the state of Washington health professional loan repayment and scholarship program.

Citation of Existing Rules Affected by this Order: Repealing chapters 250-67, 250-68, and 250-75 WAC.

Statutory Authority for Adoption: Chapter 332, Laws of 1991.

Pursuant to notice filed as WSR 91-20-141 on October 2, 1991.

Effective Date of Rule: Thirty days after filing.

December 30, 1991

Ann Daley

Executive Director

[REPEALER]

The following chapters of the Washington Administrative Code are repealed:

Chapter 250-67 WAC

Chapter 250-68 WAC

Chapter 250-75 WAC

STATE OF WASHINGTON
HEALTH PROFESSIONAL LOAN REPAYMENT
AND SCHOLARSHIP PROGRAM

Chapter 332, Laws of 1991

RULES AND REGULATIONS
WAC 250-25

- WAC 250-25-010 Purpose
- WAC 250-25-020 Authority to Administer
- WAC 250-25-030 Definitions
- WAC 250-25-040 Eligibility to Participate
- WAC 250-25-045 Ineligible Program
- WAC 250-25-050 Selection Criteria
- WAC 250-25-060 Award Amount
- WAC 250-25-070 Award Disbursement
- WAC 250-25-080 Repayment Provisions

WAC 250-25-090 Appeals

NEW SECTION

WAC 250-25-010. **PURPOSE.** The purpose of the health professional loan repayment and scholarship program is to encourage eligible health care professionals to serve in shortage areas by providing financial support in the form of loan repayment or conditional scholarship to attend school if the participant renders health care service in medically underserved areas or professional shortage areas within Washington state.

NEW SECTION

WAC 250-25-020. **AUTHORITY TO ADMINISTER.** The higher education coordinating board is charged with the administration of the health professional loan repayment and scholarship program. These regulations are being adopted pursuant to the authority of sections 15 through 25, chapter 332, laws of 1991, first executive session. When a responsibility of the board is referenced in these regulations, the authority needed to discharge that responsibility lies with the executive director or his or her designee. In administering this program, the board shall:

(1) Select credentialed health care professionals and eligible students to participate in the loan repayment and scholarship program;

(2) Develop guidelines;

(3) Collect and manage repayments from participants who do not meet their service obligations;

(4) Publicize the program to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the work force;

(5) Solicit and accept grants and donations from public and private sources for the program;

(6) Develop criteria for a contract obligating recipients to a service obligation or repayment where appropriate;

(7) Establish a planning committee to include representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board for community and technical colleges, the superintendent of public instruction, and other appropriate public and private agencies and organizations; and

(8) Deposit all receipts from the program into the trust fund dedicated to this program.

NEW SECTION

WAC 250-25-030. **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the higher education coordinating board.

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses approved by the board.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas. In determining health professional shortage areas in the state the department may be guided by applicable federal standards for "health professional shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington and designated as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period not less than three years and not more than five years.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care service in a designated health professional shortage area in the state.

NEW SECTION

WAC 250-25-040. ELIGIBILITY TO PARTICIPATE. To be eligible to apply for the loan repayment and scholarship program an individual must:

(1) Be an eligible credentialed health professional or eligible student;

(2) Be enrolled as a student in an approved course of study or program which leads to a degree which is offered by an accredited school; or be enrolled in an accredited graduate training program; or have a degree in a health care program and have completed an approved graduate training program; or have a current and valid license to practice such health profession in Washington state by the time of execution of contract; or be in the final stage of training to be a licensed health care professional;

(3) Submit an application on a form provided by the board for participation in the health professional loan repayment and scholarship program;

(4) Not owe an obligation for health professional service to the federal government, state, or other entity unless that obligation will be completely satisfied prior to the beginning of service under this program.

NEW SECTION

WAC 250-25-045. INELIGIBLE PROGRAM. Scholarship participants are ineligible to receive loan repayment if they have received a scholarship from this program or the nurses conditional scholarship (28B.104 RCW) or rural physician, pharmacist, and midwife scholarship programs (70.180 RCW). Loan repayment participants are ineligible to receive a scholarship if they have received loan repayment from this program or the health professional loan repayment program (18.150 RCW).

NEW SECTION

WAC 250-25-050. SELECTION CRITERIA. Applicants will be selected for participation in the health professional loan repayment and scholarship program based upon criteria that shall include but not be limited to the following:

(1) Applicant Training. The individual's training is in a health profession or specialty needed to fulfill an underserved area in Washington state.

(2) Applicant Qualifications. The individual's academic standing, prior professional experience in a medically underserved area or health personnel shortage area, board certification, residency achievements, peer recommendations, depth of past residency practice experience,

and other criteria related to professional competence or conduct.

(3) Applicant Service Commitment. (a) The individual's commitment to serve in a medically underserved area or community-based primary care site as determined by the statement of commitment on the application form; (b) The availability of the individual for service, with highest consideration being given to individuals who will be available for service at the earliest dates; and (c) The length of the individual's proposed service obligation, with greatest consideration being given to persons who agree to serve for longer periods of time.

(4) Scholarship Applicant Relationship with Rural Area. Preference for scholarships shall be given to students who reside in rural areas of the state prior to admission to the medical training program. Higher preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a primary care physician in a rural area.

NEW SECTION

WAC 250-25-060. AWARD AMOUNT. The annual award amount for each credentialed health care profession shall be based upon an assessment by the board, in consultation with the advisory committee, of reasonable annual eligible expenses and loan indebtedness incurred in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall not be more than fifteen thousand dollars per year. The awards may be renewed for eligible participants who continue to meet all renewal criteria but shall not be paid for more than a maximum of five years per individual.

NEW SECTION

WAC 250-25-070. AWARD DISBURSEMENT. As part of the award procedure, each participant must sign an agreement with the board which serves as the legal document verifying the participant's understanding of the obligation to serve for no less than three years or no more than five years in a shortage area or repay the program according to the terms of the signed agreement.

Loan repayment participants shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to credentialing as a health professional.

(1) Repayment shall be limited to loans covering eligible educational and living expenses as approved by the board and shall include principal and interest.

(2) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment. Financial debts or service obligations which do not qualify for payment include: Public Health and National Health Service Corps scholarship training program, National

Health Service Corps scholarship program, and armed forces (Army, Navy, or Air Force).

(3) Participants will be required to submit appropriate documentation of service as required by the board verifying the terms of the agreement have been met for each payment period.

(4) Participants violating the nondiscrimination provisions described in the signed agreement shall be declared ineligible and terminated from the program.

Scholarship participants shall receive payment from the program for the purpose of paying educational costs incurred while enrolled in a program of health professional training which leads to a credential as a credentialed health professional in the state of Washington. In no case shall the award amount exceed the actual cost of attendance for the particular program. Scholarship awards are intended to meet the eligible expenses of participants.

NEW SECTION

WAC 250-25-080. REPAYMENT PROVISIONS. Loan repayment participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. Should the participant discontinue service in a health professional shortage area payments against the loans of the participant shall cease to be effective on the date that the participant discontinues service. The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

Scholarship participants incur an obligation to repay the scholarship, with interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington. The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. The terms of the repayment, including deferral and rate of interest, shall be consistent with the terms of the federal guaranteed student loan program. The period for repayment shall coincide with the required service obligation, with payments accruing quarterly commencing no later than nine months from the date the participant completes or discontinues the course of study or completes or discontinues the required residency.

On the request of the participant, the board may waive, in full or in part, the obligation for service or its rights to recover financial damages whenever the board determines that failure to do so was due to circumstances beyond the participant's control. Conditions that would be considered as a waiver from default provisions may include: participant becomes physically impaired to the degree that he or she can no longer function in his or her assigned duties; participant becomes mentally impaired to the degree that he or she can no longer function in his or her assigned duties; or death.

The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the

maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

NEW SECTION

WAC 250-25-090. **APPEALS.** Participants who have been accepted in the health professional loan repayment and scholarship program may request in writing a review of any adverse decision affecting them by requesting such review within twenty days of adverse decision, addressed to the executive director of the higher education coordinating board. The review shall be handled by brief adjudication hearing procedures as outlined in the administrative act chapter 34.05 RCW.

WSR 92-03-003
RULES COORDINATOR
TRANSPORTATION COMMISSION
 [Filed January 3, 1992, 10:18 a.m.]

The designated rules coordinator for the Washington State Transportation Commission is: Mr. Bill Richeson, Records Manager, Transportation Building, Mailstop KF-01, Olympia, Washington 98504-7308.

Anna Peterson
 Administrator

WSR 92-03-004
RULES COORDINATOR
DEPARTMENT OF TRANSPORTATION
 [Filed January 3, 1992, 10:19 a.m.]

The designated rules coordinator for the Washington State Department of Transportation is: Mr. Bill Richeson, Records Manager, Transportation Building, KF-01, Olympia, Washington 98504, phone 753-0316.

Ed W. Ferguson
 Deputy Secretary

WSR 92-03-005
WITHDRAWAL OF PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed January 3, 1992, 1:09 p.m.]

The Public Disclosure Commission hereby withdraws the amendment to WAC 390-12-040 filed with the code reviser's office on November 5, 1991, as part of WSR 91-22-082.

Karen M. Copeland
 Administrative Officer

WSR 92-03-006
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Order 232—Filed January 3, 1992, 2:42 p.m.]

Date of Adoption: January 2, 1992.

Purpose: To amend implementation date of required expanded functions education for dental hygiene licensure to February 1, 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 246-815-031.

Statutory Authority for Adoption: RCW 18.29.130(6).

Pursuant to notice filed as WSR 91-23-025 on November 12, 1991.

Effective Date of Rule: Thirty-one days after filing.
 January 2, 1992
 Kristine M. Gebbie
 Secretary

AMENDATORY SECTION (Amending Order 172, filed 5/16/91, effective 6/16/91)

WAC 246-815-031 **DENTAL HYGIENE EXPANDED FUNCTIONS EDUCATION REQUIREMENT FOR LICENSURE IMPLEMENTATION.** The dental hygiene education requirement for licensure regarding the didactic and clinical competency of the expanded functions referenced in WAC 246-815-030 (1)(a)-(d), (2) and (3) shall become effective February 1, ((+1992)) 1993.

WSR 92-03-007
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Order 597—Filed January 3, 1992, 2:54 p.m.]

Date of Adoption: January 2, 1992.

Purpose: To amend Order 561, filed May 11, 1989, which rules set minimum performance levels for land boundary surveys and geodetic control surveys and provided guidelines for the preparation of land descriptions.

Citation of Existing Rules Affected by this Order: Amending WAC 332-130-010 and 332-130-020.

Statutory Authority for Adoption: RCW 58.09.050 and 58.24.040(1).

Pursuant to notice filed as WSR 91-23-065 on November 18, 1991.

Effective Date of Rule: Thirty-one days after filing.
 January 2, 1992
 Stan Biles
 Acting Supervisor

AMENDATORY SECTION (Amending Order 561, filed 5/11/89)

WAC 332-130-010 **AUTHORITY.** The department of natural resources, in accordance with RCW 58.24.040, 58.09.050, and 58.17.160, prescribes the following regulations setting minimum standards for land

boundary surveys and geodetic control surveys and providing guidelines for the preparation of land descriptions.

AMENDATORY SECTION (Amending Order 581, filed 9/9/91, effective 10/10/91)

WAC 332-130-020 DEFINITIONS. The following definitions shall apply to this chapter:

(1) Geodetic control surveys: Surveys for the specific purpose of establishing control points for extending the National Geodetic Survey horizontal and vertical control nets, establishing plane coordinate values on boundary monuments within the requirements of the Washington coordinate system, and determining the vertical elevations of boundary monuments.

(2) GLO and BLM: The General Land Office and its successor, the Bureau of Land Management.

(3) Land boundary surveys: All surveys, whether made by individuals, entities or public bodies of whatever nature, for the specific purpose of establishing, reestablishing, laying out, subdividing, defining, locating and/or monumenting the boundary of any easement, right of way, lot, tract, or parcel of real property or which reestablishes or restores General Land Office or Bureau of Land Management survey corners.

(4) Land corner record: The record of corner information form as prescribed by the department of natural resources (~~(pursuant to chapter 58.09 RCW)~~) in WAC 332-130-025.

(5) Land description: A description of real property or of rights associated with real property.

(6) Land surveyor: Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

(7) NAD83 (1991): North American Datum of 1983, adjusted in 1991.

(8) Parcel: A part or portion of real property including but not limited to GLO segregations, easements, rights of way, aliquot parts of sections or tracts.

(9) Survey Recording Act: The law as established and designated in chapter 58.09 RCW.

(10) Washington coordinate system: The system of plane coordinates as established and designated by chapter 58.20 RCW.

NEW SECTION

WAC 332-130-025 CORNER RESTORATION—RECORDING FORM. The record of corner information required to be filed with the county auditor by the Survey Recording Act shall be filed on a form substantially like the following:

LAND CORNER RECORD

(THIS FORM PRESCRIBED BY THE PUBLIC LAND SURVEY OFFICE, DEPARTMENT OF NATURAL RESOURCES, PURSUANT TO RCW 58.09. ALPHA-NUMERIC INDEX DIAGRAM ON THE BACK.)

CORNER INDEXING INFORMATION:

TWP _____ RGE _____ CORNER CODE _____
(Willamette Meridian) (See instructions on back of LCR)

ADDITIONAL IDENTIFIER: (e.g., BLM designation for the corner, street intersection, plat name, block, lot, etc.)

COUNTY:

AUDITOR'S USE

LAND SURVEYOR INFORMATION: (or Public Officer as per RCW 58.09.090)

This corner record correctly represents work performed by me or under my direction in conformance with the Survey Recording Act.

COMPANY OR AGENCY:

ADDRESS:

SEAL/SIGNATURE/DATE

WASHINGTON PLANE COORDINATES: N: _____ E: _____

ORDER: _____ ZONE: _____ DATUM (Date of adjustment): _____

CORNER INFORMATION: Use the space below to provide the following information regarding the corner: (1) Pertinent Corner History, (2) Evidence Found at the Corner, and (3) Corner Perpetuation Information. Please title and number the parts of your discussion accordingly. If additional space is needed use the back. (For (3), diagram the references. Also, provide the cross-reference to a map of record, if applicable, the surveyor's field book no./page no., and the date of work.) (See the back of this form for the requirements of the Survey Recording Act.)

MARK THE CORNER LOCATION ON THE DIAGRAM BELOW AND FILL IN THE CORNER CODE BLANK ON THE OTHER SIDE:

- (1) For corners located at the intersection of two lines (Section corners, quarter corners and sixteenth corners):
 - (a) The corner code is the alpha-numeric coordinate from the diagram below that corresponds to the appropriate intersection of lines.
- (2) For corners that are not located at the intersection of two lines (Meander corners, DLC's, HES's, reservation boundaries, mining claims, etc.):
 - (a) For corners that are on one line only the corner code is the line designation and the related line segment; i.e., a corner on line 5 between "B" and "C" is designated BC-5.
 - (b) For corners that are between lines the corner code is both line segments; i.e., a corner in the SE1/4 of the SE1/4 of section 18 is designated MN-4-5.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
A																									
B																									
C		6				5					4				3				2				1		
D																									
E																									
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G		7				8					9				10				11				12		
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X		31				32					33				34				35				36		
Y																									
Z																									

RCW 58.09.060 (2) requires the following information on this form: an accurate description and location, in reference to the corner position, of all monuments and accessories (a) found at the corner and (b) placed or replaced at the corner; (c) basis of bearings used to describe or locate such monuments or accessories; and (d) corollary information that may be helpful to relocate or identify the corner position.

SPACE FOR ADDITIONAL COMMENT:

WSR 92-03-008
RULES COORDINATOR
ENVIRONMENTAL HEARINGS OFFICE
 [Filed January 3, 1992, 3:42 p.m.]

William A. Harrison
 Administrative Appeals Judge

Pursuant to RCW 34.05.310(3), the Environmental Hearings Office (Shoreline Hearings Board, Forest Practices Appeals Board, Pollution Control Hearings Board and Hydraulics Appeals Board) designate William A. Harrison, Administrative Appeals Judge, as their rules coordinator. The address is: Environmental Hearings Office, 4224 6th Avenue S.E., Building 2, Rowesix, Mailstop PY-21, P.O. Box 40903, Lacey, WA 98504-0903.

WSR 92-03-009
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER
 [Memorandum—December 31, 1991]

The board of directors of the Washington State Convention and Trade Center will meet on Wednesday, January 8, 1992, at 2:00 p.m., in the 5th Floor Board Room of the Convention Center, 800 Convention Place, Seattle.

If you have questions regarding this meeting, please call 447-5000.

WSR 92-03-010
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
[Memorandum—January 3, 1992]

1992 Meeting Schedule of the Board of Trustees
Second Tuesday of the Month at 2:00 p.m.
Board Room in the Laidlaw Center

Whatcom Community College
237 West Kellogg Road
Bellingham, WA 98226

- January 14
- February 11
- March 10
- April 14
- May 12
- June 9
- July 14
- August 11 or no meeting
- September 8
- October 13
- November 10
- December 8

WSR 92-03-011
RULES COORDINATOR
WHATCOM COMMUNITY COLLEGE
[Filed January 3, 1992, 3:45 p.m.]

This is to inform you that Cliff Baacke will serve as the rules coordinator for Whatcom Community College for 1992.

Harold G. Heiner
President

WSR 92-03-012
PERMANENT RULES
OLYMPIC AIR
POLLUTION CONTROL AUTHORITY
[Filed January 3, 1992, 3:46 p.m.]

Date of Adoption: November 13, 1991.

Purpose: Outlines requirements for solid fuel burning devices (e.g. woodstoves, that will be imposed, if the Thurston County nonattainment area fails to meet attainment on or after July 1, 1995.

Pursuant to notice filed as WSR 91-19-044 on September 12, 1991.

Effective Date of Rule: Thirty-one days after filing.
November 15, 1991
Charles Peace
Control Officer

NEW SECTION

SECTION 9.06 WOODSTOVES

If, on or after July 1, 1995, the Thurston County non-attainment area is not in attainment with national ambient air quality standards for particulate matter as specified in Title 40, Section 50.6 of the Code of Federal Regulations, any person in a residence or commercial establishment within the non-attainment areas shall not, at any time, burn solid fuel in any solid fuel burning device, except:

1. fireplaces as defined in RCW 70.94.453(3);
2. woodstoves meeting the standards set forth in RCW 70.94.457 or Title 40, Part 60 of the Code of Federal Regulations;
3. pellet stoves not affect by Title 40, Part 60 of the Code of Federal Regulations.

(a) The non-attainment area is to consist of the incorporated and non-incorporated areas within the boundaries of Lacey, Olympia, and Tumwater.

(b) Low Income Exemption

(1) A person who demonstrates an economic need to burn solid fuel for residential space heating purposes by qualifying for the low income energy assistance program as administered by the Thurston County Community Action Council is eligible for a written solid fuel burning device special need exemption issued by the Authority.

(2) Application for a solid fuel burning device special need exemption may be made to the Authority at any time. Exemptions shall be valid for one (1) year and may be renewed provided that the applicant qualifies for the low income energy assistance program at the time of renewal application. Special need exemptions are non-transferable and are valid only at the residence location and for the person to whom the exemption is issued. Exemptions shall be issued at no cost to the applicant.

(c) Impaired Air Quality

(1) On or after July 1, 1995, if the Authority has limited the use of solid fuel burning devices in the non-attainment area, a single stage of impaired air quality shall apply in this geographical area and is reached when particulates 10 microns and smaller in diameter are at an ambient level of 90 micrograms per cubic meter of air as measured by a federal reference method specified in Title 40 Part 50, Appendix J of the code of Federal Regulations or a more timely ambient measurement method accepted and approved by Ecology in accordance with WAC 173-433-140 (4)(a)(ii).

(2) When a single stage of impaired air is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device, including those which meet the standards set forth in RCW 70.94.457 or Title 40, Part 60 of the code of Federal Regulations.

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

WSR 92-03-013
EMERGENCY RULES
WILDLIFE COMMISSION

[Order 527—Filed January 3, 1992, 5:20 p.m.]

Date of Adoption: January 3, 1992.

Purpose: Emergency changes to the 1992 winter steelhead fishing regulations on the Nisqually River.

Statutory Authority for Adoption: RCW 77.12.040.

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 wild steelhead run is predicted to be below escapement requirements on this river and harvest of wild fish must be restricted. There is no hatchery plant of winter steelhead on this river and therefore no hatchery winter steelhead fishery exists.

Effective Date of Rule: Immediately.

January 3, 1992
 Curt Smitch
 Director
 for Dean A. Lydig
 Chair

NEW SECTION

WAC 232-28-61825 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - NISQUALLY RIVER. Notwithstanding the provisions of WAC 232-28-618 and WAC 232-28-619, effective January 5, 1992 to April 30, 1992, the Nisqually River is closed to fishing for all game fish.

All other provisions of WAC 323-28-618 and WAC 232-28-619 on the Nisqually River remain in effect.

WSR 92-03-014
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS

[Memorandum—January 3, 1992]

Following is the Commission on Hispanic Affairs schedule for meetings to be held throughout Washington state for the year 1992:

February 1	Olympia
May 9	Moses Lake
September 12	Seattle
November 14	Pasco

The commission meetings are all day and discuss legislative events, community concerns, and other issues which are of importance to the Hispanic community.

Should you need any further information, please do not hesitate to contact our office at 1011 10th Avenue S.E., P.O. Box 40924, Olympia, WA 98504-0924, (206) 753-3159.

WSR 92-03-015
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)

[Filed January 6, 1992, 9:46 a.m.]

Original Notice.

Title of Rule: WAC 248-14-120 Residential care unit; 248-14-285 Pharmaceutical services; 248-14-250 Physician services; and chapter 388-88 WAC, Medical care—Nursing home care.

Purpose: To amend state rules and regulations governing nursing home operations to reflect recent changes in Federal Omnibus Budget Reconciliation Act requirements and Washington state law.

Statutory Authority for Adoption: RCW 18.51.070 and 74.42.620.

Statute Being Implemented: RCW 18.51.070 and 74.42.620.

Summary: The department's amendment of nursing home Washington Administrative Codes (WAC): Eliminates references to intermediate care facility and skilled nursing facility levels of care. Requires all nursing home residents to be assessed using a state-specified resident assessment instrument. Amends preadmission screening and annual resident review (PASARR) requirements, further specifying the conditions under which persons with development disabilities or serious mental illness may be placed in nursing facilities (NFs). Specifies changes in department utilization review activities and responsibilities. Makes NFs responsible for assessing medical assistance residents' need for NF care. Assigns responsibility for initiating and facilitating relocation of medical assistance residents. Defines rights and procedures to appeal relocation determinations. Eliminates requirement for NF isolation rooms. Amends regulation to permit NF physicians to alternate required resident visits between direct visits by the physician and visits by a physician assistant or an advanced registered nurse practitioner. Changes medication documentation requirement to allow documentation at the time of pouring the drug or immediately after administration.

Reasons Supporting Proposal: Brings state nursing home WACs into compliance with new Federal Omnibus Budget Reconciliation Act regulations and amended state law pertaining to PASARR and resident assessment requirements, quality assurance and utilization review activities, and required physician visits. Amend state WACs to more accurately reflect current standards of practice regarding isolation care of patients, and documenting medication administration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Gaskell and Kevin Krueger, Aging and Adult Services, 438-7938.

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

Rule is necessary because of federal law, Public Law (P.L.) 100 203, Section 1919 (b)(3) and Congressional Record—House 12485(b).

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 6, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2891, filed 11/1/89, effective 12/2/89)

WAC 248-14-120 RESIDENTIAL CARE UNIT. (1) Location. Each residential care unit shall be located to minimize through traffic to any general service, diagnostic, treatment, or administrative area. All rooms or areas within the unit shall be on the same floor level.

(2) Required facilities.

(a) Each unit shall have at least the following basic service facilities:

- (i) A nurses' station;
- (ii) A medicine storage and preparation area;
- (iii) Clean and soiled utility rooms;
- (iv) Housekeeping facilities; and
- (v) Storage space for linen, other supplies, and equipment.

(b) Resident rooms in buildings which are connected to the main nursing home building by means of enclosed and heated passageways will be construed as portions of the main home.

(3) Resident rooms.

(a) The floor level shall be above grade level except for earth berms.

(b) Each resident room shall be directly accessible from the corridor and shall be located to prevent through traffic.

(c) Every resident room shall be an outside room and shall have a clear glass window which is located in an outside wall and has an area equal to not less than one-tenth of the usable floor space.

(i) All resident room windows shall be located twenty-four feet or more from another building or the opposite wall of a court or ten feet or more away from a property line, except on street sides. If the depth of a court is less than one-half its width, the width requirement will not apply. The outside window wall shall be eight feet or more from an outside public walkway.

(ii) Window sills shall be three feet or less above the floor.

(d) The maximum capacity of any resident bedroom shall be four beds.

(e) No bed shall be located more than two beds deep from an exterior window wall.

(f) ~~On each unit there shall be at least one single uncarpeted bedroom capable of providing isolation care. It shall contain:~~

- ~~(i) A lavatory with water supplied through a mixing valve; and~~
- ~~(ii) Its own adjoining toilet room equipped with a bedpan flushing attachment and containing a bathing facility.~~

~~(g) There shall be eighty-five square feet or more of usable floor space per bed in each multibed room and one hundred square feet or more of usable floor space for each one bed room.~~

~~((h))~~ (g) Dimensions of rooms shall provide for three feet or more of space between the sides and foot of the bed and any wall, fixed obstruction, or other bed.

(4) Resident room equipment.

(a) There shall be a wall-mounted or equivalent reading light and a nurse call signal device for each bed.

(b) There shall be a lavatory in each multibed room. There shall be a lavatory in each single room which does not have an adjoining toilet room containing a lavatory.

(c) There shall be a separate, enclosed wardrobe or closet for each bed in each room. The inside dimensions shall be twenty-two inches or more deep (front to back) by thirty inches wide. The clothes rod shall be placed to provide five feet or more but not more than five feet six

inches of free hanging space from the center of the clothes rod to the floor of the room.

(d) There shall be a lockable shelf space or drawer for storage of other personal belongings for each resident bed in addition to the bedside cabinet.

(e) There shall be separate storage for extra pillows and blankets for each bed. This may be combined with the wardrobe or closet if it does not impinge upon the required space for clothing.

(f) Each multibed room shall have permanently installed cubicle curtain tracks or rods around each bed with flame-proof curtains approved by the state fire marshal.

(g) For electrical outlet and lighting requirements refer to electrical section, WAC 248-14-160.

(5) Resident toilet(s).

(a) There shall be a toilet room directly accessible from each resident room and from each bathing facility without going through a general corridor. One toilet room may serve two bedrooms except for those resident rooms for which private toilet rooms are required. One toilet shall serve a maximum of four beds. For alterations of existing resident rooms the ratio of one toilet fixture for each eight residents or fraction thereof is acceptable.

(b) Each toilet fixture in toilet rooms adjoining resident rooms shall be equipped with a bedpan flushing attachment unless a siphon jet clinic service sink is provided in each soiled utility room.

(c) There shall be provision for storage of a bedpan brush container off the floor in each toilet room equipped with a bedpan flushing attachment.

(d) At least one lavatory shall be provided in each toilet room, except when it opens into a single bed room which has a lavatory.

(e) Each resident toilet room shall be designed to accommodate a person in a wheelchair.

(f) A properly located and securely mounted grab bar or its equivalent shall be provided at each side of a toilet fixture.

(6) Resident bathing facilities.

(a) On each unit there shall be at least one bathtub or shower facility per every fifteen beds or fraction thereof which are not in rooms served by an adjoining bathroom.

(b) On each unit there shall be a bathing device designed for patient bathing by immersion, accessible from the corridor.

(c) There shall be at least one roll-in shower accessible from the corridor on each unit. It shall be designed:

- (i) For ease of shower chair entry;
- (ii) With bulkheads which are a maximum of thirty-four inches high and provide for toe space;

(iii) With a properly sloped and drained floor to prevent the flow of water outside the stall, but provide for safe use of a shower chair within the stall; and

(iv) With the water inlet approximately four and one-half feet from floor level and with a flexible hose approximately five feet long with a lightweight, shampoo-type, spray attachment.

(d) In each bathroom containing more than one bathing facility each bathtub or shower shall be in a separate room or compartment. The area for each bathtub and shower shall be sufficient to accommodate a shower chair and attendant(s) and provide for visual privacy.

(e) Grab bars.

(i) One horizontal grab bar forty-eight or more inches long shall be provided at the side of a standard bathtub and an L-shaped bar at the faucet end. The horizontal side of the L-shaped bar shall extend the width of the tub and the vertical bar shall rise thirty inches at the outer side of the tub.

(ii) At the faucet end of each peninsular bathtub there shall be at least one horizontal grab bar mounted from thirty-three to thirty-six inches above the floor and extended the full width of the bathtub. It shall be ten inches or more from the wall at the faucet end.

(iii) A horizontal grab bar shall be provided on two sides of each shower stall and an L-shaped bar mounted on the shower head side. The horizontal bars shall be mounted thirty-one inches to thirty-six inches above the floor.

(f) Shower and tub bottom surfaces shall be slip-resistant.

(7) Nurses' station. On each residential care unit there shall be a nurses' station equipped with:

- (a) A charting surface;
- (b) Sufficient seating area;
- (c) A rack or other storage for current health records;
- (d) Storage for record and clerical supplies;
- (e) A telephone;
- (f) A nurse call annunciator; and

(g) A clock.

(8) Utility service rooms. On each unit there shall be a clean utility room and a soiled utility room designed and equipped to ensure separation of clean and sterile supplies and equipment from those contaminated.

(a) Each clean utility room shall have a work counter, a sink, and closed storage units for clean and sterile supplies and small equipment.

(b) Each soiled utility room shall have:

(i) At the minimum a two-compartment sink mounted in a work counter of three feet or more in length on each side of the sink and the inside dimensions of each compartment shall be twenty-two by twenty-two by twenty inches deep;

(ii) Storage for cleaning supplies and other items;

(iii) Locked storage for cleaning agents, disinfectants and other caustic or toxic agents;

(iv) Adequate space for waste containers, linen hampers, and other large equipment;

(v) The work counters, sinks, and other fixed equipment shall be arranged to prevent intermingling of clean and contaminated items during processing; and

(vi) A siphon jet type clinic service sink or equivalent equipped with bedpan flushing attachment shall be provided unless a bedpan flushing device is provided in toilet rooms adjoining resident rooms.

(9) Drug facilities. There shall be facilities for drug preparation and locked storage near the nurses' station on each unit.

(a) The drug facilities shall be well illuminated, ventilated, and equipped with a work counter, sink with hot and cold running water, and drug storage units.

(b) Locks and keys for drug facilities shall be different from any other locks and keys within the nursing home.

(i) Separately keyed storage shall be provided for Schedule II and III controlled substances.

(ii) Segregated storage of different residents' drugs shall be provided.

(c) There shall be a refrigerator for storage of thermolabile drugs in the drug facility.

(10) Linen storage.

(a) A clean room shall be provided for storage of clean linen and other bedding on each unit. This may be an area within the clean utility room.

(b) There shall be a soiled linen room for collection and temporary storage of soiled linen on each unit. This may be in an area of the soiled utility room.

(11) Equipment storage. There shall be two square feet or more of storage space per bed for wheelchair and other ambulation equipment. Storage may be combined with an equipment storage room or be in a corridor alcove but shall not impinge upon the required corridor space. If the square footage is added to the resident room size, individual wheelchair(s) and other ambulation equipment may be stored in the room.

(12) Janitors' closet. A janitors' closet with a service sink and adequate storage space for housekeeping equipment and supplies shall be provided on each unit.

AMENDATORY SECTION (Amending Order 2785, filed 3/31/89)

WAC 248-14-285 PHARMACEUTICAL SERVICES. (1) A staff pharmacist or consultant pharmacist shall be responsible for coordinating pharmaceutical services including:

(a) Provision of pharmaceutical services, evaluations, and recommendations to the administrative staff((:));

(b) On-site reviews to ensure drug handling and utilization procedures are carried out in conformance with recognized standards of practice((:));

(c) Regular reviews of each resident's therapy to screen for potential or existing drug therapy problems and documenting recommendations((:));

(d) Provision of drug information to the staff and physicians as needed((:));

(e) Planning and participation in the staff development program((:)); and

(f) Consultation with other departments regarding resident care services.

(2) Administration of pharmaceutical services.

(a) The nursing home shall ensure there is timely delivery of drugs and biologicals.

(b) The nursing home shall ensure safe and effective drug therapy, distribution, control, and use.

(c) If drugs are maintained for emergency use, the nursing home and supplying pharmacy shall establish a system for drug control and accountability.

(d) The nursing home shall record medication errors and adverse drug reactions and report them immediately to the practitioner who ordered the drug.

(3) Security and storage of drugs.

(a) The nursing home shall store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(b) The nursing home shall store drugs in locked cabinets, rooms, or carts accessible only to personnel authorized to administer or dispense drugs.

(c) The nursing home shall ensure outdated, unapproved, contaminated, deteriorated, adulterated, or recalled drugs are not available for use.

(d) If a supplemental dose kit within a unit dose drug distribution system is provided, the nursing home and supplying pharmacy must comply with WAC 360-13-030.

(4) The nursing home shall ensure drugs are:

(a) Clearly labeled;

(b) Administered to the right resident;

(c) Administered in the correct dosage; and

(d) Administered within correct times.

(5) The nursing home shall accurately document the disposition of drugs, including:

(a) Administration;

(b) Destruction;

(c) Release;

(d) Retention; and

(e) Return to the pharmacy.

(6) Special requirements for Schedule II and III controlled substances((:)).

(a) Nursing homes shall store Schedule II and III controlled substances separately keyed from other controlled substances except in unit dose drug distribution systems.

(b) Except in unit dose drug distribution systems, the nursing home shall maintain a bound book or books with consecutively numbered pages, and record therein a complete record of receipt and disposition of Schedule II and III controlled substances.

(c) Any staff member discovering any discrepancy between the count of drugs and the record shall document the discrepancy and report it immediately to his or her supervisor. The nursing home shall report any discrepancy not resolved to the pharmacist and the Washington state board of pharmacy.

(7) Drug orders.

(a) Staff shall only administer drugs on the written or verbal order of a practitioner. The prescribing practitioner shall sign verbal orders in a timely manner.

(b) Only a licensed nurse, pharmacist, or physician shall receive a drug order.

(c) The nursing home shall ensure all drug orders are time limited.

(8) Drug administration.

(a) Staff shall follow procedures providing for the safe handling and administration of drugs to residents as ordered.

(i) Only an individual authorized by state law to administer drugs may do so.

(ii) The individual administering a drug shall identify the resident prior to administration.

(iii) The individual administering drugs shall identify all drugs up to the point of administration.

(iv) The individual administering drugs shall personally prepare the drugs for administration immediately prior to administration.

(b) The individual administering the drugs shall document((~~as soon as possible~~)) at the time of pouring the drug or immediately after ((the act of)) administration, the following:

(i) Verification of administration((:));

(ii) Reasons for ordered doses not taken((:)); and

(iii) Reasons for administration of and response to drugs given on an as needed basis (((PRN)) p.r.n.).

(c) The nursing home shall provide a program for self-administration of medication and shall document the following:

(i) Assessment of the resident's capabilities((:));

(ii) Instructions for administration((:));

(iii) Monitoring of progress and compliance with orders((:)); and

(iv) Safe storage of drugs.

AMENDATORY SECTION (Amending Order 1872, filed 9/1/82)

WAC 248-14-250 PHYSICIAN SERVICES. (1) Residents in need of nursing home care shall be under the care of an attending physician. The nursing home shall identify an alternate physician ~~((who has agreed to be)),~~ responsible for a resident in the attending physician's absence, ~~((shall be identified))~~ upon admission.

(2) ~~((Medical care))~~ A physician shall ~~((be promptly provided when necessary))~~ provide the resident appropriate medical care to meet identified resident needs.

(3) The resident shall be seen by the attending physician on or immediately ~~((prior to))~~ before nursing home admission ~~((and as required by federal regulations)).~~

(4) The nursing facility shall have the following medical information ~~((prior to))~~ before or upon the resident's admission ~~((shall include))~~:

(a) A history and physical reflecting review of systems and the resident's current health status with attention to special physical and psychosocial limitations and needs~~((:));~~

(b) Orders, as necessary, for medications, treatments, diagnostic studies, specialized rehabilitative services, diet, and any restrictions related to physical or social activities~~((:));~~ and

(c) Plans for continuing care and discharge.

(5) Overall resident's progress and plans of care shall be reviewed and~~((or))~~ revised during ~~((a))~~ visits by the attending physician ~~((or a certified)),~~ an advanced registered nurse practitioner (ARNP), or a physician assistant ~~((within the individual scope of practice in consultation with professional personnel))~~ (PA).

(6) In ~~((facilities certified for))~~ Medicare or Medicaid~~((, the))~~ certified ~~((registered nurse or))~~ facilities, the physician ~~((assistant))~~ may ~~((not visit in lieu of the required physician visit))~~:

(a) Alternate required physician visits:

(i) Between personal visits by the physician; and

(ii) By an advanced registered nurse practitioner or physician assistant.

(b) Not delegate responsibility for the initial physician visit.

~~((Patient needs))~~ (7) The attending physician, ARNP, or PA shall ~~((be documented. Each need or problem (or symptom) shall))~~:

(a) Document resident needs; and

(b) Have in place for each resident a current plan of treatment for each need, problem, or symptom.

~~((66))~~ (8) Self-administration of medications ~~((s))~~ shall be ordered when appropriate.

AMENDATORY SECTION (Amending Order 1871, filed 9/1/82)

WAC 388-88-001 NURSING HOME CARE. (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for an eligible person(s). The department has the responsibility to assure to the state that adequate care, service, and protection are provided through licensing, certification and utilization control activities.

(2) The department shall certify each Title XIX nursing home ~~((will be certified))~~ as ~~((a skilled))~~:

(a) A nursing facility~~((, intermediate care facility, skilled nursing and))~~ (NF); or

(b) An intermediate care facility~~((, and/or institution))~~ for the mentally retarded and residents with related conditions ~~((HMR))~~ (ICF/MR).

(3) ~~((A contract for the provision of care to medical assistance clients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance clients classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.~~

~~((4))~~ A hospital may elect to provide ~~((skilled))~~ nursing facility ~~((and/or intermediate care facility))~~ services to medical assistance clients. The hospital must be certified, and all rules and regulations relating to ~~((skilled))~~ nursing facilities ~~((and/or intermediate care facilities))~~ shall apply.

AMENDATORY SECTION (Amending Order 1871, filed 9/1/82)

WAC 388-88-075 NURSING ~~((HOME))~~ FACILITY CONTRACT—NONCOMPLIANCE. (1) When ~~((a home is))~~ the department finds a nursing facility in violation of the contract terms ~~((of the contract)),~~ the department ~~((may temporarily suspend the referral of~~

clients to the home. Whenever referral is suspended under this section, the home will immediately be notified by phone and confirmed in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been satisfactorily corrected.

(2) Referral of clients is suspended when a home fails to provide staffing commensurate with the terms of the contract. A home, unable to provide the level of care for which a client is classified, shall not accept or retain clients whose unique needs cannot be met. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department (chapter 18.51 RCW).

(3) When the department terminates a contract, the home will be notified~~(())~~ shall notify the nursing facility, in writing, of the contract termination and the basis for the department's action.

(2) The department ~~((will))~~ shall assist in the ~~((movement))~~ transfer of a medical assistance ~~((clients needing continued nursing care))~~ resident.

AMENDATORY SECTION (Amending Order 2797, filed 5/10/89)

WAC 388-88-080 UTILIZATION REVIEW ~~((AND CLASSIFICATION OF CLIENTS))~~. (1) ~~((Nursing care consultants shall determine the level of care in skilled nursing and intermediate care facilities in accord with the nursing care consultants' professional judgment and as described under WAC 388-88-081 and 388-88-083.~~

(2) In making classification recommendations for nursing home placement, the department's personnel shall utilize the guidelines for skilled and intermediate nursing home care described under WAC 388-88-081 and 388-88-083.

(3) A department designee shall periodically review the classification of each individual nursing home client~~(())~~ To assure appropriate use of Medicaid services ~~((by:~~

(a) Assessing client care needs and adequacy of services provided;

(b) Determining the need for continued stay; and

(c) Identifying the level of care required to meet the nursing care needs of the client.

~~((4))~~ Classification changes shall be made in accordance with the needs of the clients and in accord with appeal and relocation procedures outlined under WAC 388-88-101.

(5) Residents determined by the department not to require the level of services provided by a nursing facility shall be discharged and relocated in accord with WAC 388-88-101~~(()),~~ department designees may review NF assessments of a medical assistance resident and determine that a medical assistance resident:

(a) Needs nursing facility care; or

(b) Does not need nursing facility care.

(2) Resident relocations and appeals of department determinations resulting from reviews under subsection (1)(a) and (b), shall be carried out following the procedures defined under WAC 388-88-140 and WAC 388-88-145, except as provided under subsection ~~((66))~~ (3) of this section.

~~((66))~~ (3) When the department determines that a resident does not require ~~((s active treatment))~~ nursing facility care, but requires specialized services, and the resident has continuously resided in the nursing facility for thirty months or more, the department shall:

(a) Inform the resident of the institutional and noninstitutional alternatives available to the resident;

(b) Offer the resident the choice of:

(i) Remaining in the facility and receiving ~~((active treatment))~~ specialized services; or ~~((of))~~

(ii) Receiving covered services in an appropriate alternative institutional or noninstitutional setting;

(c) Clarify the effect on the eligibility for departmental services if the resident ~~((chooses to))~~ leaves the facility; and

(d) Document the information given to the resident and the choice made by the resident in the resident's medical record.

~~((7))~~ Residents sixty-five years of age and older, determined by the department to need nursing facility level of care and active treatment, may choose to:

(a) Decline active treatment and remain in a nursing facility; or

(b) Receive covered services in an appropriate alternative institutional or noninstitutional setting.

(8) Except as provided under subsections (6) and (7) of this section, residents determined under WAC 388-88-099 to need active treatment shall be required to relocate when the department determines an appropriate placement is available~~((.))~~

AMENDATORY SECTION (Amending Order 1921, filed 12/6/82)

WAC 388-88-081 (~~(SKILLED)~~) NURSING FACILITY CARE (~~(RESIDENTS)~~). (~~(Residents)~~) A person requiring ((skilled)) nursing facility care ((are residents whose condition, needs, and/or services are of such complexity and sophistication so as to require frequent or continuous observation and intervention of a registered nurse, and the supervision of a licensed physician. These residents require ongoing assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive plan of care involving interdisciplinary planning input and coordination. Resident needs include ongoing evaluations, care plan revisions, and the teaching necessary to provide for residents whose condition is unstable and/or complex)) is one:

(1) Who requires individually planned treatment and services ordered by a licensed physician and performed under the daily direction of a registered nurse; and

(2) Whose care plan is directed toward:

(a) Assisting the resident to reach the resident's highest practicable level of functioning;

(b) Preventing the resident's functional decline;

(c) Returning the resident to the community when possible; and

(d) Providing the resident more than supervision, assistance with personal care, and protection.

AMENDATORY SECTION (Amending Order 2768, filed 2/28/89)

WAC 388-88-095 NURSING FACILITY PLACEMENT ((OF PATIENT)). (1) Nursing ((home)) facility care must be requested by ((the patient's)) a person's attending physician or Christian Science practitioner ((prior to)) before the person's admission to a Medicaid-certified facility.

(2) A nursing facility shall not accept or retain a person whose unique needs cannot be met.

(3) A Medicaid certified nursing ((home)) facility shall not admit ((a private paying individual)) any person unless((, under WAC 388-88-097,)) an identification screen is completed ((and the individual is)) as required under WAC 388-88-097.

(4) An individual identified as ((:

(a)) having ((neither)) a serious mental illness ((nor)) or a developmental disability((, or

(b) Not requiring the pre-admission screening and annual resident review (PASARR) for any of the reasons listed under WAC 388-88-097 (3)(c); or

(c) Likely to have a mental illness or a developmental disability and a PASARR has been completed for the individual.

(3) A Medicaid-certified nursing home shall not admit a Medicaid applicant or recipient until an identification screen has been completed, under WAC 388-88-097, and the individual has been identified as:

(a) Having neither a mental illness nor a developmental disability or is identified as not requiring PASARR for any of the reasons listed under WAC 388-88-097 (3)(c), and a department designee has classified the individual as requiring either intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-083 or 388-88-081; or

(b) Likely to have a mental illness or developmental disability and a department designee has determined through the PASARR process the individual requires nursing home care and does not require active treatment; or

(c) Likely to have a mental illness or developmental disability, and is determined to require nursing home level of care and active treatment, but the individual is sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment.

(4) This section has no application to an individual readmitted to a nursing home after a short stay in an acute care hospital or transferring to a nursing home from another nursing home that is not an institution for the mentally retarded)) shall be assessed under WAC 388-88-097 before the individual's placement in a Medicaid-certified nursing facility.

(5) There shall be no payment for nursing ((home)) facility services for a Medicaid applicant or recipient until the department has authorized such services.

(6) There shall be no retroactive payment authorized for any Medicaid applicant or recipient admitted to a nursing ((home)) facility in violation of this section.

AMENDATORY SECTION (Amending Order 2768, filed 2/28/89)

WAC 388-88-097 PREADMISSION SCREENING. (1) (~~(An individual))~~ An applicant requesting admission to a Medicaid-certified nursing facility shall be screened ((prior to)) before admission to identify whether the ((individual)) applicant may have a serious mental illness or developmental disability. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. A copy of the completed form shall be placed in each resident's clinical record.

(2) Any ((individual)) applicant identified through the identification screen as likely to have a serious mental illness or developmental disability ((and who does not meet an exception as set forth in subsection ((3)(c) of this section)) shall be assessed under the preadmission screening and annual resident review (PASARR).

(3) A Medicaid applicant ((or recipient)) shall not be admitted to a Medicaid-certified nursing facility unless:

(a) The ((individual)) applicant is identified, through the identification screen, as not having a serious mental illness or developmental disability, and the department determines the applicant requires ((intermediate nursing care or skilled)) nursing facility care, under WAC ((388-88-080 and)) 388-88-081 ((or 388-88-083)); or

(b) ((The individual is identified, through the identification screen, as likely to have a mental illness or developmental disability, but the department determines through PASARR the individual does not require active treatment; or

(c)) The department determines the ((individual)) applicant requires ((intermediate nursing care or skilled)) nursing facility care((; under WAC 388-88-080 and 388-88-081 or 388-88-083,)) and the ((individual)) applicant is ((identified)) determined by the department or its designee as not requiring the PASARR, for one or more of the following reasons:

(i) The ((individual)) applicant is ((discharged)) admitted directly from an acute care hospital ((for convalescence in a nursing home for not more than one hundred twenty days)) after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

(ii) The ((individual)) applicant is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(iii) The ((individual)) applicant is comatose, ventilator dependent, functioning at the brain stem level, or has similar diagnoses significantly impacting the ((individual's)) applicant's level of functioning and ability to participate in ((active treatment)) specialized services, such as:

(A) Chronic obstructive pulmonary disease;

(B) Severe Parkinson's disease;

(C) Huntington's Chorea;

(D) Amyotrophic lateral sclerosis; or

(E) Congestive heart failure((, or)).

(iv) The ((individual)) applicant has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(v) The applicant has been admitted to the nursing facility for respite care, under WAC 248-14-298; or

(vi) The applicant cannot accurately be diagnosed because of delirium.

((d)) The individual is identified as likely to have a mental illness or developmental disability, has been determined to require nursing home level of care and active treatment, but the individual is sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment;))

(4) No private paying individual shall be admitted to a Medicaid certified facility until an identification screen has been completed for the individual and the individual is identified as:

(a) Not having a serious mental illness or developmental disability; or

(b) Not requiring PASARR review for reasons listed under subsection ((3)(c)) (3)(b) of this section; or

(c) Likely to have a serious mental illness or developmental disability and a PASARR has been completed.

(5) Under the PASARR, the department, through a designee, shall determine whether the individual needs ((active treatment)) nursing facility care and specialized services. Need for nursing ((home)) facility care shall be determined under WAC 388-88-080, 388-88-081, and ((388-88-083)) 388-88-095. Need for ((active treatment)) specialized services shall be determined as follows:

(a) For ~~((an individual))~~ a person likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall ~~((validate))~~ verify whether the ~~((individual))~~ person has a serious mental illness and, if so, shall recommend whether or not the ~~((individual))~~ person needs ~~((the implementation of psychiatric active treatment))~~ specialized services;

(b) For ~~((an individual))~~ a person likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall ~~((validate))~~ verify whether the ~~((individual))~~ person has a developmental disability. For any ~~((individual-validated))~~ person verified by a psychologist as having a developmental disability, the department shall assess and make a final determination as to whether the ~~((individual))~~ person requires ~~((the implementation of a continuous active treatment program))~~ specialized services.

(6) For purposes of this regulation, the following definitions shall apply:

(a) "Serious mental illness" means ~~((an individual))~~ a person has a current primary or secondary diagnosis of a major mental disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, third edition, limited to schizophrenic, paranoid, major affective, schizoaffective disorders, and atypical psychosis, and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(b) "Developmental disability" means mental retardation or related conditions.

(i) "Mental retardation" means ~~((an individual))~~ a person has a level of mild, moderate, severe, or profound retardation as described in the American Association of Mental Deficiency's Manual on Terminology and Classification. Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(ii) A person with "related conditions" means ~~((an individual))~~ a person having a severe, chronic disability meeting all of the following conditions:

(A) Related conditions attributable to:

(I) Cerebral palsy or epilepsy; or

(II) Any other condition other than mental illness found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to a mentally retarded person and requires treatment or services similar to those required for that person.

(B) It is manifested before the person reaches twenty-two years of age;

(C) It is likely to continue indefinitely; and

(D) It results in substantial ~~((functions))~~ functional limitations in three or more of the following areas of major life activity:

(I) Self-care~~((:));~~

(II) Understanding and use of language~~((:));~~

(III) Learning~~((:));~~

(IV) Mobility~~((:));~~

(V) Self-direction~~((:));~~ and

(VI) Capacity for independent living.

(c) ~~((Active treatment))~~ Specialized services for ~~((an individual))~~ a person with mental retardation or related conditions means a continuous program for each ~~((client))~~ person which includes:

(i) Aggressive, consistent implementation of a program of specialized and generic training;

(ii) Treatment, health services, and related services directed toward the acquisition of the behaviors necessary for the ~~((client))~~ person to function with as much self-determination and independence as possible; and

(iii) The prevention or deceleration of regression or loss of current optimal functional status.

~~((Active treatment))~~ Specialized services does not include services to maintain a generally independent ~~((client))~~ person able to function with little supervision or in the absence of a ~~((continuous active))~~ treatment program; and

(d) ~~((Active treatment))~~ Specialized services for ~~((an individual))~~ a person with serious mental illness means the implementation of an individualized plan of care, developed under and supervised by a physician and other qualified mental health professionals, prescribing specific therapies and activities for the treatment of a person experiencing an acute episode of severe mental illness necessitating twenty-four hour supervision by trained mental health personnel.

(7) This section shall apply to persons applying for admission to a nursing facility or residents transferring from another nursing facility.

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.

AMENDATORY SECTION (Amending Order 2797, filed 5/10/89)

WAC 388-88-098 IDENTIFICATION SCREENING FOR CURRENT RESIDENTS. (1) By July 1, 1989, every Medicaid certified nursing facility shall complete an identification screen, to identify residents likely to have a mental illness or developmental disability:

(a) On a form designated by the department;

(b) For every Medicaid, Medicare, or private-paying ~~((individual residing in))~~ resident of the nursing facility, except for ~~((those individuals))~~ a resident for whom a pre-admission screen has been completed under WAC 388-88-097.

(2) The nursing facility shall be responsible for ensuring that a resident's identification screen accurately reflects the resident's current condition.

(3) The original of the identification screen form shall be maintained in the ((individual)) resident's medical record. ((For))

(4) The nursing facility shall notify the department or designee of those ((individuals)) residents identified through the identification screen as likely to have a serious mental illness or a developmental disability((, the nursing facility shall forward a copy of the identification screen to the department's nursing care consultant assigned to the facility)).

~~((3))~~ (5) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

AMENDATORY SECTION (Amending Order 2797, filed 5/10/89)

WAC 388-88-099 ~~((ACTIVE TREATMENT))~~ SPECIALIZED SERVICE ASSESSMENTS FOR CURRENT RESIDENTS. (1) ~~((For all residents of nursing homes identified through the identification screen under WAC 388-88-098, as likely to have a mental illness or a developmental disability.))~~ The department shall determine if ~~((the individual requires active treatment, using the procedures under subsection (3) of this section.))~~ a resident identified as likely to have a serious mental illness or developmental disability requires specialized services unless the department or its designee determine that one of the following exceptions apply:

(a) A physician certifies the individual is terminally ill, as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(b) The individual has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder; or

(c) The individual is comatose, functioning at the brain stem level, or has a diagnosis that, in fact, significantly impacts the individual's level of functioning and ability to participate in ~~((active treatment))~~ specialized services, such as:

(i) Ventilator dependency;

(ii) Chronic obstructive pulmonary disease;

(iii) Severe Parkinson's disease;

(iv) Huntington's chorea disease;

(v) Amyotrophic lateral sclerosis; or

(vi) Congestive heart failure.

~~((2))~~ For an individual meeting the following conditions, the department shall determine if the individual requires active treatment:

(a) Was admitted to a Medicaid-certified nursing facility on or after January 1, 1989;

(b) Was identified, under WAC 388-88-097, as likely to have a mental illness or a developmental disability;

(c) Was admitted for a period of convalescence of not more than one hundred twenty days; and

(d) Is determined by the department's designee, after the individual has resided in the facility for approximately sixty days, as likely to need nursing facility care for more than one hundred twenty days.

The department shall follow the procedures under subsection (3) of this section in making determinations regarding the need for active treatment.

~~(3)(a)~~ (2) For ~~(an individual)~~ a resident identified as likely to have a serious mental illness:

~~((†))~~ (a) A qualified mental health professional, under chapter 275-56 WAC, shall:

~~((A-Validate))~~ (i) Verify whether the ~~((individual))~~ resident has a serious mental illness; and

~~((B))~~ (ii) If a serious mental illness is ~~((validated))~~ verified, recommend whether the ~~((individual))~~ resident needs ~~((the implementation of psychiatric active treatment))~~ specialized services.

~~((†))~~ (b) A department designee shall make the final determination of the ~~((the individual's))~~ a resident's need for ~~((implementation of psychiatric active treatment))~~ specialized services.

~~((b))~~ (3) For ~~(an individual)~~ a resident identified as likely to have a developmental disability:

~~((†))~~ (a) A psychologist, meeting the qualifications of a qualified mental retardation professional, shall ~~((validate))~~ verify whether the ~~((individual))~~ resident has a developmental disability; and

~~((†))~~ (b) If a developmental disability is ~~((validated))~~ verified, the department shall assess and make a final determination of whether the ~~((individual))~~ resident requires ~~((a continuous active treatment program))~~ specialized services.

AMENDATORY SECTION (Amending Order 1871, filed 9/1/82)

WAC 388-88-102 DISCHARGE PLANNING. (1) The nursing facility shall prepare a suitable discharge and transfer plan ~~((must be prepared))~~ for each medical ~~((care))~~ assistance ~~((client))~~ resident.

(2) The nursing facility's discharge or transfer plan shall be dependent on the ~~((client))~~ resident's care needs, services provided, and the best resources available to provide an appropriate continuum of care.

(3) The nursing facility's discharge or transfer plan shall include provisions for the resident's continuity of care and mitigation of potential transfer trauma such as:

~~((†))~~ (a) Coordination and active participation by the ~~((client))~~ resident and/or ~~((client's))~~ resident's next of kin, guardian or responsible party in the transfer preparation program;

~~((†))~~ (b) Pretransfer visit to the new facility, when the ~~((client's))~~ resident's condition permits, to familiarize the ~~((client))~~ resident with new surroundings~~(s)~~ and other residents; and

~~((†))~~ (c) Coordination and communication of essential information concerning the ~~((client))~~ resident shall be provided in writing from:

~~((†))~~ (i) Hospital to nursing ~~((home))~~ facility;

~~((†))~~ (ii) Nursing ~~((home))~~ facility to hospital;

~~((†))~~ (iii) One nursing ~~((home))~~ facility to another;

~~((†))~~ (iv) Any other alternatives to nursing ~~((home))~~ facility care.

(4) The department ~~((with))~~ shall assume responsibility for assisting with a resident's relocation and post-transfer follow-up in the following circumstances:

(a) ~~((Reclassification requiring relocation))~~

~~((b))~~ Decertification actions;

~~((†))~~ (b) Involuntary termination or nonrenewal of contract; ~~((†))~~ and

(c) Revocation or suspension of nursing home license.

(5) The department ~~((shall participate in planning and with))~~, upon request by the resident or the facility, shall specify the location of available beds ~~((at the appropriate level of care))~~ consistent with the needs of the ~~((client))~~ resident when discharge or transfer is necessitated by:

(a) ~~((Reclassification requiring relocation))~~ A determination the resident does not need nursing facility care;

(b) Decertification actions;

(c) Involuntary termination or nonrenewal of contract; and

(d) Nursing home license revocation or suspension ~~((of nursing home license))~~.

NEW SECTION

WAC 388-88-125 RESIDENT ASSESSMENT INSTRUMENT (1) All residents shall have assessments according to resident need. Each Medicaid-certified or Medicare-certified nursing facility shall assess each resident's needs and complete a department approved assessment instrument.

(2) The nursing facility shall place copies of the completed state-approved resident assessment instrument in each resident's health care record. The department may accept a state specified computer printout of the state-required resident assessment information in lieu of copies of the state-approved resident assessment instrument.

(3) Each Medicaid-certified nursing facility shall transmit all the state-required resident assessment information for each resident of the nursing facility to the department in a form (manner) approved by the department.

(4) By February 29, 1992, nursing facilities shall transmit to the department all resident assessments completed for the period beginning January 1, 1991, and ending February 19, 1992.

(5) Beginning February 20, 1992, nursing facilities shall transmit all resident assessment information to the department within ten days of completion of any assessment required under WAC 388-88-130 or within ten days of discharging a resident.

NEW SECTION

WAC 388-88-130 COMPLETION OF RESIDENT ASSESSMENT INSTRUMENT. (1) Medicaid or Medicare-certified nursing facilities shall assess each resident:

(a) Promptly upon, but not later than fourteen days after the date of admission; and

(b) Promptly after a significant change in the resident's physical or mental condition; and

(c) Annually.

(2) The nursing facility shall review each resident quarterly, using a state-specified quarterly assessment instrument.

NEW SECTION

WAC 388-88-135 USE OF INDEPENDENT ASSESSORS (1) If nursing facility staff have knowingly and willfully falsified resident assessment information, as determined by the department through a survey or audit of resident records, the department may require that resident assessments be conducted by a person who is independent of the nursing facility and who is approved by the department.

(2) The cost of an independent resident assessment shall be borne by the nursing facility and the department shall consider such cost unallowable for reimbursement.

NEW SECTION

WAC 388-88-140 RESIDENT RELOCATION (1) The transferring nursing facility (NF) shall ensure that individual medical assistance resident's needs are identified as provided by state and federal law.

(2) The receiving nursing facility shall ensure that:

(a) Each medical assistance resident is eligible to receive NF care;

(b) The receiving facility is certified and capable of meeting the individual resident's needs; and

(c) Transfers are accomplished in a manner to provide appropriate continuity of care.

(3) A medical assistance resident may be transferred or discharged only at the resident's request or for one of the following reasons:

(a) The resident no longer needs NF care;

(b) The facility cannot meet the resident's needs;

(c) The health or safety of persons in the facility is endangered;

(d) Nonpayment for the resident's stay;

(e) Revocation, suspension or voluntary termination of a facility's nursing home license, or emergency closure of the facility;

(f) Termination or nonrenewal of the facility's Medicaid certification; or

(g) Voluntary nursing facility closure.

(4) The NF shall be responsible for initiating and facilitating a resident's relocation when a medical assistance resident must be moved for any of the reasons specified under subsection (3)(a) through (d) and (3)(g) of this section.

(5) The NF shall be responsible for assessing the medical assistance resident's continuing need for NF care. When the facility assesses a medical assistance resident and finds that the resident does not need NF care:

(a) The resident shall have the right to request a department determination of whether the resident needs NF care. The request must be made within 14 days of notification of the facility's assessment;

(b) The NF shall notify the resident and the resident's legal representative, if any, in writing, of the right to request a department determination of whether the resident needs NF care. The notification shall be:

(i) On a department-designated form; and

(ii) In a language the resident and the resident's representative understands.

- (c) The facility shall proceed with relocation procedures if:
- (i) The resident or the resident's representative does not request a department determination within the required time frame; or
 - (ii) The department's determination under subsection (6) of this section is that the resident does not need NF care and an appeal is not requested under WAC 388-88-145.
- (d) The facility shall notify the department's designee if the resident or the resident's representative opposes relocation and intends to request a department determination of whether the resident needs NF care;
- (e) The facility shall provide the resident, or the resident's representative, any needed assistance to make a request for a department determination; and
- (f) The facility shall suspend relocation procedures pending the outcome of the department determination if requested by the resident.
- (6) When a request for a determination is made under subsection (5) of this section, a department designee shall make a determination within twenty-one days. When a department designee determines that a resident:
- (a) Does need NF care, relocation procedures will be terminated and the department shall notify the:
 - (i) Facility; and
 - (ii) Resident of the department's determination.
 - (b) Does not need NF care, the department shall:
 - (i) Notify the resident of the determination;
 - (ii) Notify the facility; and
 - (iii) Inform the resident and, when appropriate, the resident's representative, of appeal rights and procedures as defined under WAC 388-88-145.
- (7) A department designee may determine a medical assistance resident does not need nursing facility care as described under WAC 388-88-080. Immediately following this determination, the department shall:
- (a) Provide written notification to the resident, or the resident's legal representative and the facility administrator of the determination;
 - (b) Inform the resident and resident's legal representative, in writing, of appeal rights and procedures defined under WAC 388-88-145; and
 - (c) Instruct the facility to initiate relocation procedures. The department may assist the facility with relocating the resident.
- (8) If the resident or the resident's representative appeals the department's determination in a timely manner, the facility shall suspend relocation procedures pending the outcome of that appeal.
- (9) When the department determines a medical assistance resident does not require nursing facility care, the resident shall be ineligible for Medicaid nursing home payment thirty days following the:
- (a) Effective date of the determination; or
 - (b) Fair hearing decision affirming the department's determination of a resident not in need of nursing facility care. The department may grant a resident's medical assistance payment extension when:
 - (i) The NF makes a good faith effort to relocate the resident; and
 - (ii) An appropriate placement is not available.
- (10) If a NF wishes to relocate a medical assistance resident for any of the reasons specified under subsection (3)(b) through (d) of this section, the following procedures shall apply:
- (a) The facility shall notify the resident and if appropriate, the resident's representative;
 - (b) Unless the resident has an emergent need requiring immediate relocation, the facility shall send a written relocation request to the appropriate nursing home services district manager before initiating the resident's relocation. The facility's request shall specify the reasons a resident's relocation is needed;
 - (c) The department shall approve or deny the facility's relocation request based upon an on-site visit with the resident and a review of the resident's records;
 - (d) If the department denies a facility's relocation request, the facility shall:
 - (i) Not initiate relocation; and
 - (ii) Notify the resident of the department's determination immediately upon notification from the department.
 - (e) If the department approves a facility's relocation request, the department shall:
 - (i) Notify the resident, and if appropriate, the resident's representative of the determination;
 - (ii) Notify the facility; and

(iii) Inform the resident, and if appropriate, the resident's representative of appeal rights and procedures as defined under WAC 388-88-145.

(f) If the resident appeals the department's approval of relocation within thirty days of notification of approval, the facility shall suspend relocation procedures pending the outcome of that appeal.

(11) The department shall initiate and facilitate a resident's relocation if the department determines that a medical assistance resident must be transferred or discharged for any of the reasons described under subsection (3)(e) and (f) of this section.

(12) When relocations occur for reasons listed in subsection (3)(e) of this section, the department shall send written notification of the action to the resident, or the resident's representative, indicating the NF will not be allowed to operate as a nursing home. The notification shall:

- (a) Specify that the resident must relocate;
- (b) State the facility will not be allowed to operate as a nursing home; and
- (c) Be given as soon as the department determines that the facility must cease operation.

(13) Notification procedures specified under subsection (12)(a) through (c) of this section shall not be required if the department's designee determines an immediate threat to resident's health or safety exists.

(14) The department shall notify the resident and, when appropriate, resident representatives when the department initiates a termination or nonrenewal of certification action. The department's notification shall be in writing and shall:

(a) Explain that these actions do not affect the facility's right to operate as a nursing home, but rather, the facility's eligibility to receive Title XIX federal funds; and

(b) Inform residents of relocation procedures and options.

(15) When a resident's relocation occurs due to a facility's voluntary closure:

- (a) The facility shall send written notification, sixty days before closure, to the appropriate nursing home services district manager and all residents; and
- (b) Residents may request relocation assistance from the department.

(16) A medical assistance resident has the right to request relocation and to select a relocation placement of the resident's choice. If this selection is available and appropriate to the resident's medical care needs, the NF shall assist the resident with relocation to the selected placement.

NEW SECTION

WAC 388-88-145 NOTICE OF RELOCATION DETERMINATION AND APPEAL RIGHTS (1) When the department determines under WAC 388-88-080 or 388-88-140 that a medical assistance resident must be relocated, the department shall notify the resident or the resident's representative, of the determination thirty days or more before relocation. The department's notification shall be in writing and shall include the following:

- (a) The specific reason(s) for the relocation determination;
 - (b) The date of relocation;
 - (c) That medical assistance payments to the nursing home will be terminated on the date of the relocation;
 - (d) The resident's right to appeal a department determination within thirty days from the date of receipt of the department's notification of determination;
 - (e) The resident's right to be represented at the fair hearing by an authorized representative;
 - (f) The existence of legal services available in the community and the toll-free telephone number of the state long-term care ombudsman; and
 - (g) That relocation procedures will be suspended pending the outcome of the resident's formal appeal.
- (2) The department shall give a copy of the required notification of relocation determination to the facility administrator.
- (3) The department shall attach a fair hearing request form to the notification provided to the resident or the resident's legal representative.
- (4) The department shall not be required to provide the resident a notification of relocation determination as defined by subsection (1)(a) through (g) of this section when:
- (a) The resident or resident's representative requests a transfer or discharge;

(b) There is an immediate threat to the resident's life or health, or that of others;

(c) The department has initiated revocation or suspension of the nursing home's license; or

(d) The facility's Medicaid certification is terminated or nonrenewed.

REPEALER

The following sections of the Washington administrative Code are repealed:

WAC 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities.

WAC 388-88-083 Intermediate nursing care residents.

WAC 388-88-084 Minimum licensed personnel requirements for intermediate care facilities.

WAC 388-88-100 Transfer or relocation.

WAC 388-88-101 Residents' rights.

WSR 92-03-016

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF LICENSING (Real Estate Commission)

[Memorandum—January 3, 1992]

Following are the regularly scheduled meetings for the Washington Real Estate Commission:

February 26, 1992	Silverdale on the Bay Hotel	Silverdale
May 5, 1992	(Location to be determined)	Spokane
September 22, 1992	Hyatt Regency Hotel	Bellevue
December 4, 1992	(Location to be determined)	SeaTac

All regularly scheduled meetings begin at 9:00 a.m. and continue until the conclusion of business. Copies of agendas may be obtained from the Real Estate Program, P.O. Box 9015, Olympia, WA 98504.

WSR 92-03-017

RULES COORDINATOR LIQUOR CONTROL BOARD

[Filed January 6, 1992, 4:39 p.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Liquor Control Board is M. Carter Mitchell, 1025 East Union Avenue, P.O. Box 43080, Mailstop ES-31, Olympia, WA 98504-3080, phone (206) 753-6276, 234-6276 scan.

Paula O'Connor
Chairman

WSR 92-03-018

PREPROPOSAL COMMENTS DEPARTMENT OF AGRICULTURE

[Filed January 7, 1992, 10:42 a.m.]

Subject of Possible Rule Making: The Department of Agriculture is considering the adoption of the uniform regulations for the national type evaluation program (NTEP) for weighing and measuring devices, as published in the National Institute of Standards and Technology Handbook 130, 1992 edition, pages 121 through 126. Under chapter 19.94 RCW, the standards for

weighing and measuring devices in this state are the specifications, tolerances and other technical requirements published in NIST Handbook 44. The best evidence that a weighing or measuring device manufactured or sold in the United States meets NIST Handbook 44 requirements is a certificate of conformance issued for the device under NTEP regulations.

Persons may Comment on this Subject in the Following Ways: Written comments to the department. A copy of the proposed rules may be obtained by contacting the Washington State Department of Agriculture (WSDA), Attention: Dennis L. Primoli, P.O. Box 42560, Olympia, WA 98504-2560, or phone (206) 753-5042. Written comments should be submitted to the Washington State Department of Agriculture at the above listed address no later than February 26, 1992.

Other Information or Comments by Agency at this Time, if any: Such proposals were based upon requests from Washington manufacturers and distributors of weighing and measuring devices; recommendations of both the National Institute of Standards and Technology, United States Department of Commerce, and the National Conference on Weights and Measures; and department determination that Washington users of weighing and measuring devices would experience a greater degree of assurance that the devices available to them for purchase or lease would be more likely to be in compliance with state standards for such equipment with the adoption of this proposed rule. Adoption of the proposed new WAC will recognize NTEP certificates of conformance in adoption of these provisions and will also permit manufacturers of weighing and measuring devices to have their equipment evaluated within the state, at a lower cost than at remote, out-of-state locations.

January 7, 1992

Mike Willis

Assistant Director

WSR 92-03-019

PERMANENT RULES DEPARTMENT OF COMMUNITY DEVELOPMENT

[Order 92-01—Filed January 7, 1992, 11:58 a.m.]

Date of Adoption: November 27, 1991.

Purpose: To administer the state's energy matchmakers program in an equitable manner while substantially increasing resources for low-income weatherization with required match.

Citation of Existing Rules Affected by this Order: Amending chapter 365-180 WAC, Energy matchmakers.

Statutory Authority for Adoption: Chapter 70.164 RCW.

Pursuant to notice filed as WSR 91-21-139 on October 23, 1991.

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

January 6, 1992

Chuck Clarke

Director

AMENDATORY SECTION (Amending Order 88-01, filed 1/4/88)

WAC 365-180-030 DEFINITIONS. (1) "Department" means the department of community development.

(2) "Energy matchmakers local coordinated plan" means a proposal(s) for use of funding for local low-income weatherization programs in a specific geographical area.

(3) "Low-income" means household income that is at or below one hundred twenty-five percent of the federally established poverty level.

(4) "Nonutility sponsor" means an organization that is not an energy supplier and that submits a local coordinated plan.

(5) "Residence" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters; but excluding institutional buildings such as: A university, group care facility, nursing home, half-way residence, hospital, hotel, motel, etc.

(6) "Sponsor" means an organization that submits a match proposal as part of the energy matchmakers local coordinated plan.

(7) "Sponsor match" means the share, if any, of the cost of weatherization to be paid by the sponsor.

(8) "Weatherization" means materials or measures, including the education of the low-income household about energy saving behaviors in the home, and their installation or application, that are used to improve the thermal efficiency of a residence.

(9) "Weatherizing agency" means a public or non-profit private organization, approved by the department, responsible for doing all aspects of the weatherization work.

AMENDATORY SECTION (Amending Order 88-01, filed 1/4/88)

WAC 365-180-060 SPONSOR MATCH. (1) Plans submitted by energy suppliers shall include a commitment of a matching contribution. Matching contributions can be either cash, in-kind contributions, or both. The match must cover half of the total cost of the low-income weatherization being proposed in the local area.

(2) Only resources that would not otherwise have been used for low-income weatherization will be considered as match.

(3) A sponsor may pay the sponsor match as lump sum at the time of weatherization, or make yearly payments over a period not to exceed ten years. When the sponsor elects to make yearly payments, the value of the payments shall be determined by the department, but shall not be less than the value of the lump sum that would have been made.

(4) All match committed shall result in:

(a) Increasing the number of residences weatherized ((or));

(b) Increasing weatherization measures installed on or in the residence; or

(c) Otherwise increasing the thermal efficiency of the residence.

(5) The department may place a cap on the amount of match it will accept under subsection (4)(c) of this section.

(6) Match waivers may be granted by the department for plans submitted by nonutility sponsors.

AMENDATORY SECTION (Amending Order 88-01, filed 1/4/88)

WAC 365-180-090 PROGRAM SERVICES. (1) Weatherizing agencies shall provide weatherization services to eligible low-income households in accordance with the "Washington state low-income weatherization assistance program procedures and guidelines" established by the department.

(2) No contribution may be required from the eligible household.

(3) Full levels of all cost-effective structurally feasible measures, as determined by the department, shall be installed when a residence is weatherized.

(4) No undue or excessive enhancement to a residence shall occur as a result of weatherization provided under this chapter.

(5) Before a leased or rented residence is weatherized, the department's (~~"weatherization program owner/ authorized agent approval form"~~) "property owner/ agency weatherization agreement" form, or subsequent special conditions established by the department when necessary to comply with applicable state or federal law, must be signed by the owner of the building or the owner's authorized agent. Through this form the landlord ensures that, (~~for twelve months from the date the form is signed~~) at a minimum, during a period extending through one year following the date of completion of the weatherization work, the amount of rent will not be raised for any reason and during the period extending through three years following the date of completion of the weatherization work performed, rent will not be increased, nor the tenant evicted, as a result of the weatherization provided.

(6) Benefits of weatherization work performed on behalf of a low-income tenant shall accrue primarily to the low-income tenant.

WSR 92-03-020**NOTICE OF PUBLIC MEETINGS
COMMISSION ON
JUDICIAL CONDUCT**

[Memorandum—January 6, 1992]

Following is our 1992 meeting schedule:

January 3, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
February 7, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.

March 6, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
April 3, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
May 1, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
June 5, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
August 7, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
September 4, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
October 1, 1992	Campbell's Resort 104 West Wodin Chelan, WA 98816	2:00 p.m.
November 6, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.
December 4, 1992	Seattle Airport Hilton 17620 Pacific Highway South Seattle, WA 98188	11:00 a.m.

October 20	HUB 204 M	3:30
October 27	HUB 204 M	3:30
November 3	HUB 204 M	3:30
November 10	HUB 204 M	3:30
November 17	HUB 204 M	3:30
November 24	HUB 204 M	3:30
December 1	HUB 204 M	3:30

ASUW Board of Control

Meeting Dates	Location	Time
January 9	HUB 204 M	3:30
January 16	HUB 204 M	3:30
January 23	HUB 204 M	3:30
January 30	HUB 204 M	3:30
February 6	HUB 204 M	3:30
February 13	HUB 204 M	3:30
February 20	HUB 204 M	3:30
February 27	HUB 204 M	3:30
March 5	HUB 204 M	3:30
March 12	HUB 204 M	3:30
April 2	HUB 204 M	3:30
April 9	HUB 204 M	3:30
April	HUB 204 M	3:30
April 23	HUB 204 M	3:30
April 30	HUB 204 M	3:30
May 7	HUB 204 M	3:30
May 14	HUB 204 M	3:30
May 21	HUB 204 M	3:30
May 28	HUB 204 M	3:30
June 4	HUB 204 M	3:30
June 11	HUB 204 M	3:30
October 1	HUB 204 M	3:30
October 8	HUB 204 M	3:30
October 15	HUB 204 M	3:30
October 22	HUB 204 M	3:30
October 29	HUB 204 M	3:30
November 5	HUB 204 M	3:30
November 12	HUB 204 M	3:30
November 19	HUB 204 M	3:30
November 26	HUB 204 M	3:30

WSR 92-03-021
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 2, 1992]

Following is a revised meeting schedule for regular meetings to be held by the Associated Students University of Washington.

ASUW Personnel

Meeting Dates	Location	Time
January 7	HUB 204 M	4:00
January 14	HUB 204 M	3:30
January 21	HUB 204 M	3:30
January 28	HUB 204 M	3:30
February 4	HUB 204 M	3:30
February 11	HUB 204 M	3:30
February 18	HUB 204 M	3:30
February 25	HUB 204 M	3:30
March 3	HUB 204 M	3:30
March 10	HUB 204 M	3:30
March 16	HUB 204 M	3:30
March 17	HUB 204 M	3:30
April 7	HUB 204 M	3:30
April 14	HUB 204 M	3:30
April 21	HUB 204 M	3:30
April 28	HUB 204 M	3:30
May 5	HUB 204 M	3:30
May 12	HUB 204 M	3:30
May 19	HUB 204 M	3:30
May 26	HUB 204 M	3:30
June 2	HUB 204 M	3:30
October 6	HUB 204 M	3:30
October 13	HUB 204 M	3:30

ASUW Constitution and Bylaws

Meeting Dates	Location	Time
January 13	HUB	3:30
January 20	HUB	3:30
January 27	HUB	3:30
February 3	HUB	3:30
February 10	HUB	3:30
February 17	HUB	3:30
February 24	HUB	3:30
March 2	HUB	3:30
March 9	HUB	3:30
April 6	HUB	3:30
April 13	HUB	3:30
April 20	HUB	3:30
April 27	HUB	3:30
May 4	HUB	3:30
May 11	HUB	3:30
May 18	HUB	3:30
May 25	HUB	3:30
June 1	HUB	3:30

October 5	HUB	3:30
October 12	HUB	3:30
October 19	HUB	3:30
October 26	HUB	3:30
November 2	HUB	3:30
November 9	HUB	3:30
November 16	HUB	3:30
November 23	HUB	3:30
November 30	HUB	3:30
December 7	HUB	3:30

ASUW Student Assembly

Meeting Dates	Location	Time
January 7	HUB 310	5:30
January 14	HUB 310	5:30
January 21	HUB 310	5:30
January 28	HUB 310	5:30
February 4	HUB 310	5:30
February 11	HUB 310	5:30
February 18	HUB 310	5:30
February 25	HUB 310	5:30
March 3	HUB 310	5:30
March 10	HUB 310	5:30
March 31	HUB 310	5:30
April 7	HUB 310	5:30
April 14	HUB 310	5:30
April 21	HUB 310	5:30
April 28	HUB 310	5:30
May 5	HUB 310	5:30
May 12	HUB 310	5:30
May 19	HUB 310	5:30
May 26	HUB 310	5:30
June 2	HUB 310	5:30
September 22	HUB 310	5:30
September 29	HUB 310	5:30
October 6	HUB 310	5:30
October 13	HUB 310	5:30
October 20	HUB 310	5:30
October 27	HUB 310	5:30
November 3	HUB 310	5:30
November 10	HUB 310	5:30
November 17	HUB 310	5:30
November 24	HUB 310	5:30
December 1	HUB 310	5:30
December 8	HUB 310	5:30

Student Activities and Union Facilities Advisory Board

Meeting Dates	Location	Time
January 21, 1992	HUB	2:30 p.m.
February 18, 1992	HUB	2:30 p.m.
March 17, 1992	South Campus Center	2:30 p.m.
April 7, 1992	HUB	2:30 p.m.
May 5, 1992	HUB	2:30 p.m.
May 26, 1992	HUB	2:30 p.m.
June 9, 1992	South Campus Center	2:30 p.m.
October 6, 1992	HUB	2:30 p.m.
November 3, 1992	HUB	2:30 p.m.
December 1, 1992	South Campus Center	2:30 p.m.

ASUW Governance

Meeting Dates	Location	Time
January 8	HUB	3:30
January 15	HUB	3:30
January 22	HUB	3:30
January 29	HUB	3:30
February 5	HUB	3:30
April 1	HUB	3:30
April 8	HUB	3:30
April 15	HUB	3:30
April 22	HUB	3:30
April 29	HUB	3:30
May 6	HUB	3:30
May 13	HUB	3:30
May 20	HUB	3:30
May 27	HUB	3:30
June 3	HUB	3:30
October 7	HUB	3:30
October 14	HUB	3:30
October 21	HUB	3:30
October 28	HUB	3:30
November 4	HUB	3:30
November 11	HUB	3:30
November 18	HUB	3:30
November 25	HUB	3:30
December 2	HUB	3:30

ASUW Finance and Budget

Meeting Dates	Location	Time
January 13	HUB 204 M	4:00
January 20	HUB 204 M	4:00
January 27	HUB 204 M	4:00
February 3	HUB 204 M	4:00
February 10	HUB 204 M	4:00
February 17	HUB 204 M	4:00
February 24	HUB 204 M	4:00
March 2	HUB 204 M	4:00
March 9	HUB 204 M	4:00
April 6	HUB 204 M	4:00
April 13	HUB 204 M	4:00
April 20	HUB 204 M	4:00
April 27	HUB 204 M	4:00
May 4	HUB 204 M	4:00
May 11	HUB 204 M	4:00
May 18	HUB 204 M	4:00
May 25	HUB 204 M	4:00
June 1	HUB 204 M	4:00
October 5	HUB 204 M	4:00
October 12	HUB 204 M	4:00
October 19	HUB 204 M	4:00
October 26	HUB 204 M	4:00
November 2	HUB 204 M	4:00
November 9	HUB 204 M	4:00
November 16	HUB 204 M	4:00
November 23	HUB 204 M	4:00
November 30	HUB 204 M	4:00
December 7	HUB 204 M	4:00

WSR 92-03-022**EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 92-01—Filed January 7, 1992, 3:36 p.m.]

Date of Adoption: January 7, 1992.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-32-057.

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 sturgeon are available and these rules are adopted to conform with regulations adopted by the treaty tribes to harvest their allotment of available sturgeon.

Effective Date of Rule: Immediately.

January 7, 1992

Joseph R. Blum

Director

NEW SECTION

WAC 220-32-057001 COLUMBIA RIVER STURGEON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately under further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon using set line gear effective immediately until 12:00 noon January 31, 1992.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line,

(b) With hooks less than the minimum size of 9/0,

(c) With treble hooks, or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 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.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to the fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

WSR 92-03-023**PERMANENT RULES****SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 92-01—Filed January 7, 1992, 4:09 p.m.]

Date of Adoption: December 20, 1991.

Purpose: To update school finance rules for state allocations in the 1991-93 biennium for local education program enhancements, vocational equipment and kindergarten to third grade staffing, and to repeal obsolete sections.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-075 through 392-140-174; and amending WAC 392-140-197, 392-140-198, 392-140-199, and 392-140-201.

Statutory Authority for Adoption: RCW 28A.150.290(1).

Pursuant to notice filed as WSR 91-21-097 on October 21, 1991.

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

January 7, 1992

Judith A. Billings

Superintendent of

Public Instruction

GENERAL PROVISIONS AND DEFINITIONS**NEW SECTION****WAC 392-140-067 GENERAL PROVISIONS.**

The following general provisions apply to this chapter:

(1) All calculations made by the superintendent of public instruction shall use the most current school district information for the school year on file with the superintendent of public instruction at the time of the calculation.

(2) Full-time equivalent (FTE) staff shall be rounded to the nearest three decimal places.

(3) FTE enrollment shall be rounded to the nearest two decimal places.

(4) Ratios of FTE staff to students shall be expressed as a ratio of staff to one thousand students and shall be rounded to the nearest two decimal places (e.g., 51.21/1000).

(5) Unless otherwise stated, report forms, staff, salary, and enrollment data referenced in these rules are school district report forms, staff, salary, or enrollment data for the school year for which calculations pursuant to this chapter are being made.

(6) Employee assignments and account codes for program, duty, and activity shall mean the same as defined in the accounting manual for public school districts in the state of Washington and in instructions for personnel reporting provided by the superintendent of public instruction.

(7) School districts shall have available upon request by the superintendent of public instruction and for audit purposes, such documentation as necessary to support all data reported to the superintendent of public instruction pursuant to this chapter.

(8) Full-time equivalent is abbreviated as FTE.

(9) Kindergarten through third grade is abbreviated as K-3.

NEW SECTION

WAC 392-140-068 **TIMELY REPORTING.** Provisions of chapter 392-117 WAC, Timely reporting, apply to allocations made pursuant to this chapter. Failure of a school district to report as required may reduce or delay state apportionment payments.

NEW SECTION

WAC 392-140-069 **DEFINITION—SCHOOL DISTRICT.** As used in this chapter, "school district" means a Washington state public school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

NEW SECTION

WAC 392-140-070 **DEFINITION—SCHOOL YEAR.** As used in this chapter, "school year" means the same as defined in WAC 392-121-031. Unless otherwise stated "school year" refers to the school year for which calculations are being made pursuant to this chapter.

NEW SECTION

WAC 392-140-071 **DEFINITION—FOLLOWING SCHOOL YEAR.** As used in this chapter, "following school year" means the school year immediately after the school year for which calculations are being made pursuant to this chapter.

NEW SECTION

WAC 392-140-072 **DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT (FTE) STUDENTS.** As used in this chapter, "annual average full-time equivalent (FTE) students" means the same as that defined in WAC 392-121-133.

AMENDATORY SECTION (Amending Order 90-03, filed 2/22/90, effective 3/25/90)

WAC 392-140-197 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SPI FORM 1161. As used in WAC 392-140-

190 through 392-140-202, the term "SPI Form ((1161)) 1129" means the form ((prepared)) provided by the superintendent of public instruction on which school districts report the expenditures by each eligible program and provide a narrative of the benefits for the current school year. ((SPI Form 1161 also provides for an explanation of any expenditures shown against other programs that enhance a school district's basic education program:))

AMENDATORY SECTION (Amending Order 90-03, filed 2/22/90, effective 3/25/90)

WAC 392-140-198 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—SCHOOL DISTRICT APPLICATION AND APPLICATION DEADLINE. (1) Each school district shall submit an application attesting that the school district board of directors:

(a) Has met all procedural requirements;

(b) Will expend local education program enhancement moneys on eligible programs; and

(c) Submit a report by November 15 of the following school year setting forth ((such)) information on the school district's use of local education program enhancement moneys ((as required on SPI Form 1161)).

(2) Applications shall be filed with the superintendent of public instruction according to the following:

(a) January 31, 1990, for those school districts receiving local education program enhancement moneys for both the 1989-91 and 1990-91 school years; or

(b) January 31, 1991, for those school districts receiving local education program enhancement moneys for only the 1990-91 school year.

AMENDATORY SECTION (Amending Order 90-03, filed 2/22/90, effective 3/25/90)

WAC 392-140-199 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—CALCULATION OF SCHOOL YEAR ALLOCATION. The superintendent of public instruction shall calculate the school year allocation of local education enhancement moneys by multiplying (((\$35.26 by)) the school year allocation enrollment by a uniform state-wide rate which shall be a maximum of \$35.26.

AMENDATORY SECTION (Amending Order 90-03, filed 2/22/90, effective 3/25/90)

WAC 392-140-201 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—END OF YEAR REPORT. Each school district shall submit a completed SPI Form ((1161)) 1129 by November 1 of the following school year.

1991-93 VOCATIONAL EQUIPMENT ALLOCATION

NEW SECTION

WAC 392-140-431 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—APPLICABLE PROVISIONS. The provisions of WAC 392-140-431

through 392-140-439 implement section 502(10), chapter 16, Laws of 1991 1st. sp. sess. (the state Operating Appropriations Act) which provides moneys for the purchase of high technology vocational equipment for use in vocational secondary and vocational skills center programs approved by the superintendent of public instruction.

NEW SECTION

WAC 392-140-432 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—DEFINITION—VOCATIONAL ANNUAL AVERAGE FULL-TIME EQUIVALENT (FTE) STUDENTS. As used in WAC 392-140-431 through 392-140-439, "vocational annual average full-time equivalent (FTE) students" means the annual average full-time equivalent students in vocational secondary and vocational skills center programs approved by the superintendent of public instruction including summer skills center students reported pursuant to WAC 392-121-136(2).

NEW SECTION

WAC 392-140-433 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—DEFINITION—ELIGIBLE SCHOOL DISTRICT. As used in WAC 392-140-431 through 392-140-439, "eligible school district" means any school district operating either or both:

- (1) A vocational secondary program approved pursuant to WAC 180-58-090; and
- (2) A multidistrict cooperative vocational program approved pursuant to WAC 180-58-075 and 180-58-090.

NEW SECTION

WAC 392-140-434 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—DEFINITION—FORM SPI 1154. As used in WAC 392-140-431 through 392-140-439, the term "Form SPI 1154" means the form provided by the superintendent of public instruction on which school districts report the vocational program, type, number, cost per unit, and total cost of equipment purchased with moneys allocated pursuant to WAC 392-140-437.

NEW SECTION

WAC 392-140-435 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—LIMITATIONS AND CONDITIONS. The expenditure of moneys allocated pursuant to WAC 392-140-431 through 392-140-439 is subject to the following conditions and limitations:

- (1) The moneys shall be used solely for the purchase of vocational equipment including associated shipping cost, and sales tax.
- (2) The purchased equipment shall be used primarily in vocational secondary or vocational skills center programs approved by the superintendent of public instruction.

(3) Moneys allocated based on vocational skills center students shall be expended for the purposes of purchasing equipment for the vocational skills center program.

(4) Moneys shall be expended during the school year for which the allocation is made (September 1 through August 31).

(5) Expenditures shall be accounted for in:

- | | |
|---------|-------------------------------------|
| Program | 31 vocational, basic, state; or |
| | 45 skills center, basic, state; and |
| Object | 09 capital outlay. |

(6) The school district shall report to the superintendent of public instruction as required in WAC 392-140-436.

NEW SECTION

WAC 392-140-436 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—SCHOOL DISTRICT REPORTING. Each eligible school district shall report to the superintendent of public instruction as follows:

(1) Prior to September 1 of the following school year, each school district shall report vocational annual average FTE students for the school year.

(2) Prior to November 1 of the following school year, each school district shall submit Form SPI 1154 showing expenditures of the vocational equipment allocation for the school year.

(3) Expenditures for vocational secondary and skills center programs shall be reported separately.

(4) Reports shall be prepared pursuant to instructions provided by the superintendent of public instruction.

(5) Failure of a school district to report by the due date or in the form required by the superintendent of public instruction may result in the reduction or delay of state allocations of 1991-93 vocational equipment moneys as provided in chapter 392-117 WAC, Timely reporting.

NEW SECTION

WAC 392-140-437 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—APPORTIONMENT OF MONEYS. From moneys appropriated by the legislature for 1991-92 and 1992-93 vocational equipment allocations, the superintendent of public instruction shall apportion moneys to each eligible school district as follows:

(1) Allocations for each school year shall be based on a uniform state-wide rate per vocational annual average FTE student.

(2) Allocations shall be made at a rate of ten percent per month for the months of September through June.

(3) Except as provided in subsections (1) and (2) of this section allocations shall be made in the same manner as provided in WAC 392-121-400.

(4) In January of the following school year or thereafter the allocation shall be adjusted to reflect any recovery of moneys made pursuant to WAC 392-140-439.

NEW SECTION

WAC 392-140-438 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—REPORTING BY

THE SUPERINTENDENT OF PUBLIC INSTRUCTION. The superintendent of public instruction shall report to school districts on monthly apportionment statements for the school year showing:

- (1) Vocational annual average FTE students used for the allocation;
- (2) The rate per vocational annual average FTE students used for the allocation;
- (3) Any necessary proration percentage; and
- (4) The total allocation.

NEW SECTION

WAC 392-140-439 1991-93 VOCATIONAL EQUIPMENT ALLOCATION—RECOVERY OF MONEYS. After November 1 of the following school year, the superintendent of public instruction shall compare for each eligible school district the allocations for the school year pursuant to WAC 392-140-437 and expenditures for the school year reported on Form SPI 1154. The superintendent of public instruction shall recover from the school district's general apportionment payments the greater of the following amounts:

- (1) Total allocations pursuant to WAC 392-140-437 minus total expenditures reported on Form SPI 1154;
- (2) Allocations for vocational skills center students pursuant to WAC 392-140-437 minus expenditures reported on Form SPI 1154 for the vocational skills center program; or
- (3) Zero.

1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT

NEW SECTION

WAC 392-140-441 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPLICABLE PROVISIONS. WAC 392-140-441 through 392-140-447 apply to the distribution of moneys to school districts for local education program enhancement pursuant to section 522, chapter 16, Laws of 1991 1st sp. sess. (the state Operating Appropriations Act).

NEW SECTION

WAC 392-140-442 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ALLOCATION ENROLLMENT. As used in WAC 392-140-441 through 392-140-447, "allocation enrollment" means the school district's annual average full-time equivalent students except in the following cases:

- (1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:
 - (a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;
 - (b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school district's annual average full-time equivalent enrollment less the annual average full-time equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

NEW SECTION

WAC 392-140-443 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—FORM SPI 1129. "Form SPI 1129" means the form provided by the superintendent of public instruction on which school districts report expenditures of local education enhancement moneys in each program area and provide a narrative of benefits for the school year.

NEW SECTION

WAC 392-140-444 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—CONDITIONS AND LIMITATIONS. Expenditure of moneys allocated pursuant to WAC 392-140-441 through 392-140-447 is subject to the following conditions and limitations:

(1) Moneys shall be expended to meet education needs identified by the school district within the following program areas:

- (a) Prevention and intervention services in the elementary grades;
- (b) Reduction of class size;
- (c) Early childhood education;
- (d) Student-at-risk programs, including dropout prevention and retrieval, and substance abuse awareness and prevention;
- (e) Staff development and in-service programs;
- (f) Student logical reasoning and analytical skill development;
- (g) Programs for highly capable students;
- (h) Programs involving students in community services;
 - (i) Senior citizen volunteer programs; and
 - (j) Other programs that enhance a school district's basic education program including purchase of instructional materials and supplies and other nonemployee-related costs.

(2) School districts shall account for expenditures in program 75, local education program enhancement.

(3) Moneys allocated for a school year shall be expended by August 31 of the school year.

(4) The school district shall report to the superintendent of public instruction as provided in WAC 302-140-445.

NEW SECTION

WAC 392-140-445 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—SCHOOL DISTRICT REPORTING. School districts receiving local education program enhancement moneys shall report to the superintendent of public instruction as follows:

(1) Prior to November 15 of the following school year, the school district shall report on Form F-196 expenditures of local education program enhancement moneys.

(2) Prior to November 1 of the following school year, the school district shall report on Form SPI 1129 the uses of local education program enhancement moneys for the school year.

NEW SECTION

WAC 392-140-446 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPORTIONMENT OF MONEYS. From moneys appropriated by the legislature for local education program enhancement, the superintendent of public instruction shall apportion money to each eligible school district as follows:

(1) The school district's allocation for the school year shall equal the district's allocation enrollment times a uniform state-wide rate which shall be a maximum of \$35.26.

(2) Moneys shall be allocated to the district in the same manner as provided in WAC 392-121-400.

(3) In January of the following school year or thereafter the allocation shall be adjusted to reflect any recovery made pursuant to WAC 392-140-447.

NEW SECTION

WAC 392-140-447 1991-93 LOCAL EDUCATION PROGRAM ENHANCEMENT—RECOVERY OF MONEYS. In January of the following school year or thereafter, the superintendent of public instruction shall compare each school district's local education program enhancement allocation made pursuant to WAC 392-140-446 and its direct expenditures for Program 75 reported on Form F-196. If the allocation exceeds expenditures, the difference shall be recovered.

1991-93 K-3 STAFF ENHANCEMENT

NEW SECTION

WAC 392-140-450 1991-93 K-3 STAFF ENHANCEMENT—APPLICABLE PROVISIONS. The provisions of WAC 392-140-450 through 392-140-497 apply to the determination of staff/student ratios used in apportionment of state basic education moneys to school districts for the 1991-92 and 1992-93 school years

based on the district's kindergarten through third grade (K-3) staff and students. Compliance with these sections does not assure compliance with:

(1) RCW 28A.150.100(2), which requires each school district to maintain a ratio of at least forty-six basic education certificated instructional staff per thousand annual average full-time equivalent students; or

(2) RCW 28A.150.250, which requires that the ratio of students per classroom teacher in grades kindergarten through three be no greater than the ratio of students per classroom teacher in grades four and above.

NEW SECTION

WAC 392-140-451 1991-93 K-3 STAFF ENHANCEMENT—AUTHORITY. The authority for WAC 392-140-450 through 392-140-497 is:

(1) Section 502(11), chapter 16, Laws of 1991 1st sp. sess. (the state Operating Appropriations Act); and

(2) RCW 28A.150.290(1).

NEW SECTION

WAC 392-140-452 1991-93 K-3 STAFF ENHANCEMENT—PURPOSE. The purpose of WAC 392-140-450 through 392-140-497 is to set forth the policies and procedures used by the superintendent of public instruction to determine the amount of moneys to be provided to school districts for certificated instructional staff above that set forth in RCW 28A.150.260 (2)(c).

NEW SECTION

WAC 392-140-460 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—ACADEMIC YEAR. As used in WAC 392-140-450 through 392-140-497, "academic year" means any nine-month period within the school year in which the minimum one hundred eighty school days required by law is conducted.

NEW SECTION

WAC 392-140-461 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI FORM S-275. "SPI Form S-275" means the same as defined in WAC 392-121-220.

NEW SECTION

WAC 392-140-462 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI FORM S-277. "SPI Form S-277" means the form provided by the superintendent of public instruction on which school districts report information about each classified employee of the school district as of October 1 of the school year including the employee's name, Social Security number, working hours, assignments, rate of pay, and benefits.

NEW SECTION

WAC 392-140-463 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI FORM 1158.

"SPI Form 1158" means the form provided by the superintendent of public instruction on which school districts report supplemental full-time equivalent (FTE) staff and/or supplemental K-3 FTE staff for the school year.

NEW SECTION

WAC 392-140-464 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI REPORT 1159. "SPI Report 1159" means the report produced by the superintendent of public instruction displaying the calculations of K-3 certificated instructional staffing and K-3 apportionment ratios and other information as necessary.

NEW SECTION

WAC 392-140-465 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI FORM 1160. "SPI Form 1160" means the form provided by the superintendent of public instruction on which school districts may select the period of enrollment the superintendent of public instruction shall use to calculate staffing ratios.

NEW SECTION

WAC 392-140-466 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SPI FORM 1230. "SPI Form 1230" means the form provided by the superintendent of public instruction on which school districts report 1989-90 FTE K-3 basic education classified instructional assistants.

NEW SECTION

WAC 392-140-470 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—FTE K-3 BASIC EDUCATION ENROLLMENT. "FTE K-3 basic education enrollment" means the school district's enrollment for October or for such other period selected by the school district on SPI Form 1160 determined as follows:

- (1) Sum FTE K-3 students reported by a school district pursuant to WAC 392-121-122; and subtract
- (2) Handicapped FTE students of ages six through eight calculated pursuant to WAC 392-122-131 based on enrollment reported by a school district pursuant to WAC 392-122-106.

NEW SECTION

WAC 392-140-471 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—FTE BASIC EDUCATION CERTIFICATED INSTRUCTIONAL EMPLOYEE. "FTE basic education certificated instructional employee" means for a basic education certificated instructional employee as defined in WAC 392-121-210, the FTE calculated pursuant to WAC 392-121-215.

NEW SECTION

WAC 392-140-472 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—FTE K-3 BASIC EDUCATION CERTIFICATED INSTRUCTIONAL

EMPLOYEE. "FTE K-3 basic education certificated instructional employee" means for a FTE basic education certificated instructional employee the following:

- (1) If the basic education certificated instructional employee serves only K-3 students, one hundred percent of the FTE assigned to basic education; or
- (2) If the basic education certificated instructional employee serves K-3 students and students of one or more other grades, multiply the FTE assigned to basic education by:
 - (a) The proportion of time spent serving K-3 students to all time serving students;
 - (b) The proportion of K-3 students served to all students served; or
 - (c) Any combination of (a) or (b) of this subsection as appropriate.

NEW SECTION

WAC 392-140-473 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—FTE K-3 BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF. "FTE K-3 basic education certificated instructional staff" means the sum of FTE K-3 basic education certificated instructional employees for a school district.

NEW SECTION

WAC 392-140-474 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—AVERAGE BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF SALARY FOR THE PURPOSE OF APPORTIONMENT. "Average basic education certificated instructional staff salary for purpose of apportionment" means the average salary allocation amount for basic education certificated instructional staff determined by the superintendent of public instruction for general apportionment of state basic education moneys to a school district pursuant to WAC 392-121-299.

NEW SECTION

WAC 392-140-475 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANT. "Basic education classified instructional assistant" means a person who is assigned in whole or in part to:

- (1) Program 01—basic education, 31—vocational, basic, state, or 45—skills center, basic, state; and
- (2) Activity 27—teaching; and
- (3) Duty 910—aide.

NEW SECTION

WAC 392-140-476 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANT FTE. "Basic education classified instructional assistant FTE" means the number determined for a basic education classified instructional assistant as follows:

- (1) Multiplying the hours per day times the days per year that the employee is assigned as a basic education classified instructional assistant; and

(2) Divide by 2080.

NEW SECTION

WAC 392-140-477 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—FTE K-3 BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANTS. "FTE K-3 basic education classified instructional assistants" means the number determined for a school district as follows:

(1) For each basic education classified instructional assistant serving K-3 students determine an FTE as follows:

(a) If the basic education classified instructional assistant serves only K-3 students, one hundred percent of the FTE determined pursuant to WAC 392-140-476.

(b) If the basic education classified instructional assistant serves K-3 students and students of one or more other grades, multiply the FTE determined pursuant to WAC 392-140-476 by:

(i) The proportion of time spent serving K-3 students to all time serving students;

(ii) The proportion of K-3 students served to all students served; or

(iii) Any combination of (b)(i) or (ii) of this subsection as appropriate.

(2) Sum the FTEs determined pursuant to subsection (1) of this section for all basic education classified instructional assistants of the school district.

NEW SECTION

WAC 392-140-478 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—INSTRUCTIONAL FTE. As used in WAC 392-140-450 through 392-140-497, "instructional FTE" means:

(1) For a basic education certificated instructional employee, the FTE determined pursuant to WAC 392-140-471.

(2) For a basic education classified instructional assistant, the FTE determined pursuant to WAC 392-140-476.

NEW SECTION

WAC 392-140-480 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—K-3 ADDITION FTE. "K-3 addition FTE" means the increase in FTE calculated pursuant to WAC 392-140-483 for a K-3 basic education certificated instructional employee or a K-3 basic education classified instructional assistant who is not reported on SPI Form S-275 (for a certificated employee) or on SPI Form S-277 (for a classified employee) or whose instructional FTE increases after October 1 of the school year.

NEW SECTION

WAC 392-140-481 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—K-3 REDUCTION FTE. "K-3 reduction FTE" means the decrease in K-3 FTE calculated pursuant to WAC 392-140-483 for a basic education certificated instructional employee or a

basic education classified instructional assistant who is no longer employed or whose instructional FTE decreases after October 1 of the school year.

NEW SECTION

WAC 392-140-482 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—K-3 REASSIGNMENT FTE. "K-3 reassignment FTE" means the change in K-3 FTE calculated pursuant to WAC 392-140-483 for a basic education certificated instructional employee or a basic education classified instructional assistant after October 1 whose K-3 FTE changes as a result of reassignment but whose total instructional FTE does not change.

NEW SECTION

WAC 392-140-483 1991-93 K-3 STAFF ENHANCEMENT—CALCULATION OF ADDITION, REDUCTION, AND REASSIGNMENT FTE. Addition, reduction, and reassignment FTE shall be calculated as follows:

(1) Determine the K-3 basic education FTE that would have been reported for the employee on SPI Form S-275 (for a certificated instructional employee) or SPI Form S-277 (for a classified instructional assistant) if the employee had served the full academic year at the level of service after the change in service;

(2) Subtract the K-3 basic education FTE as of October 1 as reported for the employee on SPI Form S-275 (for a certificated instructional employee) or on SPI Form S-277 (for a classified instructional assistant) from the result obtained in subsection (1) of this section;

(3) Multiply the result obtained in subsection (2) of this section by the number of months remaining in the academic year that the employee serves at the level of service after the change in service, including the month of the change; and

(4) Divide the result obtained in subsection (3) of this section by nine.

NEW SECTION

WAC 392-140-485 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SUPPLEMENTAL FTE K-3 BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF. "Supplemental FTE K-3 basic education certificated instructional staff" means the sum of a school district's K-3 addition, reduction, and reassignment FTEs for K-3 basic education certificated instructional staff.

NEW SECTION

WAC 392-140-486 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—SUPPLEMENTAL FTE K-3 BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANTS. "Supplemental FTE K-3 basic education classified instructional assistants" means the sum of a school district's K-3 addition, reduction, and reassignment FTEs for K-3 basic education classified instructional assistants.

NEW SECTION

WAC 392-140-490 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—K-3 CERTIFICATED INSTRUCTIONAL STAFFING RATIO. "K-3 certificated instructional staffing ratio" means the ratio calculated for a school district for a school year as follows:

- (1) Add FTE K-3 basic education certificated instructional staff as reported on SPI Form S-275 and any supplemental FTE K-3 basic education certificated instructional staff as reported on SPI Form 1158;
- (2) Divide the result of subsection (1) of this section by FTE K-3 basic education enrollment; and
- (3) Multiply the result obtained in subsection (2) of this section by 1000.

NEW SECTION

WAC 392-140-491 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—ACTUAL AVERAGE SALARY FOR BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANTS. "Actual average salary for basic education classified instructional assistants" means the dollar amount determined for a school district for a school year as follows:

- (1) For each basic education classified instructional assistant reported on SPI Form S-277 for the school year multiply the hours per day times the days per year times the hourly rate as reported on Form S-277.
- (2) Sum the dollar amounts determined pursuant to subsection (1) of this section; and
- (3) Divide the result of subsection (2) of this section by the sum of the school district's FTE basic education classified instructional assistants for the school year as reported on Form S-277.

NEW SECTION

WAC 392-140-492 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—INCREASE IN K-3 BASIC EDUCATION CLASSIFIED INSTRUCTIONAL ASSISTANTS FROM 1989-90. "Increase in K-3 basic education classified instructional assistants from 1989-90" means the greater of zero and the number calculated for a school district as follows:

- (1) Sum FTE K-3 basic education classified instructional assistants reported on SPI Form S-277 and any supplemental FTE K-3 basic education classified instructional assistants as reported on SPI Form 1158; and subtract
- (2) 1989-90 K-3 basic education classified instructional assistants as reported on SPI Form 1230.

NEW SECTION

WAC 392-140-493 1991-93 K-3 STAFF ENHANCEMENT—DEFINITION—RECOGNIZED CERTIFICATED STAFF RATIO EQUIVALENT OF INCREASED K-3 CLASSIFIED INSTRUCTIONAL ASSISTANTS. "Recognized certificated staff ratio equivalent of increased K-3 classified instructional assistants" means the number calculated for a school district with a K-3 certificated instructional staffing ratio

of 51.00 or greater and an increase in K-3 basic education classified instructional assistants from 1989-90 as follows:

- (1) Divide the increase in K-3 basic education classified instructional assistants from 1989-90 by FTE K-3 basic education enrollment;
- (2) Multiply the result of subsection (1) of this section by 1000;
- (3) Multiply the result of subsection (2) of this section by the ratio of actual average salary for basic education classified instructional assistants to average basic education certificated instructional staff salary for the purpose of apportionment;
- (4) The lesser of 1.30 and the result of subsection (3) of this section is the school district's recognized certificated staff ratio equivalent of increased K-3 classified instructional assistants.

NEW SECTION

WAC 392-140-494 1991-93 K-3 STAFF ENHANCEMENT—SCHOOL DISTRICT REPORTING—REQUIRED REPORTS. Each school district shall report to the superintendent of public instruction on SPI Forms S-275 and S-277 the school district's FTE K-3 basic education certificated instructional staff and FTE K-3 basic education classified instructional assistants as of October 1 of the school year. School districts shall report pursuant to instructions provided by the superintendent of public instruction.

NEW SECTION

WAC 392-140-495 1991-93 K-3 STAFF ENHANCEMENT—SCHOOL DISTRICT REPORTING—OPTIONAL REPORTS. At any time prior to September 30 of the following school year school districts may report to the superintendent of public instruction:

- (1) Supplemental FTE K-3 staff for the school year on SPI Form 1158;
- (2) One of the following optional periods of enrollment on SPI Form 1160:
 - (a) Enrollment for any month of the school year; or
 - (b) Annual average enrollment for the school year; and
- (3) 1989-90 FTE K-3 classified instructional assistants on SPI Form 1230.

NEW SECTION

WAC 392-140-496 1991-93 K-3 STAFF ENHANCEMENT—CALCULATION OF K-3 APPORTIONMENT RATIOS. The superintendent of public instruction shall calculate each school district's ratio of state allocated certificated instructional staff units per one thousand K-3 students for state basic education apportionment as follows:

- (1) If the school district's K-3 certificated instructional staffing ratio is 49.00 or less, the district's K-3 apportionment ratio shall be 49.00.
- (2) If the school district's K-3 certificated instructional staffing ratio is greater than 49.00, and less than 51.00, the district's K-3 apportionment ratio shall be the

same as the district's K-3 certificated instructional staffing ratio.

(3) If the school district's K-3 certificated instructional staffing ratio is 51.00 or greater, the district's K-3 apportionment ratio shall be the lesser of:

(a) 54.30; and

(b) The sum of the district's K-3 certificated instructional staffing ratio and, if applicable, the district's recognized certificated staff ratio equivalent of increased K-3 classified instructional assistants.

NEW SECTION

WAC 392-140-497 1991-93 K-3 STAFF ENHANCEMENT—REPORTING BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION. The superintendent of public instruction shall report to school districts as follows:

(1) Prior to January 31 of each school year the superintendent of public instruction shall provide each school district an initial SPI Report 1159. The report shall include any supplemental data received from the school district prior to January 1 of the school year.

(2) Within thirty days of receiving any of the following data from a school district the superintendent of public instruction shall provide the school district with an interim SPI Report 1159:

(a) Supplemental FTE K-3 staff on SPI Form 1158;

(b) Selection of optional enrollment on SPI Form 1160;

(c) Corrections to FTE K-3 basic education certificated instructional staff on SPI Form S-275; or

(d) Corrections to FTE K-3 basic education classified instructional assistants on SPI Form S-277.

(3) Prior to January 1 of the following school year, the superintendent of public instruction shall provide each school district a final SPI Report 1159. The report shall include supplemental data for the school year received from the school district prior to September 30 of the following school year.

(4) Reports shall show the school district's K-3 certificated instructional staffing ratio, recognized certificated staff ratio equivalent of increased K-3 classified instructional assistants, and K-3 apportionment ratio for the school year.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-140-075 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—APPLICABLE PROVISIONS—AUTHORITY.

WAC 392-140-076 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL BASED MANAGEMENT—DEFINITION.

WAC 392-140-077 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL SITE COUNCIL—DEFINITION.

WAC 392-140-078 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—SCHOOL IMPROVEMENT PLAN—DEFINITION.

WAC 392-140-079 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—DISTRICT APPLICATION.

WAC 392-140-080 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—PROJECT SELECTION CRITERIA AND ADVISORY COMMITTEE.

WAC 392-140-081 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—CONDITIONS PRECEDENT TO APPLICATION BY DISTRICT FOR PILOT PROJECT APPROVAL.

WAC 392-140-082 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—GRANT EXPENDITURES AND TERMINATION.

WAC 392-140-083 1985-87 SCHOOL BASED MANAGEMENT PILOT PROJECTS—ALLOCATIONS BY SUPERINTENDENT OF PUBLIC INSTRUCTION.

WAC 392-140-160 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPLICABLE PROVISIONS.

WAC 392-140-161 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—STATEMENT OF ASSURANCES.

WAC 392-140-162 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—FULL-TIME EQUIVALENT STUDENT.

WAC 392-140-163 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT STUDENTS.

WAC 392-140-165 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SUPPORT LEVEL.

WAC 392-140-166 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—END OF YEAR REPORT.

WAC 392-140-167 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—NEEDS ASSESSMENT.

WAC 392-140-168 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ELIGIBLE PROGRAMS.

WAC 392-140-169 LOCAL EDUCATION PROGRAM ENHANCEMENT—CONDITIONS FOR RECEIVING MONEYS.

WAC 392-140-170 LOCAL EDUCATION PROGRAM ENHANCEMENT—ALLOWABLE EXPENDITURES.

WAC 392-140-171 LOCAL EDUCATION PROGRAM ENHANCEMENT—PAYMENT OF LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS.

WAC 392-140-172 LOCAL EDUCATION PROGRAM ENHANCEMENT—PRORATION.

WAC 392-140-173 LOCAL EDUCATION PROGRAM ENHANCEMENT—END OF YEAR REPORT.

WAC 392-140-174 LOCAL EDUCATION PROGRAM ENHANCEMENT—CARRYOVER PROVISION.

**WSR 92-03-024
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 92-02—Filed January 7, 1992, 4:13 p.m.]

Date of Adoption: December 20, 1991.

Purpose: To provide authority to school districts to deposit contract indebtedness without a vote of the qualified district electors, into the capital projects fund, transportation vehicle fund, and general fund.

Citation of Existing Rules Affected by this Order: Amending WAC 392-123-054, 392-123-071, 392-123-072, 392-123-074, 392-123-078, 392-123-079, 392-123-115, and 392-123-120.

Statutory Authority for Adoption: RCW 28A.505.140.

Other Authority: HB 1224.

Pursuant to notice filed as WSR 91-22-071 on November 4, 1991.

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

January 7, 1992
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 87-7, filed 7/16/87)

WAC 392-123-054 TIME SCHEDULE FOR BUDGET. The time schedule for preparation, adoption and filing of the annual budget is as follows:

Final Date For Action	First-Class Districts	Second-Class Districts
July 10	Final date for district to prepare <u>annual</u> budget. Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each	Same as first-class.

Final Date For Action	First-Class Districts	Second-Class Districts
July 15	week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.	Final date to have sufficient number of copies of budget to meet reasonable demands of public. Also, final date to submit one copy of budget to educational service district for review and comment.
July 20	Final date to have sufficient copies of budget to meet reasonable demands of public. Also, final date to submit one copy of budget to educational service district for review and comment.	
July 25		Final date for educational service district to notify districts of problems noted in review.
August 1		Final date for board directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: PROVIDED , That the budget must be adopted no later than August 1st. Upon conclusion of the hearing the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.
August 3		Last date to forward three copies of said adopted budget to educational service district for review, alteration and approval.

Final Date For Action	First-Class Districts	Second-Class Districts
August 10	Final date for educational service district to notify districts of review problems noted in review.	<u>Final date for educational service district to file adopted and reviewed budgets with superintendent of public instruction.</u>
August 31	Final date for board of directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: PROVIDED, That the budget must be adopted no later than August 31st. Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.	Last date for the budget review committee to fix and approve the amount of the appropriation from each fund of the budget. <u>One copy of the approved budget will be retained by the educational service district and one copy will be returned to the school district.</u> No budget review committee shall knowingly approve any budget or appropriation that is in violation of state law or rules and regulations adopted by the superintendent of public instruction. Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local board of directors or a representative thereof and a representative of the superintendent of public instruction.
September 3	Final date for district to file ((two)) <u>three</u> copies of said adopted budget with their educational service district.	
September 10	Last date for educational service district to file a copy of said adopted budgets with the superintendent of public instruction. One copy will be retained by educational service district <u>and one copy will be returned to the school districts.</u>	((Same as first-class except one copy of adopted and approved budget must be returned to local school district.))

AMENDATORY SECTION (Amending Order 84-11, filed 6/13/84)

WAC 392-123-071 BUDGET EXTENSIONS—FIRST-CLASS SCHOOL DISTRICTS. Upon the happening of any emergency in a first-class school district caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a

condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

If in first-class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated above the school district board of directors, before incurring expenditures in excess of expenditures therefor, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in WAC 392-123-054. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Two copies of all adopted appropriation resolutions shall be filed with the educational service district, who shall forward one copy to the superintendent of public instruction. One copy shall be retained by the educational service district. ~~((The final date for adopting appropriation resolutions extending budgets other than for any emergency as stated above shall be June 30.))~~ The final date for adopting appropriation resolutions extending budgets ~~((for any emergency as stated above))~~ shall be ~~((August 31))~~ the close of business on August 31 or the last business day prior to August 31 if August 31 occurs on a nonbusiness day. Each copy of all appropriation resolutions filed shall have attached a copy of the school district budget as revised by the appropriation resolution and a copy of the latest budget status report. The revised budget shall be in the format prescribed by the superintendent of public instruction and shall be prepared in accordance with instructions provided by the superintendent of public instruction. Any appropriation resolution adopted after the date((s)) specified in this section shall be null and void. Any appropriation resolution adopted after the current appropriation level has been exceeded shall be null and void to the extent that the current appropriation level has been exceeded.

AMENDATORY SECTION (Amending Order 85-3, filed 7/24/85)

WAC 392-123-072 BUDGET EXTENSIONS—SECOND-CLASS SCHOOL DISTRICTS. If a second-class school district needs to increase the amount of the appropriation from any fund the school district board of directors before incurring expenditures in excess of appropriations shall obtain approval from the superintendent of public instruction in the following manner: The school district board of directors shall adopt a resolution stating the specific reason(s) for extending the budget, the estimated amount of additional appropriation needed and the source(s) of funds.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by WAC 392-123-054. Introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations. Such petition to be made in the format prescribed by the superintendent of public instruction. Three copies of the request for budget extension shall be prepared in accordance with current instructions contained in bulletins now or hereafter published by the superintendent of public instruction and attached to each copy shall be a copy of the latest budget status report and a copy of the board resolution.

The request for budget extension shall be forwarded to the educational service district for approval by the educational service district superintendent.

If approved, all three copies of the request for budget extension shall be forwarded by the educational service district to the superintendent of public instruction for final approval. ~~((Except for requests for budget extensions for emergencies as defined in WAC 392-123-071, the superintendent of public instruction shall not approve requests for budget extensions received after the close of business on June 30 or the last business day prior to June 30 if June 30 occurs on a nonbusiness day.))~~ The final date for receiving ~~((requests for))~~ budget extension ~~((s for emergencies defined in WAC 392-123-071))~~ requests shall be the close of business on August 31 or the last business day prior to August 31 if August 31 occurs on a nonbusiness day.

Any request for budget extension shall not be approved by the educational service district or the superintendent of public instruction to the extent that the current appropriation has been exceeded prior to the request for budget extension.

Two copies of all appropriation resolutions approved by the superintendent of public instruction shall be returned by the superintendent of public instruction to the educational service district. The educational service district shall return one copy to the school district. The other copy shall be retained by the educational service district.

AMENDATORY SECTION (Amending Order 80-16, filed 5/13/80)

WAC 392-123-074 EFFECTIVE DATE OF APPROPRIATION RESOLUTIONS. The effective date of appropriation resolutions are as follows:

	First-Class Districts	Second-Class Districts
Resolutions adopted pursuant to WAC 392-123-054.	((12:00)) 12:00 a.m. September 1.	((12:00)) 12:00 a.m. September 1 or when approved by the budget review committee, whichever is later.
Resolutions adopted pursuant to WAC 392-123-071 and 392-123-072.	When ((filed)) adopted by the school district board of directors.	When approved by the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 87-7, filed 7/16/87)

WAC 392-123-078 REVIEW OF FIRST-CLASS SCHOOL DISTRICT BUDGETS AND BUDGET EXTENSIONS. Annual budgets of first-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. First-class school districts shall submit a copy of their budgets to their educational service district for review at least fourteen days prior to budget adoption but not later than July 20.

The educational service district shall notify each of its first-class school districts of any problems noted during the review prior to adoption of the budget by the school district.

Budgets and budget extensions adopted by first-class school districts shall be reviewed by the educational service district prior to filing these documents with the superintendent of public instruction.

Said reviews shall include but not be limited to completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget or budget extension is in compliance with this chapter, state statutory law and budget instructions issued by the superintendent of public instruction.

The educational service district shall notify the district of all problems noted in the review and the due date for correction of the problems. Should the school district fail to meet the due date for correction, the educational service district shall notify the superintendent of public instruction. The superintendent of public instruction shall proceed in the manner prescribed in WAC 392-123-080 through 392-123-105.

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-123-079 REVIEW OF SECOND-CLASS DISTRICT BUDGETS AND BUDGET EXTENSIONS. Annual budgets of second-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. Second-class school districts shall submit a copy of their budget to their educational service district for

review at least fourteen days prior to adoption, but not later than July 15.

Educational service districts shall notify each of its second-class school districts of any problems noted during the review prior to adoption of the budget by the board of directors.

Review of second-class school district adopted budgets shall be performed by the educational service districts. Said reviews shall include, but not be limited to, completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction.

The educational service district will notify the district of all problems noted during the review. The educational service district shall attempt to have the problems corrected prior to submission of the budget to the superintendent of public instruction.

The superintendent of public instruction shall conduct meetings with representatives of the educational service district and/or school district as deemed necessary to correct problems and to fix and approve the amount of appropriation from each fund of the budget as prescribed in RCW 28A.505.070 and WAC 392-123-054.

Review of budget extensions shall consist of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures, and determination of whether or not the budget extension is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction. Approval of budget extensions shall be in accordance with WAC 392-123-072.

AMENDATORY SECTION (Amending Order 85-3, filed 7/24/85)

WAC 392-123-115 MONTHLY BUDGET STATUS REPORTS. A monthly budget status report for each fund shall be prepared by the administration of each school district; and a copy of the most current budget status reports shall be provided to each member of the board of directors of the district at the board's regular monthly meeting. The report shall contain the most current approved budget amounts by summary level accounts and the fund balance at the beginning and end of the period being analyzed. State Form F-198, which is entitled "~~(The)~~ budget status report," ~~((and also is found in the state Form F-196;))~~ is an example of the type and level of information necessary for this report. Also, as a part of the budget status report, the administration shall provide each member of the board of directors with a brief written explanation of any significant deviations in revenue and/or expenditure projections that may affect the financial status of the district. If deemed necessary by the superintendent of public instruction, and upon written notice to the district by the superintendent of public instruction, a monthly budget status report for one or more funds along with other financial information shall be filed with either the

educational service district superintendent or the superintendent of public instruction or both for the period of time set forth in such notice.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-120 STATEMENT OF FINANCIAL CONDITION—FINANCIAL POSITION OF THE SCHOOL DISTRICT. The administration of each school district shall be required to provide the board of directors of the district with a statement of financial condition monthly. The "~~statement of ((financial condition))~~ revenues, expenditures and changes in fund balance" in state Form F-196, is an example of the type of format and level of information necessary for this report.

WSR 92-03-025

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 8, 1992, 9:45 a.m.]

Date of Adoption: January 7, 1992.

Purpose: To implement chapter 142, Laws of 1991 which provided changes in interest and penalties.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-228.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 91-23-035 on November 13, 1991.

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

January 7, 1991 [1992]

Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order 85-1, filed 1/29/85)

WAC 458-20-228. RETURNS, REMITTANCES, PENALTIES, EXTENSIONS, ~~((INVENTORY TAX CREDIT APPLICATIONS))~~ INTEREST, STAY OF COLLECTION. (1) INTRODUCTION. Taxpayers have a responsibility to become informed about applicable tax laws and to correctly and timely report their tax liability. The taxes imposed under chapter ~~((82.20 RCW (Tax on conveyances) and under chapter))~~ 82.24 RCW (Tax on cigarettes) are collected through sales of revenue stamps.

As to taxes imposed under chapter 82.04 RCW (Business and occupation tax), chapter 82.08 RCW (Retail sales tax), chapter 82.12 RCW (Use tax), chapter 82.14 RCW (Local sales and use taxes) chapter 82.16 RCW (Public utility tax), chapter 82.27 RCW (Tax on enhanced food fish), chapter 82.29A RCW (Leasehold excise tax), chapter 84.33 RCW (Timber and forest lands), and chapter 82.26 RCW (Tobacco products tax), returns and remittances are to be filed with the department of revenue by the taxpayer. ~~((Returns are filed monthly, quarterly or annually. Reporting periods are assigned by the department of revenue on the basis of the amount of tax liability.))~~ Returns shall be made

upon forms ~~((prepared))~~ provided or approved and accepted by the department ~~((, which forms are forwarded by mail to all registered taxpayers approximately ten days prior to the due date of the tax)).~~ Forms provided by the department are mailed to all registered taxpayers prior to the due date of the tax. The tax reporting frequency is assigned by the department of revenue. See WAC 458-20-22801.

(2) METHOD OF PAYMENT. Payment of the taxes may be made by cash, check, money order, or in certain cases by electronic fund transfers.

(a) Payment by cash must be made at an office of the department of revenue.

~~((Remittances in))~~ (b) Payment of tax may be made by uncertified bank check, but if any such check ((or remittance, other than legal tender,)) is not honored by the bank on which drawn, the taxpayer shall remain liable for the payment of the tax and ((for all legal penalties thereon)) may be subject to penalties. The department may refuse to accept any check which, in its opinion, would not be honored by the bank on which such check is drawn. The remittance covered by any check which is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due and for the applicable penalties.

(c) The law requires that certain taxpayers pay their taxes through electronic fund transfers. The department of revenue will inform taxpayers who are required to pay their taxes in this manner. See WAC 458-20-22802.

(3) DUE DATES. For monthly reporting taxpayers, the tax returns are due ~~((as shown in the following schedule:))~~ on the 25th of the following month. For quarterly and annually reporting taxpayers, the tax returns are due on the last day of the next month after the period covered by the return. For example, tax returns covering the first quarter of the year are due on April 30.

(a) If the date for filing the tax return falls upon a Saturday, Sunday, or legal holiday, the filing shall be considered timely if performed on the next business day. See RCW 1.12.070 and 1.16.050.

(b) The postmark date as shown by the post office cancellation mark stamped on the envelope will be considered as conclusive evidence by the department in determining if a tax return was timely mailed by the taxpayer. It is the responsibility of the taxpayer to mail the tax return sufficiently in advance of the due date to assure that the postmark date is timely.

((BUSINESS ACTIVITY DURING:))	TAX RETURN IS DUE:
October 1981 through March 1982	25th of the following month
April 1982 through March 1983	20th of the following month
April 1983 through March 1985	15th of the following month
April 1985 and thereafter	25th of the following month))

(4) PENALTIES. Various penalties may apply as a result of the failure to correctly or accurately compute the proper tax liability or to timely pay the tax. Separate penalties may apply and be cumulative for late payment, failure to follow specific written instructions, or evasion.

(a) If the tax return is not filed by the due date ((shown above)), a 5% penalty will apply; a 10% penalty will apply if the return is not filed within 30 days of the due date; and a 20% penalty will apply if the return is

still delinquent 60 days from the due date. The minimum penalty for late payment is five dollars.

~~((As to taxpayers reporting quarterly or annually, the tax return is due on or before the last day of the month following the period covered by the tax return. If payment of any tax due is not received by the department by the last day of the month in which the tax becomes due, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received within thirty days of the last day of the month in which the due date falls, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within sixty days of the last day of the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount of the tax:))~~

(i) The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon, and if not accepted, the taxpayer shall be deemed to have failed or refused to file a return, and shall be subject to the ((foregoing)) above penalties. If the tax return is accepted without payment and payment is not made by the due date, the late penalties will apply until the tax is paid.

~~((Under the law, none of the penalties referred to above may be less than two dollars.))~~

(ii) The aggregate of penalties for failure to file a return, late payment of any tax, increase or penalty, or issuance of a warrant may not exceed ((twenty-five)) thirty-five percent of the tax due, or ((seven)) twenty dollars, whichever is greater.

(iii) The department ((shall)) will apply the payment of the taxpayer first against ((penalties and)) interest, next against penalties, and then upon the tax, without regard to any direction of the taxpayer. In applying a partial payment to a tax assessment, the payment will be applied against the oldest tax liability first. For purposes of RCW 82.32.145, it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering the years 1992 and 1993. The tax assessment includes interest and penalties of five hundred dollars, retail sales tax of four hundred dollars for the year 1992, six hundred dollars retail sales tax for the year 1993, two thousand dollars of other taxes for the year 1992, and seven thousand dollars of other taxes for the year 1993. The order of application of any payments will be first against the five hundred dollars interest and penalties, second against the four hundred dollars retail sales tax in 1992, third against the two thousand dollars of other taxes in 1992, fourth against the six hundred dollars retail sales tax of 1993, and finally against the seven thousand dollars of other taxes in 1993.

(b) An additional penalty of ten percent of the tax due will be added to any taxes assessed by the department if payment of the taxes assessed is not received by the department by the due date specified in the notice, or any extension thereof. The minimum for this penalty is five dollars.

(c) The department may issue a tax warrant if any fee, tax, increase, or penalty or any portion thereof is not

paid within fifteen days after it becomes due. If a warrant is issued, a penalty will be added of five percent of the amount of the tax, but not less than ten dollars.

(d) Negligence penalty. If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, the department will add a penalty of ten percent of the additional tax found due because of the failure to follow the instructions.

(i) The taxpayer will be considered as having disregarded specific written instruction when the department of revenue has informed the taxpayer in writing of its tax obligations and specifically advised the taxpayer that failure to act in accordance with those instructions may result in this penalty being imposed. The specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement. The penalty may be applied only against the taxpayer to whom the specific written instructions were given. However, the taxpayer will not be considered as having disregarded the instructions if the taxpayer has appealed the subject matter of the instructions and the department has not issued its final instructions or decision.

(ii) The penalty will not be applied if the taxpayer has made a good faith effort to comply with specific written instructions.

(e) Evasion penalty. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax due, a penalty of fifty percent of the additional tax found to be due shall be added.

(i) To the extent that the evasion involved only specific taxes, the evasion penalty will be added only to those taxes. The evasion penalty will not be applied to those taxes which were inadvertently under paid. For example, if it is found that the taxpayer intentionally understated the purchase price of equipment in reporting use tax and also inadvertently failed to collect or remit the sales tax at the correct rate on retail sales of merchandise, the evasion penalty will be added only to the use tax deficiency.

(ii) At times it may be necessary for the department to issue its assessment to protect the state's interest prior to completion of its investigation or evaluation of all of the facts and circumstances surrounding the tax deficiency. The department at its option may issue the tax assessment without including the evasion penalty or the penalty for failure to follow written instructions and may revise the assessment to assert the penalty at a later date if it is the department's opinion that these penalties are due. In order to give the taxpayer some certainty and finality of its tax liability, these penalties will be assessed within six months of the time that the tax was assessed to which the penalties relate.

(iii) The department may impose either the evasion penalty or the penalty for disregarding specific written instruction, as appropriate in its opinion, but may not impose both penalties on the same tax which is found to be due.

(f) The department will add the late payment penalties described in (a) of this subsection to assessments of those taxpayers which had not voluntarily registered prior to being contacted by the department of revenue.

However, a person will be considered to have voluntarily registered with the department of revenue if the person contacted any other agency of the state and was issued a uniform business identifier number prior to being contacted by the department of revenue.

(g) The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases if the department proceeds directly against the buyer for the payment of the tax. Refer to RCW 82.08.050.

(5) Interest. The department of revenue is generally required by law to add interest to assessments for tax deficiencies and overpayments. Interest also applies to penalties. Refer to WAC 458-20-229 for a discussion of refunds and WAC 458-20-230 for a discussion of the statute of limitations.

(a) For tax liabilities arising before January 1, 1992, interest will be added at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until date of payment.

(b) For tax liabilities arising after December 31, 1991, until the date of payment, interest will be added with the rate of interest being variable. The rate of interest will be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate will be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States Secretary of the Treasury. The interest rate will be adjusted on the first day of January of each year.

(c) The following are examples of how the interest provisions apply.

(i) Assume a tax assessment is paid on December 31, 1994, and the assessment indicated tax deficiencies in each of the years of 1991, 1992, 1993, and 1994. The interest for 1991 will be calculated at a fixed rate of nine percent per year until the assessment is paid in full. The interest for tax deficiencies in 1992 and 1993 will be calculated at the variable rate discussed in (b) of this subsection. The interest rate for each year is calculated separately. For discussion purposes only, assume the compounded interest rate calculates to be eleven percent for the year 1992 and twelve percent for 1993. Since the tax deficiency for 1992 was not paid for a period of two years from the close of 1992, interest will be charged for two years on the 1992 deficiency. The interest amount is computed by multiplying the tax deficiency by twenty-three percent. The deficiency for 1993 will bear interest at twelve percent and will be computed on the tax deficiency since the deficiency remained unpaid for only one year.

(ii) If the assessment is not paid by the original due date, extension interest will be added based on the rate in effect at the time the extension is granted or the assessment is revised with the exception that extension interest will be computed at nine percent for all tax deficiencies which occurred prior to 1992.

(iii) If the assessment contains tax deficiencies in some years and overpayments in other years with the net

difference being a tax deficiency, the interest rate for tax deficiencies will also be applied to the overpayments. Refer to WAC 458-20-229 for interest on refunds.

(6) WAIVER OR CANCELLATION OF PENALTIES. The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason. Penalties will not be cancelled merely because of ignorance or a lack of knowledge by the taxpayer of the tax liability.

(a) A request for a waiver or cancellation of penalties must be in letter form and should contain all pertinent facts and be accompanied by such proof as may be available. Petition for cancellation of penalties must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the original notice of the amount owed or within the period covered by any extension of the due date granted by the department). In all such cases the burden of proving the facts is upon the taxpayer.

(b) The following situations will ((constitute)) be the only circumstances under which a cancellation of penalties will be considered by the department:

((1-)) (i) The return was filed on time but inadvertently mailed to another agency.

((2-)) (ii) The delinquency was due to erroneous written information given the taxpayer by a department officer or employee. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not cancelling the penalty in cases of oral information is because of the uncertainty of the facts presented, the instructions or information imparted by the department employee, or that the taxpayer fully understood the information received. Reliance by the taxpayer on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of the penalty.

((3-)) (iii) The delinquency was caused by death or serious illness of the taxpayer or his immediate family, or illness or death of his accountant or in the accountant's immediate family, prior to the filing date.

((4-)) (iv) The delinquency was caused by unavoidable absence of the taxpayer, prior to the filing date.

((5-)) (v) The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

((6-)) (vi) The taxpayer, prior to the time for filing the return, made timely application to the Olympia or district office, in writing, for proper forms and these were not furnished in sufficient time to permit the completed return to be paid before its delinquent date.

((7-)) (vii) The delinquency penalty will be waived or cancelled on a one time only basis if the delinquent tax return was received under the following circumstances:

((a-)) (A) The return was received by the department with full payment of tax due within 30 days after the due date; i.e., within the five percent penalty period prescribed by RCW 82.32.090, and

((b- The taxpayer has never been delinquent filing a tax return prior to this occurrence, unless the penalty was excused under one of the preceding six circumstances, and

e-)) (B) The delinquency was the result of an unforeseen and unintentional circumstance, not immediately known to the taxpayer, which circumstances will include the error or misconduct of the taxpayer's employee or accountant, confusion caused by communications with the department, failure to receive return forms timely, natural disasters such as a flood or earthquake, and delays or losses related to the postal service.

((d- The delinquency will be waived under this circumstance on a one-time basis only.

A request for a waiver or cancellation of penalties must be in letter form and should contain all pertinent facts and be accompanied by such proof as may be available. Petition for cancellation of penalties must be made within the period for filing under RCW 82.32.160 (within 20 days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department). In all such cases the burden of proving the facts is upon the taxpayer:))

(7) WAIVER OR CANCELLATION OF INTEREST. The following situations will constitute circumstances under which a waiver or cancellation of interest upon assessments pursuant to RCW 82.32.050 will be considered by the department:

((1-)) (a) The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department.

((2-)) (b) Extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department.

((STAY OF COLLECTION))

(8) STAY OF COLLECTION. RCW 82.32.200 provides, "When any assessment or additional assessment (of taxes) has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the due date until paid."

(Note: RCW 82.32.190 authorizes issuance of an order by the department holding in abeyance tax collection during pendency of litigation. Such tax might be that due on excise tax returns or tax due for unaudited periods for which no assessment has been issued. If, however, an assessment has been issued and is unpaid, RCW 82.32.200, not RCW 82.32.190, is the operative statute for stay of collection with respect to such an assessment.)

(a) The department will give consideration to a request that it grant a stay of collection if:

~~((1:))~~ (i) Written request for the stay is made prior to the due date for payment of the tax assessment, and

~~((2:))~~ (ii) Payment of any unprotested portion of the assessment and other taxes due is timely made, and

~~((3:))~~ (iii) The requested stay is accompanied by an offer of a cash bond, or the offer of a security bond, the conditions of which are guaranteed by a specified authorized surety insurer; in either case the amount of the bond will ordinarily be set in an amount equal to the assessment or portion thereof for which stay is requested together with interest thereon at the rate of one percent per month, but in appropriate cases the department may require a bond in an increased amount not to exceed twice the amount for which stay is requested.

(b) The department will grant a stay of collection only when it is satisfied and determines that it is in the best interests of the state to do so. Factors which it will consider in making this determination include: The existence of 1. a constitutional issue to be litigated by the taxpayer the resolution of which is uncertain; 2. a matter of first impression for which the department has little precedent in administrative practice; and 3. an issue affecting other similarly situated taxpayers for whom the department would be willing to stay collection of the tax.

(c) Claims of financial hardship or threat of litigation are not grounds which would justify the granting of a stay of collection. However, the department will consider a claim of significant financial hardship as grounds for staying collection procedures, but this will be done only if a partial payment agreement is executed and kept in accordance with the department's procedures and with such security as the department deems necessary.

(d) If the department grants a stay of collection, the stay will be for a period of no longer than two calendar years from the date of acceptance of the taxpayer request therefor or thirty days following a decision not appealed from by a tribunal or court of competent jurisdiction upholding the validity of the tax assessed, whichever date occurs first. The department may extend the period of a stay originally granted, but only for good cause shown.

~~((EXTENSIONS))~~

(9) EXTENSIONS. The department, for good cause, may extend the due date for filing any return. Any permanent extension, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

~~((INVENTORY TAX CREDIT~~

~~A credit against business and occupation tax for property tax on business inventories paid before delinquency (i.e., paid on or before the time specified in RCW 84.56.020) is authorized by RCW 82.04.442. However, the credit may be allowed notwithstanding that the property tax was not paid by the due date for such payment upon a finding by the department of revenue that the delinquency was due to extenuating circumstances. Extenuating circumstances are those which are beyond the control of the taxpayer, namely:~~

~~1. The payment was mailed timely, but was inadvertently addressed incorrectly.~~

~~2. The delinquency was caused by death or serious illness of the taxpayer or his immediate family, or death or serious illness of his accountant or his immediate family.~~

~~3. The delinquency was caused by unavoidable absence of the taxpayer.~~

~~4. The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.)~~

WSR 92-03-026

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 8, 1992, 9:51 a.m.]

Date of Adoption: January 7, 1992.

Purpose: To eliminate annual accounts receivable adjustment for persons maintaining accounting records on a cash basis.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-199.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 91-23-036 on November 13, 1991.

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

January 7, 1991 [1992]

Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-15, filed 3/15/83)

WAC 458-20-199 ACCOUNTING METHODS.

(1) In computing tax liability under the business and occupation tax and the retail sales tax, one of the following accounting methods should be used. ~~((The amount reported under the retailing classification under the gross amount must be the same under the business and occupation tax and the retail sales tax.~~

Persons making taxable and nontaxable sales of tangible personal property must segregate such sales for the purpose of computing tax liability.)) This is true for all businesses, whether their activity involves the sale of tangible personal property or the rendering of services. (See WAC 458-20-197 for an explanation of when tax liability arises under the accrual method versus the cash receipts method.)

(2) METHOD ONE, CASH BASIS. ((Only persons engaged in a strictly cash business will be permitted to make returns on a cash receipts basis. Certain small businesses which occasionally make a sale without receiving cash and which do not keep any file, record or general ledger account of such sales may be considered as doing a cash business, providing the volume of such sales never exceeds 5% of the gross volume of business. Under this method it is not necessary to make any adjustment at the end of the year with respect to accounts receivable.)) A taxpayer may file excise tax returns in each reporting period with figures based upon cash receipts only if the taxpayer's regular books of account are kept on a strictly cash receipts basis. A taxpayer whose books of account recognize income at the time a sale is made or a service is rendered, regardless of when payment is received, is keeping its records on an accrual basis and must report and pay tax on the accrual basis. For those businesses who maintain formal accounting records, the department of revenue will generally look to the revenue accounts of the general ledger of the business to determine when the income is recognized. However, all records of the business will be considered by the department in determining whether the records are being kept on an accrual basis, particularly for those businesses which do not maintain formal records such as a general ledger.

(3) METHOD TWO, ACCRUAL BASIS. ((Persons operating their business on the accrual basis)) A taxpayer who does not keep books of account on a strictly cash receipts basis must file returns with figures based on the accrual method. These taxpayers must report ((under the business and occupation tax and the retail sales tax for each tax reporting period)) the gross proceeds from all cash sales made ((during such period)) in the tax reporting period in which the sales are made, together with the total amount of charge sales during such period. The law does not require a taxpayer to use a particular accounting system. However, the taxpayer must report based on the system of accounting used by the business, regardless of the taxpayer's reasons for selecting a particular accounting system. For example, if a taxpayer reports to the federal government on a cash basis, but maintains accounting records on an accrual basis, the taxpayer is still obligated to report the excise taxes to the state on the accrual basis.

(a) Taxpayers who make installment sales or leases of tangible personal property must use the accrual method when they compute their tax liability. (See RCW 82.08-.090, WAC 458-20-198 and 458-20-211.)

(b) In the case of rentals or leases, the income is considered to have accrued to the seller in the tax reporting period in which the seller is entitled to receive the rental or lease payment.

((METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENT. Persons doing a charge business who do not record such charges as sales at the time the sale is made may report for tax purposes under method three.

Persons may report and pay the tax on the amount received as cash sales plus all cash received on accounts during each period. If this method is adopted, an adjustment shall be made at the end of the calendar year to

add to cash received the amount of accounts receivable at the end of the year (not previously reported) to be reported along with cash receipts. A statement should accompany the return indicating the amount of accounts receivable so added. A deduction may be taken on subsequent returns filed in periods when cash is received upon accounts receivable so reported. Such receipts should be included in column 2 (gross amount) and then listed as a deduction in column 3 of the excise tax return and explained on the reverse of the return as "cash received upon accounts receivable reported as of December 31, 19..."

Persons engaged in service business activities who are not liable for the collection of the retail sales tax are not required to adjust accounts receivable at the end of the tax year.

Where bad debts are charged off during any taxable year the amount thereof must be added to the accounts receivable outstanding at the end of the year before making adjustments provided for in method three.))

WSR 92-03-027
RULES COORDINATOR
PERSONNEL APPEALS BOARD
 [Filed January 8, 1992, 9:53 a.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Personnel Appeals Board is Victoria W. Sheldon, Executive Secretary, 2828 Capitol Boulevard, P.O. Box 40911, Olympia, WA 98504-0911, phone (206) 586-1481 or 321-1481 scan.

Walter E. White
 Chairman

WSR 92-03-028
PERMANENT RULES
FOREST PRACTICES BOARD
 [Filed January 8, 1992, 2:18 p.m.]

Date of Adoption: December 17, 1991.

Purpose: To provide a definition of "forest trees" in forest practices rules so that culture of trees for fiber production using agriculture methods and land would not be subject to forest practices regulation.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, and 34.05.350.

Pursuant to notice filed as WSR 91-18-068 on September 3, 1991.

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

January 8, 1992
 Brian Boyle
 Commissioner of
 Public Lands

AMENDATORY SECTION (Amending WSR 91-23-052, filed 11/15/91, effective 12/16/91)

WAC 222-16-010 GENERAL DEFINITIONS.*
Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Board" means the forest practices board established by the act.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, insecticides, rodenticides, plant-growth regulators, fungicides, fertilizers, desiccants, fire retardants when used in controlled burning, repellents, oil, dust-control agents (other than water), salt and other materials that may present hazards to the environment.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: **PROVIDED**, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical wildlife habitat" means the habitat of any threatened or endangered species, as such habitat is established by the board in the forest practices board manual, or other situations as identified by the board, after consultation with the department of wildlife, where specific management practices are needed to prevent critical wildlife habitat destruction.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: **PROVIDED**, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;
 Harvesting, final and intermediate;
 Precommercial thinning;
 Reforestation;
 Fertilization;
 Prevention and suppression of diseases and insects;
 Salvage of trees; and
 Brush control.

"Forest practice" shall not include: Preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: PROVIDED, That Christmas trees are forest trees and: PROVIDED FURTHER, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products.

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and

may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide or rodenticide but does not include nontoxic repellents or other chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Threatened or endangered species" applies to all species of wildlife listed as "threatened" or "endangered" by the United States Fish and Wildlife Service, except any species which the Washington department of wildlife determines does not require special protection under the Forest Practices Act because conservation of the species is reasonably assured through a recovery and enhancement program or existence of an adequate population on lands where commercial forestry and land development are prohibited, or through other means. For this purpose, "wildlife" means all members of the animal kingdom except insects and benthic organisms.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-861-070, 246-861-080, 246-861-100 and 246-861-110; and amending WAC 246-861-020, 246-861-030, 246-861-040, 246-861-050, 246-861-060, 246-861-090, and 246-861-120.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 91-19-026 on September 10, 1991.

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

November 21, 1991

Joyce Gillie

Chair

NEW SECTION

WAC 246-861-010 DEFINITIONS. (1) "Accredited programs/courses" means continuing education sponsored by providers which are approved by the American Council on Pharmaceutical Education (ACPE).

(2) "Board approved programs/courses" means continuing education which has been reviewed and approved by the board office.

(3) "Approved provider" means any person, corporation, or association approved by the board to conduct continuing professional education programs.

(4) "Continuing education" means accredited or approved post-licensure professional pharmaceutical education designed to maintain competence in the practice of pharmacy, improve pharmacy skills, and preserve pharmaceutical standards for the purpose of protecting the public health, safety, and welfare.

(5) "Continuing education unit (CEU)" means one CEU is equivalent to ten contact hours of participation in accredited or board approved continuing education programs/courses.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-020 (~~CONTINUING EDUCATION~~) RENEWAL REQUIREMENTS. (1) No renewal certificate of licensure shall be issued by the board of pharmacy until the applicant submits satisfactory proof to the board that during the twelve months preceding his or her application for renewal he or she has participated in courses of continuing professional pharmaceutical education of the types and number of continuing education credits specified by the board. Such continuing education is hereby declared to be a mandatory requirement for license renewal, except that pharmacists applying for the first annual renewal of their license following graduation shall be exempt from the provisions of this regulation.

(2) Continuing education requirements must be submitted along with the license application and fee. If the continuing education requirements are not complete the license renewal application will be returned with an explanatory note. The license renewal will not be processed until complete.

WSR 92-03-029

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Order 234B—Filed January 8, 1992, 2:57 p.m.]

Date of Adoption: November 21, 1991.

Purpose: To establish and define quantitative and qualitative parameters for the continuing pharmaceutical education of pharmacist licensees.

~~(3) ((Each individual pharmacist is responsible for maintaining records which verify the continuing education requirements which are submitted in support of annual renewal of license. Records shall be retained for a minimum of two years.~~

~~(4) A pharmacist who desires to reinstate his or her license after having been unlicensed for over one year shall, as a condition to reinstatement of his or her license, complete such continuing education credits as may be specified by the board in each individual case.)) A pharmacist shall be required to retain all original certificates and other documented evidence of participation in an approved/accredited continuing education program for a period of at least two years. Upon request, such documentation shall be made available to the board for random audit and verification purposes. Since individual pharmacist audits will usually be retrospective, it is recognized that disallowed credit may work hardship on the pharmacist involved. In cases where a pharmacist is audited and some or all credit is disallowed, the continuing education requirement for the following year will be increased by the amount of hours disallowed. A pharmacist who is audited and has credit disallowed will automatically be audited for three consecutive years.~~

~~(4) Failure to satisfy the continuing education requirement as a result of disallowed credit in two consecutive years or falsification of continuing education evidence and/or documentation will be considered in violation of these rules and will be sufficient cause for imposition of disciplinary action by the board.~~

~~(5) A pharmacist who desires to reinstate his or her pharmacist license after having been unlicensed for over one year shall, as a condition for reinstatement, submit proof of fifteen hours of continuing education for each year unlicensed or complete such continuing education credits as may be specified by the board in each individual case.~~

~~(6) The board of pharmacy may accept comparable continuing education units which have been approved by other boards of pharmacy.~~

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-030 CONTINUING EDUCATION PROGRAMS. (1) The continuing professional pharmaceutical education courses may consist of post-graduate studies, institutes, seminars, lectures, conferences, workshops, extension studies, correspondence courses ~~((or such))~~ and other ~~((forms))~~ similar methods of conveying continuing ~~((professional pharmaceutical))~~ education as may be approved by the board. ~~((Policies for such approvals will be set by the board to allow full consideration for those pharmacists residing in areas where local continuing education programs, seminars and meetings are not available.))~~

(2) Such courses shall consist of subject matter pertinent to the following general areas of professional pharmaceutical education:

~~((1) Socio-economic and)) (a) The legal aspects of health care;~~

~~((2)) (b) The properties and actions of drugs and dosage forms;~~

~~((3)) (c) The etiology, characteristics ~~((and))~~, therapeutics, and prevention of the disease state;~~

~~((4) Such other areas of professional pharmaceutical education as shall be designated by the board.~~

The specific subject matter of such courses may include but shall NOT BE LIMITED TO THE FOLLOWING: Pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, pharmacy jurisprudence, public health and communicable disease, pharmaceutical marketing, professional practice management and such other subject matter as may from time to time be represented in a curriculum of an accredited college of pharmacy or as may otherwise be selected by the board.))

(d) Specialized professional pharmacy practice.

(3) Full credit (hour for hour) shall be allowed for:

(a) Speakers.

(b) Panels.

(c) Structured discussion, workshops, and demonstrations.

(d) Structured question and answer sessions.

(4) Credit shall not be allowed for:

(a) Welcoming remarks.

(b) Time spent for meals or social functions.

(c) Business sessions.

(d) Unstructured demonstrations (e.g., poster sessions).

(e) Unstructured question and answer sessions (e.g., after program ends).

(f) Degree programs except advanced degrees in pharmacy.

(5) Keynote speaker and topics must be submitted through the standard process.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-040 APPLICATIONS FOR APPROVAL ~~((AS A PROVIDER))~~ OF CONTINUING EDUCATION PROGRAM—POST-APPROVAL OF CONTINUING EDUCATION ~~((CREDITS))~~ PROGRAM. (1) Applications for approval ~~((as a provider of continuing education))~~ or ~~((for))~~ post-approval of a continuing education ~~((credit))~~ program which is not an accredited program or provided by an approved provider shall be made on the form provided for this purpose by the Washington state board of pharmacy.

(2) ~~((In the case of an application for provider approval,))~~ The provider shall submit an application form ~~((shall be submitted 30))~~ sixty days prior to the date the program will be held ~~((PROVIDED, HOWEVER, That the board may waive the requirement that an application be filed 30 days prior to the date of the program on good cause shown in an individual case)).~~

(3) ~~((In the case of an application for post-approval of continuing education credits for))~~ A pharmacist who ~~((has attended a worthy))~~ attends a program ~~((for which the provider has not obtained approval, the pharmacist))~~ that has not been preapproved according to this rule, must ~~((file))~~ submit application for ~~((this))~~ approval within ~~((30))~~ fifteen days following the program.

(4) All programs approved by the American Council on Pharmaceutical Education are accepted for continuing education credit and do not require that an individual provider approval be obtained in each case.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-050 CONTINUING EDUCATION PROGRAM APPROVED PROVIDERS(~~(-RESPONSIBILITIES)~~). (1) The board shall establish the standards and specifications necessary for an organization to obtain approval. These standards and specifications shall at least be equivalent to those established for continuing education programs in pharmacy by the American Council on Pharmaceutical Education.

(a) A continuing education provider shall supply each attendee or subscriber with a written program description which lists the topic(s) covered, number of speakers or authors, time devoted to the program topic(s), and the instructional objectives of the program. The program description must also bear a statement of the number of hours of continuing education credit assigned by the provider.

(~~(2)~~) (b) The provider must make available to each attendee or subscriber proof of attendance or participation suitable for verifying to the board the completion of continuing education requirements.

(~~(3)~~) (c) The provider shall retain, for a period of two years, a list of persons to whom proof of attendance or participation as specified in (~~(2) above~~) (b) of this subsection was supplied. Providers of nonevaluated self-instruction units shall be exempt from this requirement.

(2) Any organization may apply to the board on forms provided by the board for qualification as an approved provider. If an organization is approved, the board will issue a certificate or other notification of qualification to it. The approval shall be effective for a period of two years and shall be renewable as set forth by the board.

(3) The board may revoke or suspend an approval of a provider or refuse to renew such approval if the provider fails to maintain the necessary standards and specifications required.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-060 INSTRUCTORS' CREDIT TOWARD CONTINUING EDUCATION UNIT. Any pharmacist whose primary responsibility is not the education of health professionals, who leads, instructs or lectures to groups of nurses, physicians, pharmacists or others on pharmacy-related topics in organized continuing education (~~(or in-service programs)~~) shall be granted one hour of continuing education credit for (~~(such time expended during actual presentation, upon adequate documentation to the board of pharmacy)~~) each hour spent in actually presenting the initial course or program which has been approved for continuing education credit. A presenter shall not be granted multiple

credit for multiple presentations of the same program of continuing education.

Any pharmacist whose primary responsibility is the education of health professionals shall be granted continuing education credit only for time expended in leading, instruction or lecturing to groups of physicians, pharmacists, nurses or others on pharmacy related topics outside his/her formal course responsibilities in a learning institution.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-090 AMOUNT OF CONTINUING EDUCATION. (~~(Effective with the 1982 renewals)~~) The equivalent of one and (~~(1/2)~~) one-half continuing education unit (~~(1.5 continuing education unit or 15)~~) equal to fifteen contact hours of (~~(professional)~~) continuing education (~~(shall have been completed and)~~) shall be required annually of each applicant for renewal of licensure. (~~(One continuing education unit is the equivalent of ten hours of participation in continuing education programs approved by the board of pharmacy.)~~)

NEW SECTION

WAC 246-861-095 PHARMACISTS LICENSED IN OTHER HEALTH PROFESSIONS. A pharmacist who is licensed to practice another health profession shall meet the same pharmacy continuing education requirements in the same manner as all other pharmacists and shall otherwise comply with this chapter. A licensee's compliance with the continuing education requirements of another health profession shall not qualify as compliance with this chapter, unless the subject matter of the continuing education meets the standards established in this chapter.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-861-120 WAIVER OF THE CONTINUING EDUCATION REQUIREMENT. The board of pharmacy may, at its discretion, waive the requirements of this (~~(regulation for due cause)~~) rule for such reasons as illness, incapacity, or other extenuating circumstances. Written request for waiver shall be submitted to the board for consideration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-861-070 CREDIT FOR CONTINUING EDUCATION.

WAC 246-861-080 CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

WAC 246-861-100 PHARMACIST AUDITS—DISALLOWED CREDIT.

WAC 246-861-110 ADVISORY COMMITTEE ON CONTINUING EDUCATION.

WSR 92-03-030
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 92-02—Filed January 8, 1992, 4:12 p.m.]

Date of Adoption: January 8, 1992.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-44-05000R.

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: These regulations were adopted by the Pacific Fisheries Management Council at the November 1991 meeting and will be implemented by the National Marine Fisheries Service in January. This regulation is intended to control harvest and promote conservation of westcoast groundfish stocks. We are adopting these regulations for the same purpose and to maintain consistency between state and federal regulations. The cumulative trip limit for deepwater complex - Sablefish, Dover sole, and thornyhead rockfish is 55,000 pounds, not 50,000 pounds.

Effective Date of Rule: Immediately.

January 8, 1992
 Judith Merchant
 Deputy
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-44-05000S COASTAL BOTTOMFISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m., January 1, 1992, until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

(1) The following definitions apply to this section:

(a) Fixed two-week fishing period. Each of the following is defined as a fixed, two-week fishing period (hours given are on a 24-hour basis):

0001 hours January 1 to 2400 hours January 14;
 0001 hours January 15 to 2400 hours January 28;
 0001 hours January 29 to 2400 hours February 11;
 0001 hours February 12 to 2400 hours February 25;
 0001 hours February 26 to 2400 hours March 10;
 0001 hours March 11 to 2400 hours March 24;
 0001 hours March 25 to 2400 hours April 7;
 0001 hours April 8 to 2400 hours April 21;
 0001 hours April 22 to 2400 hours May 5;
 0001 hours May 6 to 2400 hours May 19;
 0001 hours May 20 to 2400 hours June 2;
 0001 hours June 3 to 2400 hours June 16;

0001 hours June 17 to 2400 hours June 30;
 0001 hours July 1 to 2400 hours July 14;
 0001 hours July 15 to 2400 hours July 28;
 0001 hours July 29 to 2400 hours August 11;
 0001 hours August 12 to 2400 hours August 25;
 0001 hours August 26 to 2400 hours September 8;
 0001 hours September 9 to 2400 hours September 22;
 0001 hours September 23 to 2400 hours October 6;
 0001 hours October 7 to 2400 hours October 20;
 0001 hours October 21 to 2400 hours November 3;
 0001 hours November 4 to 2400 hours November 17;
 0001 hours November 18 to 2400 hours December 1;
 0001 hours December 2 to 2400 hours December 15;
 0001 hours December 16 to 2400 hours December 31;
 (b) Fixed four-week periods. Each of the following is defined as a fixed, four-week fishing period (hours given are on a 24-hour basis):

0001 hours January 1 to 2400 hours January 28;
 0001 hours January 29 to 2400 hours February 25;
 0001 hours February 26 to 2400 hours March 24;
 0001 hours March 25 to 2400 hours April 21;
 0001 hours April 22 to 2400 hours May 19;
 0001 hours May 20 to 2400 hours June 16;
 0001 hours June 17 to 2400 hours July 14;
 0001 hours July 15 to 2400 hours August 11;
 0001 hours August 12 to 2400 hours September 8;
 0001 hours September 9 to 2400 hours October 6;
 0001 hours October 7 to 2400 hours November 3;
 0001 hours November 4 to 2400 hours December 1;
 0001 hours December 2 to 2400 hours December 31;

(c) Cumulative trip limit - a cumulative trip limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips.

(c) Vessel trip - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(d) Vessel trip limit - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(e) Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

(f) Week - Wednesday through the following Tuesday.

(2) Widow rockfish - Cumulative trip limit of 30,000 pounds in a fixed four-week period. No minimum size. Unless the fishery for widow rockfish is closed, a vessel which has landed its four-week, cumulative trip limit may begin to fish on the limit for the next four-week period so long as the fish are not landed until the next four-week period.

(3) Shortbelly rockfish - no maximum poundage per two-week or four-week fishing period. No minimum size.

(4) Pacific ocean perch - No limit on the number of vessel trips for landings less than 1,000 pounds per vessel trip. Landings greater than 1,000 pounds but not to exceed 3,000 pounds allowed only if Pacific ocean perch

represent 20 percent or less of fish aboard per vessel trip. No landings of more than 3,000 pounds per vessel trip. No minimum size.

(5) *Sebastes complex* – all other species of rockfish except widow, shortbelly, Pacific ocean perch and thornyhead or idiot rockfish (*Sebastolobus spp.*) – Cumulative trip limit of 50,000 pounds per fixed two-week period. No more than 8,000 pounds of this amount may be yellowtail rockfish. No minimum size. Unless the fishery for the *Sebastes complex* or yellowtail rockfish is closed, a vessel which has landed its two-week, cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period.

(6) *Deepwater complex* – Sablefish, Dover sole, and thornyhead rockfish – Cumulative trip limit of 55,000 pounds per fixed two-week period. No more than 25,000 pounds of this amount may be thornyheads. No minimum size on Dover sole or thornyheads. Unless the fishery for the deepwater complex is closed, a vessel which has landed its two-week cumulative trip limit may begin to fish on the limit for the next two-week period so long as the fish are not landed until the next two-week period.

The following limits apply to sablefish taken under this subsection:

(a) *Trawl vessels* – Landings above 1,000 pounds of sablefish are allowed only if sablefish represent 25 percent or less of the total combined weight of the deepwater complex onboard. No more than 5,000 pounds of sablefish may be smaller than 22 inches in length in any landing. Minimum size for dressed sablefish is 15.5 inches from the anterior insertion of the first dorsal fin to the tip of the tail. To convert from dressed weight to round weight, multiply the dressed weight by 1.6.

(b) *Non-trawl vessels* – 0001 hours January 1 to 2400 hours February 29; 500 pound (round weight) daily trip limit. To convert round weight from dressed weight, multiply the dressed weight by 1.6.

Beginning 0001 hours March 1 to 2400 hours May 8; 1500 pound (round weight) daily trip limit.

Non-trawl sablefish landings are prohibited from 0001 hours May 9 to 2400 hours May 11. Fishing gear may remain in the water during this period.

Beginning 0001 hours on May 12, no restrictions on the total amount of non-trawl sablefish landed, except that no more than 1,500 pounds (round weight) or 3% of all sablefish on board may be less than 22 inches total length. Minimum length for dressed sablefish is 15.5 inches measured from the origin of the first dorsal fin to the upper lobe of the caudal fin. This unrestricted fishery will continue until such time that the Pacific Fishery Management Council determines that a sufficient portion of the sablefish harvest guideline remains to allow for a 500 pound daily trip limit for the remainder of the calendar year. A 3-day period of landing prohibition will immediately follow the period of unrestricted fishing.

(7) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative trip limit, vessel trip limit or daily trip limit.

(8) *The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.*

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000R COASTAL BOTTOMFISH CATCH LIMITS. (91-150)

WSR 92-03-031

**PERMANENT RULES
PIERCE COLLEGE**

[Filed January 8, 1992, 4:47 p.m.]

Date of Adoption: January 8, 1992.

Purpose: To repeal chapter 132K-12 WAC, Personnel rules in order to be in compliance with Higher Education Personnel Board rules.

Citation of Existing Rules Affected by this Order: Repealing chapter 132K-12 WAC, Personnel rules.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 92-01-085 on December 16, 1991.

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

January 8, 1992

Alan Spence

Executive Dean

Administrative Services

REPEALER

The following chapter of the Washington Administrative Code is repealed.

Chapter 132K-12 WAC PERSONNEL RULES

WSR 92-03-032

**PREPROPOSAL COMMENTS
DEPARTMENT OF HEALTH
(Professional Licensing Services)
(Optometry Board)**

[Filed January 9, 1992, 2:25 p.m.]

Subject of Possible Rule Making: New section, contact lens prescription defined; and amending WAC 246-851-360 Required identification on prescriptions and 246-851-270 Retention of minimum contact lens records.

Persons may Comment on this Subject in the Following Ways: Written comments to the Optometry Board, Washington State Department of Health, 1300 S.E. Quince Street, EY-21, P.O. Box 47868, Olympia, WA 98504-7868 or attendance at the February 14, 1992, Optometry board meeting, Tacoma Room, West Coast

Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA 98168, Friday, February 14, 1992.

Other Information or Comments by Agency at this Time, if any: The petition for rule making below lists the amendatory rules under the former WAC references chapter 308-53 WAC which have been changed to chapter 246-851 WAC as listed above. Only the WAC references were changed, not the content of the rules.

In the matter of Washington Optometric Association.

Based upon RCW 18.54.070(2) and AGO 1991 No. 33, the Washington Optometric Association requests the Board of Optometry to commence rule-making procedures to enact the following proposed rules involving optometric prescriptions.

I. WAC (New) Contact lens prescription defined.

A. Proposed new rule.

An optometric contact lens prescription is a written, signed order from an optometrist to another optometrist, physician, or optician describing optical and physical characteristics of the contact lenses to be dispensed. It shall be based upon a comprehensive vision and eye health examination, followed by a diagnostic or trial evaluation, and a final evaluation of the contact lens on the eye.

B. Comment.

This new rule is required to implement previously enacted regulations of the Board of Optometry requiring identification on prescriptions (WAC 308-53-265) and the retention of minimum contact lens prescription records (WAC 308-53-210). To enforce those previously enacted regulations, the board needs to define what constitutes a legal contact lens prescription.

II. WAC 308-53-265 Required identification on prescriptions.

A. Proposed amended rule.

Written optical prescriptions related to the practice of optometry must include as a minimum:

(1) Typed or commercially printed name, address of practice and phone number of the prescribing doctor of optometry.

(2) Date of prescription.

(3) Patient's name and address.

(4) Signature of prescribing doctor of optometry.

(5) Expiration date of prescription.

B. Comment.

The proposed amendment to this rule promotes the health and safety of optical consumers by requiring that all written optical prescriptions carry an expiration date.

III. WAC 308-53-210 Retention of minimum contact lens records.

A. Proposed amended rule.

At a minimum, the following specifications for a contact lens prescription must be retained in the records of the licensed optometrist who ~~makes~~ writes a prescription:

(1) Dioptric power;

(2) Base curve (inside radius of curvature);

(3) Thickness, when applicable;

(4) Secondary/peripheral curve, ~~for PMMA lenses~~ when applicable;

(5) ~~Type of edge, for PMMA lenses;~~

(5) Diameter;

(6) Color, if used;

(7) Type of material used;

(8) Special features equivalent to variable curves, fenestration, or coating.

B. Comment.

The proposed amendments to this rule are necessary to update the rule to reflect current and proper terminology and practice.

DATED this 31 day of December, 1991.

Respectfully submitted, ss/William C. Erxleben, Counsel, Washington Optometric Association.

January 8, 1992

Judy Haenke

Program Manager

WSR 92-03-033
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Real Estate Commission)
 [Memorandum—January 8, 1992]

REVISED

Following are the regularly scheduled meetings for the Washington Real Estate Commission:

February 26, 1992	Silverdale on the Bay Hotel	Silverdale
May 6, 1992	(Location to be determined)	Spokane
September 22, 1992	Hyatt Regency Hotel	Bellevue
December 4, 1992	(Location to be determined)	SeaTac

All regularly scheduled meetings begin at 9:00 a.m. and continue until the conclusion of business. Copies of agendas may be obtained from the Real Estate Program, P.O. Box 9015, Olympia, WA 98504.

WSR 92-03-034
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Beef Commission)
 [Memorandum—January 6, 1992]

The following are 1992 meeting dates for the Washington State Beef Commission for inclusion in the Washington State Register:

Date	Location
Friday, February 21, 1992	Washington State Beef Commission 2200 6th Avenue, Suite 105 Seattle, WA 98121
Friday, April 24, 1992	Washington State Beef Commission 2200 6th Avenue, Suite 105 Seattle, WA 98121
Friday, June 19, 1992 (Annual meeting)	Bellevue Red Lion Bellevue, Washington
Friday, August 28, 1992	Washington State Beef Commission 2200 6th Avenue, Suite 105 Seattle, WA 98121
November 12-14, 1992	Wenatchee, Washington
December 17-18, 1992	Washington State Beef Commission 2200 6th Avenue, Suite 105 Seattle, WA 98121

Should you have any questions, please contact our office at (206) 464-7403.

WSR 92-03-035
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—January 9, 1992]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 16, 1992, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

WSR 92-03-036
RULES COORDINATOR
GAMBLING COMMISSION
 [Filed January 9, 1992, 2:30 p.m.]

In accordance with RCW 34.05.310, I wish to notify you that the rules coordinator for the Washington State Gambling Commission is: Sharon M. Tolton, Special Assistant to the Director, Washington State Gambling Commission, P.O. Box 42400, 4511 Woodview Drive S.E., Olympia, WA 98504-2400, (206) 438-7685, 585-7685 scan.

Frank L. Miller
 Director

WSR 92-03-037
NOTICE OF PUBLIC MEETINGS
GAMBLING COMMISSION
 [Memorandum—January 8, 1992]

The Gambling Commission will be holding regular meetings on the following dates at the following locations:

February 14, 1992	Tacoma Dome Hotel 2611 East "E" Tacoma, WA 98421
March 13, 1992	Cavanaugh's River Inn North 700 Division Spokane, WA 99202
April 10, 1992	Tower Inn 1515 George Washington Way Richland, WA 99352
May 8, 1992	Best Western Ellensburg Inn 1700 Canyon Road Ellensburg, WA 98926
June 12, 1992	Everett Pacific Hotel 3105 Pine Street Everett, WA 98201
July 10, 1992	Silverdale Resort 3073 N.W. Bucklin Hill Road Silverdale, WA 98383

August 14, 1992	Campbell's Lodge 100 West Woodin Chelan, WA 98816
September 11, 1992	Sea-Tac Red Lion Inn 18740 Pacific Highway South Seattle, WA 98188
October 9, 1992	Westwater Inn 2300 Evergreen Park Drive S.W. Olympia, WA 98502
November 20, 1992	Ridpath Hotel West 515 Sprague Spokane, WA 99210
December 1992	NO MEETING

WSR 92-03-038
NOTICE OF PUBLIC MEETINGS
CLEMENCY AND PARDONS
BOARD

[Memorandum—January 8, 1992]

SCHEDULE OF REGULAR MEETINGS FOR
WASHINGTON STATE CLEMENCY AND PARDONS BOARD

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 1992, to be published in the Washington State Register:

Clemency and Pardons Board meetings shall be held on Friday, March 13, 1992, and thereafter on the second Friday of June, September, and December 1992, at 9:00 a.m. in the Governor's Conference Room.

WSR 92-03-039
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD

[Memorandum—January 6, 1992]

The first meeting of the new Workforce Training and Education Coordinating Board (WTECB) will be held on January 28-29, 1992, in the Board Room, North Thurston School District, 305 College Street N.E., Lacey, WA.

The board will hold an orientation session on January 28, beginning at 1:00 p.m. and concluding by 5:00 p.m. The board will continue its meeting on January 29, with an executive session to discuss personnel matters from 7:00 a.m. to 8:00 a.m., returning to the regular business meeting agenda at 8:30 a.m.

Agenda items include a discussion of WTECB agency WACs and board bylaws, consideration and approval of job skills grant awards and Job Training Partnership Act eight percent projects, and an informational update on the Washington Center for Vocational Educator Preparation Project, Western Washington University. In addition, the board will review and approve the Carl Perkins Vocational and Applied Technology Education

Act goals and priorities for both the offender and tech-prep programs, and the statewide system of core standards and measures of performance. The board also plans to establish future meeting dates of the Workforce Training and Education Coordinating Board.

People needing special accommodations should call Patricia K. Justice at (206) 753-5660 or 234-5660 scan.

WSR 92-03-040
PERMANENT RULES
HEALTH CARE AUTHORITY
(State Employees Benefits Board)

[Filed January 10, 1992, 11:31 a.m., effective January 10, 1992]

Date of Adoption: January 8, 1992.

Purpose: To clarify conditions for participation in the State Employees Benefits Board insurance plans by eligible entities.

Citation of Existing Rules Affected by this Order: Amending WAC 182-12-111.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Other Authority: RCW 41.04.205, 41.05.065, 41.05.011, and 41.05.080.

Pursuant to notice filed as WSR 91-20-146 on October 2, 1991.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Effective date is necessary because of imminent peril to the public health, safety, or general welfare of the public, RCW 34.05.380(3).

Effective Date of Rule: January 10, 1992.

January 10, 1992

Kristen A. West

Rules Coordinator

AMENDATORY SECTION (Amending Order 2-78, filed 1/10/78)

~~WAC 182-12-111 ELIGIBLE ENTITIES. ((Every department, division, or separate agency of state government is eligible and required to participate in all board approved plans. Participation by any county, municipality, or other political subdivision of this state shall be subject to the board's approval of the political subdivision's application. Conditions under which the board may approve such applications include, but are not limited to, the following, the political subdivision shall:~~

~~(1) Include all eligible employees as a unit.~~

~~(2) Obligate itself to participate in all board approved plans.~~

~~(3) Make employer contributions in the same amount as those provided by the state as employer.~~

~~(4) Furnish the board, employee census data and prior claim experience, if available.~~

~~(5) Agree to maintain its participation in all board approved plans at least to the July 1 following its effective date of participation, and in the event of termination~~

~~furnish the board written notice at least thirty days prior to its termination date. Provided the board shall:~~

~~(1) Consider and act on all applications received from political subdivisions.~~

~~(2) Hold a public hearing on all applications received.) The employees and retirees of eligible entities and their dependents must meet the individual eligibility requirements set forth in WAC 182-12-115 in order to participate in SEBB insurance plans. Only individuals who participated in SEBB insurance plans as an active employee and their dependents are eligible to participate in SEBB insurance plans upon disability or retirement. The following entities shall be eligible to participate in SEBB insurance plans subject to the terms and conditions set forth below.~~

~~(1) State agencies. Every department, division, or separate agency of state government including the higher education personnel board, higher education coordinating board, and the state board for community and technical colleges is eligible and required to participate in all board approved plans provided:~~

~~Employees of vocational-technical institutions who belong to collective bargaining units may participate in SEBB insurance plans only if the entire collective bargaining unit enrolls in the plans and such participation is consistent with section 83, chapter 238, Laws of 1991.~~

~~(2) Counties, municipalities, and political subdivisions, including K-12 school districts. Counties, municipalities, and political subdivisions, including K-12 school districts of the state may participate in SEBB insurance programs provided:~~

~~(a) All eligible employees of the entity transfer to SEBB plan coverage as a unit.~~

~~(b) The legislative authority or the board of directors obligates itself to participate in all SEBB insurance plans.~~

~~(c) The legislative authority of the entity or the board of directors of the school district submits an application together with employee census data and, if available, prior claims experience of the entity to the health care authority.~~

~~(d) The legislative authority or the board of directors agrees to maintain its SEBB plan participation through the end of the plan year.~~

~~(e) The legislative authority or the board of directors shall provide the health care authority written notice of its intent to terminate SEBB plan participation no later than thirty days prior to the effective date of termination. If a county, municipality, or political subdivision, including a K-12 school district terminates coverage in SEBB insurance plans, retired and disabled employees who began participating after September 15, 1991, will no longer be eligible to participate in SEBB insurance plans beyond the mandatory extension requirements specified in WAC 182-12-215.~~

~~(f) The health care authority administrator approves the entity's application.~~

WSR 92-03-041
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 10, 1992, 3:53 p.m.]

WSR 92-03-042
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 10, 1992, 3:55 p.m.]

Original Notice.

Title of Rule: WAC 388-86-080 Oxygen service.

Purpose: To incorporate into WAC current policy regarding oxygen services.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The department may make oxygen and related equipment and supplies available through contract to recipients when the attending physician requests the service.

Reasons Supporting Proposal: To change WAC to show current policy on oxygen services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance Administration, 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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 10, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-86-080 OXYGEN SERVICE. (1) ~~The department may make oxygen ((shall be made)) and related equipment and supplies available through contract ((to include regulators, humidifiers, masks and related supplies)) to recipients ((under age sixty-five in their own homes)) when ((requested by)) the attending physician requests the service.~~

~~((2)) Oxygen and related supplies may be obtained from contract supplier or other oxygen supplier at less cost for recipients in skilled nursing homes on the request of the attending physician.~~

~~(3) Recipients age sixty-five and over and others eligible for part B Medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under Medicare. Such persons are not eligible for state owned equipment:))~~

Original Notice.

Title of Rule: WAC 388-81-050 Restitution.

Purpose: To assure consistency of the rules with the federal law on when a lien can be placed on a person's property when a person receives Medicaid payments incorrectly.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The department may place a lien against a person's property, both real and personal, before the person's death because of Medicaid claims paid or to be paid on behalf of that person following a court judgment which determines that benefits were incorrectly paid for that person.

Reasons Supporting Proposal: Assure consistency with federal law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance Administration, 753-0529.

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

Rule is necessary because of federal law, 42 CFR 433.36.

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 10, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

WAC 388-81-050 RESTITUTION. (1) ~~If a medical care recipient ((of medical care)) was not eligible for ((such)) medical care or ((comes into)) takes possession of nonexempt resources which ((he/she)) the recipient fails to disclose to the department, the amount of such medical care payment ((made by)) the department pays on ((his/her)) the recipient's behalf ((which could have been met by his/her undisclosed resources)) shall be an overpayment and a debt due the department. ((Sec chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected))~~

~~(2) The department shall not collect reimbursement from a grant for vendor payments incorrectly paid for medical care.~~

~~((2)) (3) If the department does not obtain repayment ((is not obtained)) from a ((nongrant)) recipient, the ((case and the files relative thereto shall be forwarded to the)) office of ((reimbursements for such~~

~~further)) financial recovery shall take action as ((deemed necessary)) described under 388-44 WAC. ((However, in no event shall))~~

~~(4) The department may place a lien ((be filed while the ineligible recipient or the dependent spouse is still living unless the claim has been reduced to judgment in a superior)) against the recipient's property, both personal and real, before the recipient's death only if a court ((of the state of Washington)) judgment determines that benefits were incorrectly paid on behalf of the recipient.~~

WSR 92-03-043
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3304—Filed January 10, 1992, 3:57 p.m., effective January 11, 1992, 12:01 a.m.]

Date of Adoption: January 10, 1992.

Purpose: The department will incorporate into WAC current policy regarding oxygen services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-080 Oxygen service.

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 amend the rule to show current policy on oxygen services.

Effective Date of Rule: 12:01 a.m., January 11, 1992.

January 10, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

~~WAC 388-86-080 OXYGEN SERVICE. (1) The department may make oxygen ((shall be made)) and related equipment and supplies available through contract ((to include regulators, humidifiers, masks and related supplies)) to recipients ((under age sixty-five in their own homes)) when ((requested by)) the attending physician requests the service.~~

~~((2) Oxygen and related supplies may be obtained from contract supplier or other oxygen supplier at less cost for recipients in skilled nursing homes on the request of the attending physician.~~

~~(3) Recipients age sixty-five and over and others eligible for part B Medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under Medicare. Such persons are not eligible for state owned equipment.))~~

WSR 92-03-044
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3305—Filed January 10, 1992, 3:58 p.m., effective January 11, 1992, 12:01 a.m.]

Date of Adoption: January 10, 1992.

Purpose: To assure consistency of the rules with the federal law on when a lien can be placed on a person's property when a person receives Medicaid payments incorrectly.

Citation of Existing Rules Affected by this Order: Amending WAC 388-81-050 Restitution.

Statutory Authority for Adoption: RCW 74.08.090.

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: WAC is inconsistent with federal law. This rule is amended to assure consistency with federal law.

Effective Date of Rule: January 11, 1992, 12:01 a.m.

January 10, 1991 [1992]

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

~~WAC 388-81-050 RESTITUTION. (1) If a medical care recipient ((of medical care)) was not eligible for ((such)) medical care or ((comes into)) takes possession of nonexempt resources which ((he/she)) the recipient fails to disclose to the department, the amount of such medical care payment ((made by)) the department pays on ((his/her)) the recipient's behalf ((which could have been met by his/her undisclosed resources)) shall be an overpayment and a debt due the department. ((See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected)~~

~~(2) The department shall not collect reimbursement from a grant for vendor payments incorrectly paid for medical care.~~

~~((2)) (3) If the department does not obtain repayment ((is not obtained)) from a ((nongrant)) recipient, the ((case and the files relative thereto shall be forwarded to the)) office of ((reimbursements for such further)) financial recovery shall take action as ((deemed necessary)) described under 388-44 WAC. ((However, in no event shall))~~

~~(4) The department may place a lien ((be filed while the ineligible recipient or the dependent spouse is still living unless the claim has been reduced to judgment in a superior)) against the recipient's property, both personal and real, before the recipient's death only if a court ((of the state of Washington)) judgment determines that benefits were incorrectly paid on behalf of the recipient.~~

WSR 92-03-045
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 92-03—Filed January 10, 1992, 4:05 p.m.]

Date of Adoption: December 20, 1991.

Purpose: To revise procedures for school district reporting of institutional education enrollment and for apportionment of state institutional education program moneys.

Citation of Existing Rules Affected by this Order: Amending WAC 392-122-205 through 392-122-275.

Statutory Authority for Adoption: RCW 28A.150.290.

Pursuant to notice filed as WSR 91-21-007 on October 4, 1991.

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

January 10, 1992
 Judith A. Billings
 Superintendent of
 Public Instruction

NEW SECTION

WAC 392-122-201 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—SCHOOL DAY. "School day" means the same as defined in WAC 392-121-033.

NEW SECTION

WAC 392-122-202 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—SCHOOL YEAR. "School year" means the same as defined in WAC 392-121-031.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

WAC 392-122-205 STATE INSTITUTIONAL EDUCATION PROGRAM—ELIGIBLE PROGRAMS. Programs supported as state institutional education programs include:

(1) State operated group homes—i.e., facilities (~~financed~~) maintained by the division of juvenile rehabilitation (~~division~~) of the department of social and health services to house adjudicated youth twenty-four hours a day;

(2) Juvenile parole learning centers—i.e., facilities (~~funded~~) maintained by the division of juvenile rehabilitation of the department of social and health services for adjudicated youth residing in the community. (~~Education is provided under the guidance of local school districts.~~)

(3) Juvenile detention centers—i.e., facilities maintained by counties for treatment and education of juveniles who have been placed under protective custody or have committed a criminal offense.

(4) Institutions for juvenile delinquents—i.e., facilities (~~established~~) maintained by the division of juvenile rehabilitation of the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts.

(5) (~~Institutions for the handicapped~~) Residential habilitation centers—i.e., facilities (~~established by~~) maintained by the division of developmental disabilities of the department of social and health services for care and treatment of persons with exceptional needs by reason of mental and/or physical deficiency.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

WAC 392-122-206 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—FORM E-672. "Form E-672" means the form distributed by the superintendent of public instruction on which school districts operating institutional education programs report eligible institutional education students enrolled on the enrollment count dates specified in WAC (~~392-121-122~~) 392-122-211.

NEW SECTION

WAC 392-122-207 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—RESIDENTIAL INSTITUTION. "Residential institution" means a state operated group home, juvenile detention center, institution for juvenile delinquents, or residential habilitation center.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

WAC 392-122-210 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—(~~INSTITUTIONAL PROGRAM~~) CERTIFICATED INSTRUCTIONAL STAFF AND MIX FACTOR VARIABLES FOR THE ((ALLOCATION FORMULA)) PURPOSE OF APPORTIONMENT. (~~The definition of~~) For the purpose of apportionment of state moneys, state institutional education program certificated instructional staff salary and mix factor variables ((used in the institutional education allocation formula)) shall be defined the same as ((those defined)) in WAC ((392-121-285)) 392-121-200 through ((392-121-298)) 392-121-299: PROVIDED, That the words "state institutional education program" shall be substituted for "basic education" throughout those ((definitions)) sections.

NEW SECTION

WAC 392-122-211 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—INSTITUTION ENROLLMENT COUNT DATES. "Institution enrollment count dates" means the fourth school day of September and the first school day of each of the ten subsequent months of the school year.

NEW SECTION

WAC 392-122-212 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—EDUCATIONAL ACTIVITY. As used in WAC 392-122-200 through 392-122-275, "educational activity" means the following teaching/learning experiences provided by a school district:

(1) Instruction, testing, counselling, supervision, advising, and other services provided directly by school district certificated staff or by school district classified staff who are supervised by certificated staff.

(2) Up to one hour per day of scheduled study time if the study is in conjunction with other educational activity and if the study is monitored by school district staff who are present during the study.

(3) Up to two hours per day of individual study conducted by a student when school district staff are not present if all of the following conditions are met:

(a) The study is in pursuit of high school graduation credit;

(b) The study is part of a program of instruction defined by a school district certificated employee who evaluates the student's progress in that program;

(c) The student is making progress in the program;

(d) The study is not counted as work training experience pursuant to subsection (4) of this section; and

(e) Combined individual study time and scheduled study time pursuant to subsection (2) of this section claimed in determining the student's full-time equivalent pursuant to WAC 392-122-225 do not exceed two hours per day.

(4) Work experience training meeting the requirements of WAC 180-50-315: PROVIDED, That each hour of work training experience shall be considered equivalent to 0.40 hours of educational activity.

NEW SECTION

WAC 392-122-213 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—EXCUSED ABSENCE. As used in WAC 392-122-200 through 392-122-275, "excused absence" means an absence from scheduled educational activity which school district certificated staff determine to be due to one or more of the following:

(1) Illness;

(2) Attendance in court; or

(3) Meeting with a lawyer, case worker, counselor, physician, dentist, nurse, or other professional service provider.

NEW SECTION

WAC 392-122-214 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—COURT-INVOLVED. As used in WAC 392-122-200 through 392-122-275, "court-involved" means:

(1) Currently serving a court-imposed sentence, probation, or parole;

(2) Currently involved in diversion pursuant to RCW 13.40.080;

(3) Currently involved in a legal proceeding which may find the student to have committed a criminal or juvenile offense; or

(4) Qualifying under subsection (1), (2), or (3) of this section within the past twelve months.

NEW SECTION

WAC 392-122-220 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—ENROLLED INSTITUTIONAL EDUCATION PROGRAM STUDENT. "Enrolled institutional education program student" means a person who:

(1) Is under twenty-one years of age at the beginning of the school year;

(2) Is scheduled to engage in educational activity in the institutional education program during the current week;

(3) During the current school year, has engaged in educational activity in the institutional education program provided or supervised by school district certificated staff; and

(4) Does not qualify for any of the enrollment exclusions in WAC 392-122-221.

NEW SECTION

WAC 392-122-221 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—ENROLLMENT EXCLUSIONS. The following may not be counted as an enrolled institutional education program student:

(1) A person whose educational activity has terminated.

(2) A person who has transferred to another institution or school district.

(3) A residential institution student who:

(a) Has not engaged in educational activity in the past five school days including days, excluding days of excused absence;

(b) Has not engaged in educational activity in the past ten school days including days of excused absence; or

(c) Is claimed by any school district as an enrolled student eligible for state basic education support pursuant to chapter 392-121 WAC.

(4) A learning center student who:

(a) Is not court-involved; or

(b) Has not participated in educational activity within the past twenty school days.

NEW SECTION

WAC 392-122-225 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—INSTITUTIONAL EDUCATION PROGRAM FULL-TIME EQUIVALENT (FTE) STUDENTS. "Institutional education full-time equivalent (FTE) students" means the sum of a school district's FTE students on an enrollment count date determined as follows:

(1) An enrolled institutional education program student who is three to eight years of age and scheduled to engage in a minimum of twenty hours of educational activity per week shall be counted as one FTE.

(2) An enrolled institutional education program student who is nine years of age or older and scheduled to engage in a minimum of twenty-five hours of educational activity per week shall be counted as one FTE.

(3) An enrolled institutional education program student who is scheduled to engage in less than the minimum hours for one FTE shall be counted as a partial FTE, determined by dividing the scheduled hours of educational activity by the minimum hours for one FTE.

(4) In determining a student's FTE, educational activity may include up to ten minutes of class transition time between classes but shall not include noon intermission.

(5) No student shall be counted as more than one FTE.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

WAC 392-122-230 DEFINITION—STATE INSTITUTIONAL EDUCATION PROGRAM—((ELIGIBLE)) ANNUAL AVERAGE FULL-TIME EQUIVALENT (AAFTE) INSTITUTIONAL EDUCATION STUDENTS. ~~((State institutional education program moneys shall be allocated to school districts based on the institutional full-time equivalent enrollment levels reported on Form E-672 by school districts operating state institutional education programs to the school business services division in the office of the superintendent of public instruction:))~~ "Annual average full-time equivalent (AAFTE) institutional education students" means:

(1) For residential institutions, the average institutional education FTE students on the eleven institution enrollment count dates of the school year.

(2) For learning centers, the average institutional education FTE students on the eight institution enrollment count dates of October through May.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

WAC 392-122-255 STATE INSTITUTIONAL EDUCATION PROGRAM—INSTITUTIONAL PROGRAM INDIRECT COST. State institutional education program moneys for the purpose of recognition of institutional program indirect costs shall be allocated to school districts based on the district's ((prior year)) indirect cost percent for the institutional program ~~((multiplied by the district's current school year state institutional education program allocation for certificated and classified salaries, statutory and health benefits, and nonemployee related costs))~~ from Report F-196 Part III and in accordance with the state Operating Appropriations Act.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

WAC 392-122-260 STATE INSTITUTIONAL EDUCATION PROGRAM—BASIC EDUCATION ((BACK-OUT)) FUNDING FOR STATE LEARNING CENTERS. ~~((The back-out of))~~ For the purposes of determining recoveries under WAC 392-122-910, a school district's basic education ~~((funds from the district's state institutional education))~~ program allocation for learning center students shall be added to the institutional education program allocation for the learning

center. The amount of the basic education program allocation for learning center students for a school year shall be calculated by multiplying the state guarantee per full-time equivalent pupil rate by the number of ((eligible)) annual average full-time equivalent institutional education students as defined in WAC 392-122-230.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

WAC 392-122-270 STATE INSTITUTIONAL EDUCATION PROGRAM—APPORTIONMENT OF STATE MONEYS. From the state institutional education program moneys appropriated to the superintendent of public instruction, the superintendent shall make allocations to school districts based ~~((upon the sum of moneys allocated in accordance with WAC 392-122-230, 392-122-235, 392-122-255, and 392-122-260:))~~ on the school district's annual average full-time equivalent institutional education students and as provided in the state Operating Appropriations Act and WAC 392-122-200 through 392-122-275.

(1) Institutional education program allocations shall be based on a two hundred twenty-day school year. Allocations to a school district offering less than two hundred twenty school days shall be reduced pro rata as provided in WAC 392-122-910.

(2) The superintendent of public instruction shall make payments in the same manner as provided in WAC 392-121-400.

(3) The superintendent of public instruction may reduce or delay payment of institutional education program moneys pursuant to chapter 392-117 WAC, Timely reporting.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

WAC 392-122-275 STATE INSTITUTIONAL EDUCATION PROGRAM—SCHOOL DISTRICT REPORTING. ~~((1))~~ At such times as designated by the superintendent of public instruction, each school district operating an institutional education program shall report the number of eligible institutional education students receiving institutional education according to instructions provided by the superintendent of public instruction.

~~((2))~~ Each school district operating an institutional education program shall report to the superintendent of public instruction as follows:

(1) The district shall report on Form E-672 the number of individual enrolled institutional education program students and the number of institutional education full-time equivalent students on each institution enrollment count date.

(2) Report forms shall be signed by the school district superintendent or a designated official of the school district.

(3) A district operating a learning center shall also report learning center students for basic education support pursuant to chapter 392-121 WAC.

(4) A district operating a learning center shall report only "court-involved" learning center students as institutional education students on Forms E-672.

(5) Each school district operating an institutional education program shall provide, upon request, such additional data as are necessary to enable the superintendent of public instruction to allocate and substantiate the district's allocation of state institutional education program ((funds)) moneys.

(6) School district reporting shall be subject to chapter 392-117 WAC, Timely reporting.

WSR 92-03-046
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3307—Filed January 10, 1992, 4:29 p.m.]

Date of Adoption: January 10, 1992.

Purpose: The Department of Social and Health Services incorporates changes to Omnibus Budget Reconciliation Act.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-115 Categorically needy medical assistance eligibility.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-21-050 on October 15, 1991.

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

January 10, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2945, filed 3/1/90, effective 4/1/90)

WAC 388-82-115 CATEGORICALLY NEEDY MEDICAL ASSISTANCE ELIGIBILITY. The department shall classify as eligible for categorically needy medical assistance:

(1) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC);

or

(iv) Aid to the permanently and totally disabled (APTD); and

(b) Received retirement, survivors, and disability insurance (RSDI) benefits; and

(c) Is ineligible for OAA, AB, AFDC, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(2) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC, family independence program (FIP), or supplemental security income (SSI) solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(3) A family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed (and

~~(c) The department shall consider earned income tax credits (EITC) as income for purposes of this subsection)).~~

(4) A current recipient of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent recipient of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and

(c) Would be eligible for SSI benefits if the following are deducted from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the recipient since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the recipient's spouse and/or other financially responsible family member living in the same household.

(5) A recipient of SSI, after January 1, 1981, who continues to be eligible for medical assistance (MA) under P.L. 96-265 and 99-643.

(6) A pregnant woman, with no other eligible children, who is ineligible for AFDC cash assistance solely because she has not reached the sixth month of pregnancy.

(7) A client who is denied AFDC or FIP cash payments solely because of a departmental recovery of an overpayment.

(8) A child under seven years of age, who is born after September 30, 1983, and who meets the income and resource requirements of AFDC or FIP financial assistance.

(9) A family unit shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC, when terminated before April 1, 1990, from AFDC financial assistance solely because of:

(a) The loss of the thirty dollars plus one-third exemption; or

(b) The thirty-dollar income exemption.

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year ((if:

~~(a)) when the child remains a member of the mother's household(, and~~

~~(b) The mother remains eligible for medical assistance)).~~

(11) A family unit ineligible for AFDC or FIP financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months

beginning with the month of ineligibility; provided the family unit:

(a) Received AFDC or FIP financial assistance in at least three of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984.

(12) A pregnant woman who does not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) She would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) She meets the AFDC or FIP financial assistance resource requirements.

(13) An alien denied AFDC, FIP, or SSI cash assistance solely because of deeming of income of the alien's sponsors.

(14) A current disabled client receiving widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit for December 1983 under Title II of the Social Security Act (~~((for December 1983))~~);

(b) Was entitled to and received a widow's or widower's benefit for January 1984 based on a disability under section 202 (e) or (f) of the Social Security Act (~~((for January 1984))~~);

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(15) Effective (~~((July 1, 1988, a disabled or blind client))~~) January 1, 1991, any person receiving Title II ((disabled)) widow/widower benefits ((DWB)) under section 202 (e) or (f) of the SSA, if the (~~((client))~~) person:

(a) (~~((Is sixty through sixty-four years of age;~~

~~((b)))~~ Is not eligible for the hospital insurance benefits under Medicare (~~((Part A of Title XVIII))~~);

~~((c)))~~ (b) Received SSI/SSP (~~((before sixty years of age))~~) payments in the month before receiving such Title II benefits;

~~((d)))~~ (c) Became ineligible for SSI/SSP due to receipt of or increase in (~~((DWB))~~) such Title II benefits; and

~~((e)))~~ (d) Would be eligible for SSI/SSP if the amount of (~~((the DWB))~~) such Title II benefits or increase in such Title II benefits under section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under section 215(i) of the act were disregarded.

(16) A family unit suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-737.

(17) A family unit which becomes ineligible for FIP before April 1, 1990, solely because of increased hours of employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility provided:

(a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility;

(b) A member of such family continues to be employed.

(18) A disabled or blind client receiving Title II disabled adult childhood (DAC) benefits under section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the SSA and any subsequent cost-of-living increases provided under section 215(i) of the SSA act were disregarded.

WSR 92-03-047
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3306—Filed January 10, 1992, 4:30 p.m.]

Date of Adoption: January 10, 1992.

Purpose: Criteria clarification used to refer an individual to the assessment center for an alcohol/drug evaluation to require alcohol/drug treatment and to determine program eligibility when an individual qualifies for both the general assistance unemployable (GAU) and the Alcohol/Drug Addiction Treatment and Support Act (ADATSA) program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-37-135 Alcoholism/drug addiction.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 91-23-100 on November 20, 1991.

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

January 10, 1992
Leslie F. James, Director
Administration Services

AMENDATORY SECTION (Amending Order 2525, filed 8/21/87)

WAC 388-37-135 ALCOHOLISM/DRUG ADDICTION. (1) Persons claiming incapacity based primarily on alcoholism or drug dependency shall be referred for evaluation under the alcoholism and drug addiction treatment and support program.

(2) Persons who appear to have significant mental or physical impairments resulting from or in addition to alcoholism or drug addiction should also be evaluated for general assistance when:

(a) The person indicates upon application that other physical or mental impairments may be incapacitating in themselves; or

(b) The person is rejected for the alcoholism and drug addiction treatment and support program and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient ~~((who))~~ shall be required to undergo an alcohol/drug assessment if:

(a) The person claims ~~((a secondary drinking))~~ an alcohol or drug problem~~((;))~~; or ~~((whose))~~

(b) The department obtains medical ~~((evaluation))~~ or clinical evidence which indicates that within the last eighteen months such a problem appears to exist~~((, may be required to undergo an alcohol/drug assessment));~~ or

(c) The department receives information that the person has been arrested for an alcohol/drug related offense within the last ninety days; or

(d) The person meets at least one of the criteria in subsections (a) through (c) of this section and the need for a protective payee must be established.

(4) Applicants whose mental, emotional, and/or physical condition(s) is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition(s). The effects of the alcoholism or drug addiction must be differentiated from the other condition(s) in order to determine incapacity. Unless it can be reasonably established that the other condition(s) would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the individual is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition(s) cannot be clearly differentiated, the department shall refer him or her to the alcoholism and drug addiction treatment and support program for evaluation and/or treatment.

(6) The provisions in subsections (4) and (5) of this section apply to recipients as well, except that a person whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established either under the ADATSA or GA-U program will remain on GA-U subject to the provisions in WAC 388-37-050.

(7) The department may require the individual to undergo a period of alcohol or drug treatment before re-evaluating eligibility for general assistance.

(8) Persons impaired by chemical dependency, who also have mental or physical impairments will have program eligibility determined as follows:

(a) Persons qualifying for both general assistance and the alcoholism and drug addiction treatment and support act (ADATSA) shelter program may choose either program;

(b) Persons qualifying for both general assistance and ADATSA Treatment must participate in ADATSA Treatment when it can reasonably be expected to enable the person to work or reduce the need for assistance, unless there is good cause to refuse;

(c) Alcohol or drug addicts qualifying for general assistance who have good cause to refuse or who do not qualify for ADATSA Treatment, shall be required to cooperate with an alternative alcohol or drug treatment plan which can reasonably be expected to enable the person to work or to reduce the need for assistance, unless there is good cause to refuse.

~~(9) ((Alcoholics or drug addicts who choose general assistance in lieu of the alcoholism and drug addiction treatment and support program:~~

~~(a)) Persons qualifying for general assistance and also determined by the assessment center to be actively addicted shall have their general assistance grant issued by protective payment ((in accordance with the criteria in WAC 388-33-420 and 388-33-455; and~~

~~(b) May be required to participate in an approved alcoholism or certified drug treatment program)).~~

WSR 92-03-048

PERMANENT RULES

LOTTERY COMMISSION

[Filed January 10, 1992, 4:32 p.m.]

Date of Adoption: January 10, 1992.

Purpose: To amend the rule for the grand prize drawing with Game No. 69 ("Gold Rush"); to establish the game play rules and criteria for determining winners of Instant Game Nos. 71 ("Lucky 7's II"), 73 ("Whirlwin") and 74 ("Grand Slam II"); to establish the general rules chapter for paper scratch games; and to establish the game play rules and criteria for determining winners of Paper Scratch Game Nos. 501 ("Jackpot"), 502 ("Lucky Charm") and 503 ("Jacks-R-Better").

Citation of Existing Rules Affected by this Order: Amending WAC 315-11-691.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 91-24-100 on December 4, 1991.

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

January 10, 1992

Evelyn Y. Sun

Director

AMENDATORY SECTION (Amending Order WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-11-691 CRITERIA FOR INSTANT GAME NUMBER 69. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having the following play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three	\$1.00	play symbols – Win	\$1.00
Three	\$2.00	play symbols – Win	\$2.00
Three	\$5.00	play symbols – Win	\$5.00
Three	\$9.00	play symbols – Win	\$9.00
Three	\$18.00	play symbols – Win	\$18.00
Three	\$50.00	play symbols – Win	\$50.00
Three	\$100.00	play symbols – Win	\$100.00
Three	\$10,000	play symbols – Win	\$10,000

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 69 set forth in WAC 315-11-692, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There will be a grand prize drawing held in conjunction with Instant Game Number 69. It will be conducted at a time and place and pursuant to procedures to be established and announced by the director. There will be ten finalists at the grand prize drawing who will each win a prize ranging in amount from \$10,000 to \$100,000. In the event that the aggregate prize amount won by the ten finalists at the grand prize drawing is less than \$550,000, each finalist shall also receive one-tenth of the difference between \$550,000 and the aggregate amount won. Qualifying entries from Instant Game Number 69 will be entered into the grand prize drawing.

(a) To be eligible for entry into the grand prize drawings, an entrant must:

(i) Be eligible to win a prize pursuant to chapter 67-.70 RCW and Title 315 WAC.

(ii) Collect three tickets each of which have one play symbol.

(iii) Write or print legibly the entrant's name and address on each and every ticket. An entry containing more than one name shall be disqualified.

(iv) Place the tickets in an envelope. An envelope which contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.

(v) Mail the envelope with proper postage and a legible return address of the entrant to the address specified in the player's brochure, or deliver it in person during normal business hours to lottery headquarters or any of the regional offices at the address listed in the player's brochure.

(b) There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above.

(c) An entry which contains one or more stolen tickets may be disqualified by the director.

(d) A nonconforming entry, at the sole discretion of the director, may be disqualified.

(e) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered to the "GRAND PRIZE DRAWING." All mail not drawn will be shredded unopened.

(f) The lottery shall not be responsible for any entries mailed or delivered to the wrong address.

(6) Weekly drawings will be held to select a total of fifty winners who will each be awarded a \$1,000 prize. Entries addressed to Grand Prize Drawing and received by the lottery at its grand prize drawing P.O. box, or at lottery headquarters or at one of the regional offices by 5:00 p.m. local time ~~((on the last))~~ two business days prior to each weekly drawing shall be entitled to participation in that week's drawing. ~~((Entries received at one of the regional offices must arrive no later than 5:00 p.m. two business days prior to the date of each weekly drawing.))~~ The weekly drawings will be conducted at times and places and pursuant to procedures established and announced by the director. A drawing will be held to select ten finalists from the fifty \$1,000 winners. The ten finalists will be eligible to participate in the grand prize drawing provided they have not been disqualified pursuant to these rules.

(7) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 69 and/or

(b) Vary the number of tickets sold in Instant Game Number 69 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

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 315-11-710 DEFINITIONS FOR INSTANT GAME NUMBER 71 ("LUCKY 7'S II"). (1) Play symbols: The following are the "play symbols": "0"; "2"; "3"; "4"; "5"; "6"; "7"; and "9." One of these play symbols appears in each of the nine play spots under the latex covering on the front of the ticket. The nine play spots are arranged in a three by three configuration. The area under the latex covering shall be known as the playfield.

(2) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or in abbreviated form of the play symbol. One and only one caption appears under each play symbol. For Instant Game Number 71, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZERO
2	TWO\$
3	THRE
4	FOUR
5	FIVE
6	SIX\$
7	SEVN
9	NINE

(3) Prize symbols: The following are the "prize symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$7.00"; "\$17.00"; "\$70.00"; "\$700" and "\$7,000." One of these prize symbols appears under the prize box on the front of the ticket which has the word "PRIZE" printed on the latex covering. The prize box shall be contiguous to the playfield.

(4) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 71, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 7.00	SVN DOL
\$ 17.00	SVNTEEN
\$ 70.00	SEVENTY
\$ 700	SVNHUND
\$ 7,000	SVNTHOU

(5) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The eleven-digit number of the form 07100001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 71 constitute the "pack number" which starts at 07100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 71, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
SVN	\$ 7.00
SVT	\$17.00

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

NEW SECTION

WAC 315-11-711 CRITERIA FOR INSTANT GAME NUMBER 71. (1) The price of each instant game ticket shall be \$1.00.

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

The bearer of a ticket having three "7" play symbols in any row, column or diagonal beneath the removable covering on the front of the ticket shall win the prize shown in the prize box.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 71 set forth in WAC 315-11-712, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

NEW SECTION

WAC 315-11-712 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 71. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 71, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the nine play spots in the playfield.

(b) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(c) Exactly one prize symbol must appear under the rub-off material covering the prize box on the front of the ticket.

(d) The prize symbol must have a prize symbol caption below it and must agree with its caption.

(e) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(f) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-710(1) and each of the play symbol captions must be exactly one of those described in WAC 315-11-710(2).

(h) Each of the prize symbols must be exactly one of those described in WAC 315-11-710(3) and each of the play symbol captions must be exactly one of those described in WAC 315-11-710(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-730 DEFINITIONS FOR INSTANT GAME NUMBER 73 ("WHIRLWIN"). (1) Play symbols: The following are the "play symbols": "0"; "1"; "2"; "3"; "4"; "5"; "6"; and "9." One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One play symbol shall be in the center of the playfield. The other four play symbols shall be placed on the inside perimeter of the playfield.

(2) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption contains four characters. The first character repeats the play symbol. The last three characters repeat the ticket number. One and only one play symbol caption appears under each play symbol. An example of play symbol captions for Instant Game Number 73 follows:

<u>PLAY SYMBOL</u>	<u>CAPTION</u> (Example for ticket number 122)
0	0122
1	1122
2	2122
3	3122
4	4122
5	5122
6	6122
9	9122

(3) Prize symbols: The following are the "prize symbols": "\$1.00"; "\$2.00"; "\$5.00"; "\$8.00"; "\$40.00"; and "\$5,000." One of these prize symbols appears above each of the four play symbols placed on the inside perimeter of the playfield. There is no prize symbol above the center play symbol.

(4) Prize symbol captions: The small printed characters which follow the play symbol caption and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 73, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE
\$ 2.00	TWO
\$ 5.00	FIV
\$ 8.00	EGT
\$ 40.00	FRY
\$ 5,000	FTH

(5) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The eleven-digit number of the form 07300001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 73 constitute the "pack number" which starts at 07300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 73, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00 (\$1)
TWO	\$ 2.00 (\$2; \$1 and \$1)
FIV	\$ 5.00 (\$5)
EGT	\$ 8.00 (\$5, \$2 and \$1; \$2, \$2, \$2, and \$2)
THN	\$13.00 (\$8 and \$5)

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

NEW SECTION

WAC 315-11-731 CRITERIA FOR INSTANT GAME NUMBER 73. (1) The price of each instant game ticket shall be \$1.00.

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

(a) When a perimeter play symbol matches exactly the center play symbol, the matching perimeter play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize above the winning play symbol.

(b) The bearer of a ticket which has more than one winning play symbol shall win the total amount of the prizes above each winning play symbol.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 73 set forth in WAC 315-11-732, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

NEW SECTION

WAC 315-11-732 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER

73. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 73 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in the center play spot and in each of the four perimeter play spots in the playfield on the front of the ticket.

(b) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(c) Each of the perimeter play symbols shall have a prize symbol above it. Each of the perimeter play symbols shall also have a prize symbol caption following its play symbol caption.

(d) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(e) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(f) Each of the play symbols must be exactly one of those described in WAC 315-11-730(1) and each of the play symbol captions must be exactly one of those described in WAC 315-11-730(2).

(g) Each of the prize symbols must be exactly one of those described in WAC 315-11-730(3) and each of the prize symbol captions must be exactly one of those described in WAC 315-11-730(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-740 DEFINITIONS FOR INSTANT GAME NUMBER 74 ("GRAND SLAM II").

(1) Play symbols: The following are the "play symbols": "WALK"; "STEAL"; "SINGLE"; "TRIPLE"; "HOMERUN"; "GRAND SLAM"; "STRIKE"; "FOUL"; "POP FLY"; "THROWN OUT"; "TAGGED"; and "FORCED OUT." One of these symbols appears in each of the four areas (games) under the latex covering on the front of the ticket.

(2) Validation number: The unique nine-digit random number on the front of the ticket. The number is covered by latex.

(3) Pack-ticket number: The eleven-digit number of the form 07400001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 74 constitute the "pack number" which starts at 07400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses

to verify instant winners of \$25 and less. For Instant Game Number 74, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 and \$1; \$2)
FOR	\$ 4.00 (\$2 and \$2; \$4)
SVN	\$ 7.00 (\$1, \$2, and \$4)
EGR	\$18.00 (\$10, \$4 and \$4)

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

NEW SECTION

WAC 315-11-741 CRITERIA FOR INSTANT GAME NUMBER 74. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner: A ticket having the following play symbols in any of the four games shall win the following prizes:

<u>PLAY SYMBOL</u>	<u>PRIZE</u>
WALK	\$ 1.00
STEAL	\$ 2.00
SINGLE	\$ 4.00
TRIPLE	\$10.00
HOMERUN	\$50.00
GRAND SLAM	\$5,000

The bearer of a ticket having winning play symbols in more than one game shall win the total amount of the prizes won in each game. The ticket shall bear a legend which lists the winning play symbols and their corresponding prizes.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 74 set forth in WAC 315-11-742, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 74; and/or

(b) Vary the number of tickets sold in Instant Game Number 74 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-742 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER

74. (1) In addition to meeting all other requirements in

these rules and regulations, to be a valid instant game ticket for Instant Game Number 74 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the games under the latex covering on the front of the ticket.

(b) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows.

Play Symbols	Play Symbol Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(c) Each of the play symbols, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(d) Each of the play symbols must be exactly one of those described in WAC 315-11-740(1).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

**Chapter 315-40 WAC
PAPER SCRATCH GAME GENERAL RULES**

NEW SECTION

WAC 315-40-010 PAPER SCRATCH GAMES—AUTHORIZED—DIRECTOR'S AUTHORITY. (1) The commission hereby authorizes paper scratch games which meet the criteria set forth in this chapter.

(2) The director is hereby authorized to select, operate, and contract relating to and for the operation of paper scratch games which meet the criteria set forth in this chapter.

(3) In the event of a conflict between any section of the Washington Administrative Code within this chapter and a section in another chapter, this chapter's rules shall take precedence and shall govern the play and administration of paper scratch games.

NEW SECTION

WAC 315-40-020 DEFINITIONS. (1) Ticket. The ticket purchased for participation in a paper scratch game and any ticket used in authorized media promotions and authorized retailer incentive programs for a paper scratch game with a retail price of less than \$1.00.

(2) Paper scratch game. A game in which a ticket is purchased and upon removal of a latex covering on the back of the ticket, the ticket bearer determines his or her winnings, if any.

(3) Ticket bearer. The person who has possession of the ticket, or the right to possession.

(4) Play symbols. The symbols appearing in the designated areas under the removable covering on the back of the ticket.

(5) Claim. Receipt of a paper scratch ticket by the licensed retailer which sold the ticket within one hundred eighty days after the official end of that paper scratch game.

NEW SECTION

WAC 315-40-030 PAPER SCRATCH GAMES CRITERIA. (1) The price of a paper scratch game ticket shall be less than \$1.00.

(2) Winners of a paper scratch game are determined by the matching or specified alignment of the play symbols on the tickets. The ticket bearer must submit the winning ticket to the lottery retailer where the ticket was purchased.

(3) The total of all prizes available to be won in a paper scratch game shall not be less than sixty percent of the paper scratch game's projected revenue. The director shall determine the number of prizes.

(4) There is no required frequency of drawing or method of selection of a winner in a paper scratch game.

(5) Procedures for claiming paper scratch game prizes are as follows:

(a)(i) To claim a paper scratch game prize under this chapter, the claimant shall present the apparent winning ticket to the lottery retailer from whom the ticket was purchased within one hundred eighty days after the official end of that paper scratch game. The lottery retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant.

(ii) In the event the lottery retailer cannot or will not verify and pay the claim, the claimant may fill out a claim form, which shall be obtained from any lottery office and present the completed form, together with the disputed ticket to the director.

(iii) If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(iv) Where the director deems the claimant entitled to payment and the claimant could not obtain payment from the retailer, the director may pay the prize to the claimant and the lottery shall be entitled to reimbursement from the selling retailer.

(b) The prizes shall be paid during all normal business hours of the selling retailer. The retailer shall not charge the claimant any fee for payment of the prize or for cashing a business check drawn on the retailer's account.

(c) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

NEW SECTION

WAC 315-40-040 CONFIDENTIALITY OF TICKETS. No lottery retailer or its employees or agent shall attempt to ascertain the numbers or symbols appearing in the designated areas under the removable latex coverings or otherwise attempt to identify winning tickets.

NEW SECTION

WAC 315-40-050 OFFICIAL END OF GAME.

(1) The director shall announce the official end of each paper scratch game. A player may submit a winning ticket to the lottery retailer from whom the ticket was purchased up to one hundred eighty days after the official end of the game.

(2) A lottery retailer may continue to sell tickets for each paper scratch game up to fourteen days after the official end of that game.

NEW SECTION

WAC 315-40-060 TICKET VALIDATION REQUIREMENTS. (1) To be a valid Washington state lottery paper scratch game ticket, a ticket must meet all of the following validation requirements.

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

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

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

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

(e) The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) The ticket must have exactly one play symbol and exactly one caption under each of the rub-off spots, and exactly one pack-ticket number. They must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) The ticket must pass all additional confidential validation requirements established by the director.

(2) Any ticket not passing all the validation requirements in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

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

NEW SECTION

WAC 315-40-070 RETAILER SETTLEMENT.

(1) Each retailer licensed with the lottery after May 31, 1991, to sell any lottery product shall establish an account for deposit of moneys derived from paper scratch game sales with a financial institution that has the capability of electronic funds transfer (EFT). Funds generated from the sale of paper scratch tickets shall be held in trust by the retailer for the lottery.

(2) Each retailer required to establish an account pursuant to this section shall make deposits periodically

to that account sufficient to cover moneys due the lottery. The director shall specify the days on which moneys due shall be withdrawn by EFT. Moneys not deposited by a specified day of withdrawal shall be overdue and delinquent.

NEW SECTION

WAC 315-40-080 PAPER SCRATCH TICKET PURCHASE PRICE. The lottery retailer's purchase price for each pack of paper scratch tickets shall be the retail price of the pack, less the value of all prizes in the pack and any discount authorized by WAC 315-04-190.

NEW SECTION

WAC 315-41-50100 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 501 ("JACKPOT").

(1) Play symbols: The following are the "play symbols": "♠"; "○"; "👞"; "🔔"; "🌀"; "👑"; "👑"; "👑"; "👑"; "👑"; "👑"; "👑". One of these play symbols appears in each of the nine play spots in the playfield under the scratch-off material covering the game play data on the back of the ticket. The nine play spots shall be arranged in three rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 501, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
♠	CHRY
○	ORNG
👞	SHOE
🔔	BELL
🌀	CLVR
👑	LEMN
👑	CRWN
👑	BARR
👑	FISH

(3) Pack-ticket number: The eleven-digit number of the form 50100001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 501 constitute the "pack number" which starts at 50100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 501, the retailer verification codes are three-letter codes,

with each letter appearing in a varying three of six locations among the play symbols on the back of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
HAF	\$.50
ONE	\$ 1.00 (\$.50 and \$.50)
TWO	\$ 2.00
TEN	\$ 10.00
TWF	\$ 25.00





(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-41-50110 CRITERIA FOR PAPER SCRATCH GAME NUMBER 501. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

(a) The bearer of a ticket having three identical play symbols in the same game (horizontal row) shall win the prize which corresponds with that set of identical play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of identical play symbols and its corresponding prize.

- Three  play symbols - Win \$.50
- Three  play symbols - Win \$ 2.00
- Three  play symbols - Win \$ 10.00
- Three  play symbols - Win \$ 25.00

(b) The bearer of a ticket having winning play symbols in more than one game (horizontal row) shall win the total amount of the prizes won in each game.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 501 set forth in WAC 315-41-50120, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Paper Scratch Game Number 501; and/or

(b) Vary the number of tickets sold in Paper Scratch Game Number 501 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-41-50120 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 501. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 501, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the nine rub-off spots on the back of the ticket under the latex covering.

(b) Each of the nine play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:











Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50100(1) and each of the captions must be exactly one of those described in WAC 315-41-50100(2).

(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-41-50200 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 502 ("LUCKY CHARM"). (1) Play symbols: The following are the "play symbols": "  "; "  "; "  "; "  "; "  "; "  "; "  "; "  "; "  "; and "  ". One of these play symbols appears in each of the twelve play spots in the playfield under the scratch-off material covering the game play data on the back of the ticket. The twelve play spots shall be arranged in four rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 502, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	GOLD
	SHOE
	FOOT
	CLVR
	STAR
	BELL
	FIRE
	BONE
	PIGG
	BOOT

(3) Pack-ticket number: The eleven-digit number of the form 50200001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 502 constitute the "pack number" which starts at 50200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 502, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the back of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
HAF	\$.50
ONE	\$ 1.00
FIV	\$ 5.00
FIF	\$50.00

(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-41-50210 CRITERIA FOR PAPER SCRATCH GAME NUMBER 502. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

The bearer of a ticket having the following designated prize symbols in one game (horizontal row) shall win the prize which corresponds with that set of designated play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of designated play symbols and its corresponding prize.

Three	play symbols	- Win \$.50
Three	play symbols	- Win \$ 1.00
Three	play symbols	- Win \$ 5.00
Three	play symbols	- Win \$ 50.00

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 502 set forth in WAC 315-41-50220, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Paper Scratch Game Number 502; and/or

(b) Vary the number of tickets sold in Paper Scratch Game Number 502 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-41-50220 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 502. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 502, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the twelve rub-off spots on the back of the ticket under the latex covering.

(b) Each of the twelve play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50200(1) and each of the captions must be exactly one of those described in WAC 315-41-50200(2).












(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-41-50300 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 503 ("JACKS-BETTER"). (1) Play symbols: The following are the "play symbols": ""; ""; ""; ""; ""; ""; ""; ""; ""; ""; ""; "". One of these play symbols appears in each of the twelve play

spots in the playfield under the scratch-off material covering the game play data on the back of the ticket. The twelve play spots shall be arranged in four rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 503, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	JACK
	CLUB
	SPAD
	HART
	DMND
	CARR
	CHRY
	CRWN
	KEYE
	CATT
	PIGG

(3) Pack-ticket number: The eleven-digit number of the form 50300001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 503 constitute the "pack number" which starts at 50300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 503, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the back of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
HAF	\$.50
ONE	\$ 1.00
TWO	\$ 2.00
TEN	\$ 10.00
FIF	\$ 50.00










(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-41-50310 CRITERIA FOR PAPER SCRATCH GAME NUMBER 503. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

The bearer of a ticket having the following designated prize symbols in one game (horizontal row) shall win the prize which corresponds with that set of designated play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of designated play symbols and its corresponding prize.

- Two  and one  symbols - Win \$.50
- Two  and one  symbols - Win \$ 1.00
- Two  and one  symbols - Win \$ 2.00
- Two  and one  symbols - Win \$10.00
- Three  symbols - Win \$50.00

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 503 set forth in WAC 315-41-50320, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Paper Scratch Game Number 503; and/or
- (b) Vary the number of tickets sold in Paper Scratch Game Number 503 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-41-50320 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 503. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 503, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the twelve rub-off spots on the back of the ticket under the latex covering.

(b) Each of the twelve play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50300(1) and each of the captions must be exactly one of those described in WAC 315-41-50300(2).

(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

WSR 92-03-049
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-365, Docket No. UT-911238—Filed January 10, 1992,
4:50 p.m.]

In the matter of adopting WAC 480-120-340 relating to obligations of local exchange telecommunications companies concerning enhanced 911 services.

This action is taken pursuant to Notice No. WSR 91-22-102 filed with the code reviser on November 6, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement that statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-22-102 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, December 11, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to December 2, 1991, and orally at 9:00 a.m., Wednesday, December 11, 1991, in the commission's hearing room above noted. The matter was set over to December 18, 1991.

The commission considered the rule change proposal. Written comments were received from: Chris Fischer for Valley Community Center; Norm Angelo for City of Kent; Karen Vialle for City of Tacoma; Terry Vann for Washington Independent Telephone Association; Robert Kelly for Emergency Dispatch Center; James Quackenbush for Associated Public Safety Communications Officers; Willis Tucker for Snohomish County Enhanced 9-1-1 Communications; Fred Logan for GTE Northwest Incorporated; Joe Stortini for Pierce County; and Kip Kramer for United Telephone Company of the Northwest.

Oral comments were made on December 11 and December 18, 1991, as follows: Mike Moran, Edward Shaw, and Teresa Jensen on behalf of U S WEST

Communications Inc.; Terry Vann on behalf of Washington Independent Telephone Association; Sarah Bradshaw on behalf of Associated Public Safety Communications Officers; Martin Berg on behalf of the City of Kent; Bob Denning on behalf of King County; Chuck Coons on behalf of Advanced Telecom; Glenn Harris on behalf of United Telephone Company; Noel Myhre on behalf of Pierce County; Dean Randall on behalf of GTE Northwest Incorporated; Hal Lincoln on behalf of Contel of the Northwest, Inc.; Ron Beardsley on behalf of Snohomish County; and Jim Roberts on behalf of Thurston County.

The rule change affects no economic values.

The commission's adoption of WAC 480-120-340 varies in content from the proposal noticed under WSR 91-22-102 in that the term "automatic number identification information" is changed to "appropriate number identification information" to avoid tying the commission's requirement to industry-specific terminology; the deadline for filing technology plans is extended from March 1, 1992, to May 1, 1992; the deadline to provide the capability in exchanges where E-911 service is available on the effective date of the rule is extended from July 1, 1992, to September 1, 1992; for other exchanges, the capability must be offered no later than 180 days prior to E-911 availability to allow time for notice to and action by PBX owners; the requirement for filing draft tariffs is changed to require filing of actual tariffs; and the deadline for filing tariffs and cost support is extended from March 1, 1992, to September 1, 1992.

In reviewing the entire record herein, it has been determined that WAC 480-120-340 should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-340 as set forth in Appendix A, be adopted as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order be forwarded to the code reviser for filing and recorded in the order register of the Washington Utilities and Transportation Commission pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 6th day of January, 1992.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

NEW SECTION

WAC 480-120-340 9-1-1 OBLIGATIONS OF LOCAL EXCHANGE COMPANIES. (1) Every local exchange company shall provide the capability to identify the location of individual telephone stations at private branch exchanges (PBXs) or similar equipment served by enhanced 9-1-1 service, where the PBX or similar

equipment generates and forwards appropriate number identification information, as follows:

(a) For exchanges with enhanced 9-1-1 on the effective date of this section, no later than September 1, 1992.

(b) For other exchanges, no later than one hundred eighty days prior to the date that such enhanced 9-1-1 service is available, but no earlier than September 1, 1992.

(2) No later than May 1, 1992, every local exchange company shall file with the commission a detailed plan specifying the following:

(a) The provisioning method the company has chosen to comply with the requirement in subsection (1) above, including equipment, facilities, software, or other technology, and the rationale for selecting such technology;

(b) The anticipated costs of providing the chosen provisioning method and technology.

(3) No later than September 1, 1992, every local exchange company offering 9-1-1 services shall file with the commission tariffs and supporting cost studies which specify the charges and terms for 9-1-1 services, including enhanced 9-1-1 services.

WSR 92-03-050
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-366, Docket No. T-910676—Filed January 10, 1992, 4:54 p.m.]

In the matter of adopting chapter 480-92 WAC, relating to low-level radioactive waste.

This action is taken pursuant to Notice No. WSR 91-23-109 filed with the code reviser on November 20, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and chapter 272, Laws of 1991 and is intended administratively to implement those statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-23-109 the above matter was scheduled for consideration at 9:00 a.m., Tuesday, December 31, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to December 23, 1991, and orally at 9:00 a.m., Tuesday, December 31, 1991, in the commission's hearing room above noted.

At the December 31, 1991, meeting the commission considered the rule change proposal. Written comments were received from Barry Bede on behalf of U.S. Ecology.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that chapter 480-92 WAC should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. Chapter 480-92 WAC as adopted will implement chapter 81.108 RCW (chapter 272, Laws of 1991) which gives the commission jurisdiction over sites and site operators of any low-level radioactive waste disposal sites in the State of Washington.

ORDER

WHEREFORE, IT IS ORDERED That chapter 480-92 WAC as set forth in Appendix A, be adopted as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order be forwarded to the code reviser for filing and recorded in the order register of the Washington Utilities and Transportation Commission pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 10th day of January, 1992.

Washington Utilities and Transportation Commission
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

Chapter 480-92 WAC
LOW-LEVEL RADIOACTIVE WASTE

NEW SECTION

WAC 480-92-011 APPLICATION OF THIS CHAPTER. (1) This chapter shall apply to any company operating as a low-level radioactive waste site operating company, defined as such by the laws of Washington, and which is subject to the jurisdiction of the commission.

(2) Upon proper showing of any site operator, the commission may waive or modify the provisions of any section herein except when such provisions are fixed by statute. Application for the waiver or modification of any of the rules and regulations of the commission shall be made in accordance with the following instructions.

(a) Application should be directed to the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive SW, PO BOX 47250, OLYMPIA WA 98504-7250, and should be typewritten on paper 8 1/2 by 11 inches in size.

(b) Reference must be made in a separate paragraph to each section for which modification or waiver is requested, and a full explanation given as to the reasons why such waiver or modification is desired.

NEW SECTION

WAC 480-92-021 DEFINITIONS. The definitions contained in chapter 81.108 RCW and RCW 81.04.010 are incorporated herein by this reference. To the extent that any of the definitions in this chapter differ from statutory definitions, the statutory definitions shall control.

"Commission" means the Washington utilities and transportation commission.

"Effective rate" means the highest permissible rate, calculated as the lowest contract rate plus an administrative fee, if applicable, determined pursuant to RCW 81.108.040.

"Extraordinary volume" means volumes of low-level radioactive waste delivered to a site caused by nonrecurring events, outside normal operations of a generator, that are in excess of twenty thousand cubic feet or twenty percent of the preceding year's total volume at such site, whichever is less.

"Extraordinary volume adjustment" means a mechanism that allocates the potential rate reduction benefits of an extraordinary volume between all generators and the generator responsible for such extraordinary volume as described in RCW 81.108.070.

"Generator" means a person, partnership, association, corporation, or any other entity whatsoever that, as a part of its activities, produces low-level radioactive waste.

"Inflation adjustment" means a mechanism that adjusts the maximum disposal rate by a percentage equal to the change in price levels in the preceding period, as measured by a common, verifiable price index as determined in RCW 81.108.040.

"Initial rate proceeding" means the proceeding described in RCW 81.108.040.

"Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

"Maximum disposal rate" means the rate described in RCW 81.108.050.

"Site" means a location, structure, or property used or to be used for the storage, treatment, or disposal of low-level radioactive waste for compensation within the state of Washington.

"Site operator" means a low-level radioactive waste site operating company, which includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

"Volume adjustment" means a mechanism that adjusts the maximum disposal rate in response to material changes in volumes of waste deposited at the site during the preceding period so as to provide a level of total revenues sufficient to recover the costs to operate and maintain the site.

NEW SECTION

WAC 480-92-031 ACCOUNTS—UNIFORM SYSTEM ADOPTED—RECORDS. (1) Each site operator shall conform its accounting system to the "Uniform System of Accounts for Low Level Disposal Site Operators" dated January 1, 1992. A copy of that document is available at the headquarters office of the commission and shall be available from the commission upon request.

(2) Each site operator shall maintain complete records of the disposal service provided to each customer, showing for each and every customer the amount billed, the type of service provided, the dollar amounts collected and the balance due. Each site operator shall maintain customer records in such a way that the service and the rates and charges are easily identifiable in accordance with rates set for the site operator. Records must be kept on file at the office of the site operator at the disposal site, and in any other place as may be approved by the commission, for a period of at least three years.

NEW SECTION

WAC 480-92-050 SEMIANNUAL REPORTS. Each site operator shall file semiannual reports reporting the results of operations for the site. These reports shall cover the period from January through June and from July through December. Reports shall be filed on forms provided by the commission, and submitted no later than sixty days after the end of the period for which the report is submitted. The first such report shall cover the period from July to December 1992.

NEW SECTION

WAC 480-92-060 INITIAL RATE FILING—FORM—NOTICE. (1) No later than March 1, 1992, site operators shall file a request with the commission to establish an initial maximum disposal rate. The request shall be in the form of a petition. An original and twenty copies shall be filed with the commission.

(2) The petition shall set out the proposed maximum disposal rate; the proposed inflation, volume, and extraordinary volume adjustments; the proposed administrative fee for small volumes pursuant to RCW 81.108.040(5); and a proposed method for determining the cost to receive and handle extraordinary volumes of waste pursuant to RCW 81.108.070(1).

(3) The filing shall include, at a minimum, testimony, exhibits, work papers, summaries, annual reports, cost studies, proposed tariffs, and any other information necessary to determine a maximum disposal rate and to support the proposed rates, fees, adjustments, and costs.

(4) Within five days after filing the request with the commission, the site operator shall notify all customers who ship or deliver waste to the site that a request has

been filed with the commission. Notice shall be mailed to any customer who has paid for disposal of waste at the site within three years prior to the filing of the request. The notice shall include a statement of the site operator's proposed maximum disposal rate and shall include the address of the commission, with a statement that more detailed information may be obtained by writing to the commission.

(5) Hearings before the commission on the rates, charges, and methods contained in the petition shall be conducted in accordance with chapter 480-09 WAC.

(6) Once approved, the maximum disposal fee shall become the highest disposal fee the site operator may charge customers.

NEW SECTION

WAC 480-92-070 SEMIANNUAL ADJUSTMENTS TO MAXIMUM DISPOSAL FEE—FILING—NOTICE. (1) After January 1, 1993, site operators may file for adjustments to the maximum disposal fee for reasons set forth in RCW 81.108.050(3). Inflation and volume adjustments must be filed to become effective in January or July and must allow for thirty days from the date of filing to become effective. The commission may allow filings to become effective in less than thirty days.

(2) A site operator may also file for adjustments to the maximum disposal fee at any time for reasons set forth in RCW 81.108.050(4).

(3) In all filings for a change in the maximum disposal fee, the site operator shall provide its customers with notice of the filing as required for the initial rate filing under this chapter.

NEW SECTION

WAC 480-92-080 CONTRACTS. (1) A site operator may contract with any person to provide a contract disposal rate lower than the maximum disposal rate. Each such contract shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the commission. Upon application and for good cause shown, the commission may approve the contract as of its effective date prior to the date that the contract would have become effective in accordance with this section.

(2) Each contract filed for commission approval shall be accompanied by such documentation as may be necessary to show that the contract does not result in discrimination among customers receiving like and contemporaneous service under substantially similar circumstances, and provides for the recovery of all costs associated with the provision of the service; provided, that discrimination between customers is not present to the extent a site operator charges small volume customers an administrative fee determined according to RCW 81.108.040(5). The site operator shall file the following information in conjunction with each contract submitted for commission approval:

(a) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge;

(b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract; and

(c) A statement indicating the basis for the use of a contract rather than a filed tariff for the specific service involved.

(3) All contracts shall be for a stated time period. The commission may approve terms and conditions which prescribe the rate or rates to be applied during the time period, if such rates are found to be appropriate. Unless otherwise provided by the commission, such approval shall not be determinative with respect to the expenses and revenues of the site operator for subsequent rate-making considerations.

(4) Every contract filed shall contain the provision that it is made subject to the power and authority of the commission to fix, alter, and amend just, fair, and reasonable classifications, rules and regulations, and rates for low-level radioactive waste disposal site operators.

NEW SECTION

WAC 480-92-090 COMPLAINT PROCEDURES. (1) Complaints against a site operator shall be made by letter to the commission. The complainant shall send a copy of the complaint to the site operator by registered mail.

(2) A complaint shall include the dates of acts or omissions complained against, the relevant statutes or rules, and other information essential to disposition of the complaint.

(3) The commission encourages alternate forms of dispute resolution to resolve disputes between the site operator and any other person. In order to resolve disputes informally, the voluntary settlement procedures of WAC 480-09-465 may be used to resolve complaints brought before the commission.

NEW SECTION

WAC 480-92-100 TARIFFS. (1) Every site operator shall file with the commission, and post at the company's main office at the disposal site, its tariff showing all rates and charges, including all accessorial charges, for the disposal of low-level radioactive waste.

(2) Two copies of all such tariffs shall be transmitted to the commission with a letter of transmittal in duplicate.

(3) Tariffs shall be typed or printed on 8 1/2 by 11 inch paper and shall be paginated. A margin of not less than five-eighths of an inch must be left on all four sides for binding.

(4) Tariffs shall consist of at least the following:

(a) A title page which identifies the name of the company issuing the tariff, date of issue and date effective, name, title and street address of tariff publishing officer by whom the tariff or supplement is issued.

(b) A general rules section that contains all rules and regulations governing how and in what manner rates and charges shall be assessed by the company.

(c) A section that names all rates and charges that shall be assessed by the company.

(d) A page listing all abbreviations and symbols used in the tariff, and containing an explanation of said abbreviations and symbols.

NEW SECTION

WAC 480-92-110 PENALTY ASSESSMENTS. In addition to all other penalties provided by law, every site operator and every officer, agent, or employee of every such company who violates or procures, aids, or abets in the violation of any law, rule, regulation, or commission decision applicable to such company shall incur a penalty of up to one thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense, and in the case of a continuing violation every day's continuance shall be deemed to be a separate and distinct violation.

WSR 92-03-051
PERMANENT RULES
DEPARTMENT OF
COMMUNITY DEVELOPMENT
[Filed January 13, 1992, 8:47 a.m.]

Date of Adoption: August 6, 1991.

Purpose: Provides amendments to bring the current WAC up-to-date with changes in chapters 197-10 and 197-11 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 399-40-020.

Statutory Authority for Adoption: RCW 43.155.040(4).

Pursuant to notice filed as WSR 91-14-092 on July 2, 1991.

Effective Date of Rule: Thirty-one days after filing.
January 13, 1992
Pete A. Butkus
Public Works Manager

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

WAC 399-40-020 STATEMENT. Pursuant to WAC ((197-10-800)) 197-11-800(16), the public works board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter ((197-10)) 197-11 WAC.

WSR 92-03-052
PERMANENT RULES
DEPARTMENT OF
COMMUNITY DEVELOPMENT
[Filed January 13, 1992, 9:00 a.m.]

Date of Adoption: August 6, 1991.

Purpose: WAC 399-30-030 Loan and financing guarantee applications, provides for increased clarity in basic application requirements, eligible costs, and information

requested from applicants; WAC 399-30-040 Application evaluation procedure and board deliberations, provide for the assignment of rating points to specific numbered sections of the application. These amendments are necessary to make the WAC match the current application; WAC 399-30-042 Application evaluation procedure and board deliberations—Capital planning support, provide for changes in how the Public Works Board will review capital planning support applications. These amendments are necessary to make the WAC match the current application; WAC 399-30-045 Emergency loan program, provide for increased clarity in the emergency loan program. These amendments are necessary to make the WAC match current board policy; WAC 399-30-050 Recommendations to the legislature, deletes obsolete language; WAC 399-30-060 Loan and financing guarantee contracts, provides for clarification in loan and financing guarantee contracts. These amendments are necessary to make the WAC match current board policy; and WAC 399-30-065 Emergency loan and financing guarantee contracts, provides for clarification in emergency loan and financing contracts. These amendments are necessary to make the WAC match current board policy.

Citation of Existing Rules Affected by this Order: Amending WAC 399-30-030, 399-30-040, 399-30-042, 399-30-045, 399-30-050, 399-30-060, and 399-30-065.

Statutory Authority for Adoption: RCW 43.155.040(4).

Pursuant to notice filed as WSR 91-14-093 on July 2, 1991.

Effective Date of Rule: Thirty-one days after filing.
January 13, 1992
Pete A. Butkus
Public Works Manager

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

WAC 399-30-030 LOAN AND FINANCING GUARANTEE APPLICATIONS. (1) Applications for loans and/or financing guarantees to assist in the financing of critical public works projects may be made by any local government in the state of Washington.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under ((chapter 82.46)) RCW 82.46.010 at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package; and

(c) Applicant local governments must be using all local revenue sources that are reasonably available for funding public works, taking into consideration local employment and economic factors.

(3) Direct costs eligible for public works loans are those costs which are directly attributable to a specific project and shall include:

(a) Direct labor (engineering and/or construction) including related employee benefits:

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government

employees (excluding the administrative organization of the operating unit involved) for periods of time, actively or incidentally engaged in (A) engineering, (B) acquisition of rights-of-way, (C) ~~((actual))~~ construction inspection activities. The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (A) F.I.C.A. (Social Security) – employer's share;
- (B) Retirement benefits;
- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;
- (G) Holiday;
- (H) Sick leave; and
- (I) Military leave and jury duty.

Employee benefits shall be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs shall be based upon the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- (b) Contract engineering and planning services.
- (c) Right-of-way acquisition costs including:
 - (i) Purchase of land and easements acquired for and devoted to the project;
 - (ii) Purchase of improvements;
 - (iii) Adjustment or reestablishment of improvements;
 - (iv) Salaries, expenses or fees of appraisers, negotiators or attorneys;
 - (v) Removal or demolition of improvement;
 - (vi) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals shall be a reduction of the direct cost.
- (d) Contract construction work.
- (e) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations: PROVIDED, That such costs shall be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less which may not use this type of fund shall be allowed the same rates as used by the department of transportation.

(f) Direct materials and supplies. The cost of materials used in projects shall be based upon methods prescribed for the "equipment rental and revolving fund" by the division of municipal corporations.

(i) An overhead rate or "loading factor" shall not be considered an appropriate additive to the actual cost of

materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, shall be considered a reduction of direct costs. Any material which may be salvaged in connection with a project shall be assigned a reasonable value and considered a reduction of direct costs.

(g) Interdepartmental charges for work performed by the local government ~~((s departments, other than the road or street department,))~~ for the benefit of specific construction projects shall be limited to direct costs plus an allocation of indirect costs based upon ten percent of direct labor dollars, excluding employee benefits.

(h) Other direct costs incurred for materials or services acquired for a specific project shall be eligible for participation by public works loan funds and may include, but shall not be limited to such items as:

- (i) Telephone charges;
- (ii) Reproduction and photogrammetry costs;
- (iii) Video and photography for project documentation;
- (iv) Computer usage; and
- ~~((iv))~~ (v) Printing and advertising.

(4) Applications shall be submitted to the board in writing, on such forms as may be prescribed by and obtained from the board ~~((, and shall contain but not be limited to the following information:~~

- ~~(a) Name and address of the local government making the application;~~
- ~~(b) Complete description of the public works project for which financing assistance is sought;~~
- ~~(c) Demonstration of the applicant jurisdiction's critical need for the project;~~
- ~~(d) The applicant jurisdiction's financing proposal for the proposed project;~~
- ~~(e) If the application is being made for a loan, a repayment plan;~~
- ~~(f) The number of communities to be served by the proposed project;~~
- ~~(g) Tax rates imposed by the applicant local government for taxes whose revenues can be used to finance public works projects; and~~
- ~~(h) Utility rates charged for sewerage, water, garbage, and other utilities)) for the current funding cycle.~~

(5) Any application for financial assistance submitted to the board shall be signed and verified by a responsible official of the applicant jurisdiction. Such official shall also provide the board with any additional materials or information in support of the application which the board or its staff may request.

AMENDATORY SECTION (Amending Order 88-02, filed 4/22/88)

WAC 399-30-040 APPLICATION EVALUATION PROCEDURE AND BOARD DELIBERATIONS. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) Up to thirty ~~((eight))~~ six points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions 2.01, ~~((2.02, and))~~ 2.03, 2.04, and 2.07 will be evaluated to determine this score.

(ii) Up to two points may be awarded in the evaluation of coordinated projects provided in applicant responses to question ~~((2.03))~~ 2.04.

(iii) Up to two points may be awarded in the evaluation of projects which increase the potential for local economic activities in communities that have low economic growth (question 2.05).

(iv) Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making ~~((a))~~ reasonable local management efforts to meet its public works needs. Responses to questions 4.01 through ~~((4.19))~~ 4.161 will be evaluated to determine this score.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board ~~((will then))~~ may adjust the ranked list in consideration of the following factors:

- (i) Geographical balance;
- (ii) Economic distress;
- (iii) Type of projects;
- (iv) Type of jurisdiction;
- (v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) The board will not accept oral testimony from any applicant while deliberating loan priorities, other than information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects ~~((on the list recommended))~~ submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

AMENDATORY SECTION (Amending Order 88-03, filed 8/22/88)

WAC 399-30-042 APPLICATION EVALUATION PROCEDURE AND BOARD DELIBERATIONS—CAPITAL PLANNING SUPPORT. (1) The

board will consider and ~~((prioritize))~~ approve, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) All applications will be evaluated ~~((and prioritized))~~ in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of applications which meet the requirements of WAC 399-30-030(2) ~~((Applications will be scored according to the number of points awarded for responses provided in the application. Up to one hundred points may be awarded in the evaluation of each application. Questions 12 through 15, 18 and 19 will be evaluated to determine this score))~~ to determine if the application is consistent with the policies contained in the capital planning support loan application.

(d) ~~((Staff will provide the board with preliminary evaluation and scoring of applications.))~~ Those applications found to be consistent with board policies may be recommended to the board for funding. All application materials will be available to the board for its deliberations. The board will develop a ~~((ranked))~~ list of projects based on the information provided to it by the staff and the ~~((applicants))~~ applications.

(e) The board may then adjust the ~~((ranked))~~ list in consideration of the following factors:

- (i) Geographical balance;
- (ii) Economic distress;
- (iii) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects ~~((on the recommended list))~~ submitted for funding.

(3) Applicants will be notified in writing of board decisions.

AMENDATORY SECTION (Amending Order 89-01, filed 4/28/89)

WAC 399-30-045 EMERGENCY LOAN PROGRAM. This section implements RCW 43.155.060 as amended in 1988 to provide that: The board may make low-interest or interest free loans to local governments for emergency public works projects. The emergency loan program is to financially assist eligible communities experiencing the loss of critical public works services or facilities due to an emergency, and that can demonstrate a substantial fiscal need ~~((as reflected in the lack of local budget resources or other funds reserved for this purpose)).~~

(1) Eligible local governments. Applicants must meet the conditions as identified under WAC 399-30-030(2).

(2) Eligible uses of funds. Financial assistance received shall be used for the purpose of restoring the services and/or repair of the public works facilities involved

in the emergency. Assistance provided may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following:

- (a) Federal disaster or emergency funds, including funds from the Federal Emergency Management Agency;
- (b) State disaster or emergency funds;
- (c) Insurance settlements; or
- (d) Litigation.

Reimbursement from the sources listed above shall be made to the department and shall remain ~~((in))~~ an obligation of the assisted local government up to four years after the date of formal project closeout with the department. Local governments receiving funds shall undertake efforts to be reimbursed in a timely manner. Further, that assistance will be offered only for those eligible costs identified in WAC 399-30-030(3).

(3) Availability of funds. Funding will be made available on a first-come first-served basis. Only those funds specifically appropriated by the legislature from the public works assistance account shall be used to make emergency loans. That amount shall not exceed five percent of the total amount appropriated from this account in any biennium.

(4) Application process. The application process shall be in writing on such forms or format as may be prescribed and obtained from the board. The date and time of receipt of the application by the board designated representative shall determine the sequence for application processing.

(5) Board deliberations—Emergency loan applications.

(a) The board will consider and approve or disapprove all eligible applications for emergency financial assistance at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(b) All applications will be accepted, evaluated, and prioritized in accordance with the following procedures:

(i) Applications will be accepted only when emergency funding is available.

(ii) Staff will review applications and verify that the applicant is eligible for assistance as set forth in RCW 43.155.070(1).

(iii) Staff will provide the board an evaluation of whether an emergency loan is needed based upon the information documented by the applicant and staff.

(iv) Site visits to the location of the emergency public works project will be carried out at the discretion of the board or staff.

(6) Loan terms. The board shall determine the term and interest rate(s) of emergency loans annually.

(7) Exceptions to public works trust fund policies and procedures. Except as provided in this chapter or specified in annual program guidelines, the emergency program shall follow all general administrative program policies as set for the public works trust fund.

AMENDATORY SECTION (Amending Order 89-01, filed 4/28/89)

WAC 399-30-050 RECOMMENDATIONS TO THE LEGISLATURE. (1) Prior to November 1, 1986, and in each subsequent year, the board shall develop and submit to the ways and means committees of the senate and house of representatives a prioritized list of projects which the board recommends for funding by the legislature. ~~((In the board's first year of operation, the board shall submit this list to the ways and means committees by February 1, 1986.))~~

(2) In addition to the requirements of RCW 43.155.070(4), the list will include such supporting material as the board considers necessary to meet the purposes of this chapter.

(3) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under this program as provided in RCW 43.155.070(4), as amended in 1988, and identified in RCW 43.155.065.

AMENDATORY SECTION (Amending Order 88-08, Resolution No. 86-12, filed 11/22/88)

WAC 399-30-060 LOAN AND FINANCING GUARANTEE CONTRACTS. (1) The board shall not sign loan agreements or otherwise financially obligate funds from the public works assistance account until the list and accompanying appropriation are approved by the legislature.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: **PROVIDED**, That the amount loaned to a local government shall not exceed ninety percent of eligible proposed project cost: **PROVIDED FURTHER**, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues and/or federal and/or state-shared revenues subject to discretionary allocation by the recipient unit of local government: **PROVIDED FURTHER**, That the interest rate and local share requirements for loans shall ((not exceed three percent per annum: **PROVIDED FURTHER**, That loans may be provided at rates of lower than three percent but greater than one percent if the local government participates to a greater extent than ten percent in financing the project receiving a trust fund loan)) be determined annually by the board: **PROVIDED FURTHER**, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. ~~((Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.))~~

(3) Public works project loan and/or financing guarantee agreements offered to local governments shall be formally executed by the local government and the department of community development prior to the disbursement of any funds thereunder.

(4) Public works project loan and/or financing guarantee scope of work forms shall be completed and returned to the department of community development by the local government within ninety days of the date a scope of work form request is initiated.

(5) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must commence prior to October 1 of the year in which the loan or financing guarantee is offered.

(7) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within ~~((twenty-four))~~ thirty months of the date ~~((work has begun on such projects))~~ of loan execution, unless a written request for extension is approved by the board.

(8) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account. Such funds may be used by the local government as an element in its required local participation in a project financed by the public works assistance account provided they are used for activities eligible under WAC 399-30-030 and are consistent with the executed loan agreement.

AMENDATORY SECTION (Amending Order 89-01, filed 4/28/89)

WAC 399-30-065 EMERGENCY LOAN AND FINANCING GUARANTEE CONTRACTS. (1) After the legislature has appropriated funds from the public works assistance account for emergency loans, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine, if any: **PROVIDED**, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues and/or federal and/or state-shared revenues subject to discretionary allocation by the recipient unit of local government: **PROVIDED FURTHER**, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. ~~((Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.))~~

(2) Public works project loan and/or financing guarantee agreements offered to local governments shall be formally executed by the local government and the department of community development prior to the disbursement of any funds thereunder.

(3) Public works project loan and/or financing guarantee scope of work forms shall be completed and returned to the department of community development by the local government within ninety days of the date a scope of work form request is initiated.

(4) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on emergency public works projects financed through loans or financing guarantees offered to local governments must commence within ~~((one hundred eighty))~~ ninety days of the date of loan execution.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twelve months of the date ~~((work has begun on such projects))~~ of loan execution, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account: **PROVIDED**, That if the local government has made a formal declaration of an emergency, eligible costs for correction of the emergency incurred from the effective date of such declaration, and approved by the public works board, will be eligible for reimbursement. Such eligible costs not reimbursed but incurred before a loan agreement is approved may be used by the local government as an element of its required local participation, if any, for the emergency public works project.

(8) All public works projects shall comply with the competitive bid requirement of RCW 43.155.060 to the extent feasible and practicable.

WSR 92-03-053

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 13, 1992, 10:51 a.m.]

Date of Adoption: January 13, 1992.

Purpose: WAC 296-14-015 is adopted to facilitate implementation of the industrial insurance labor-management cooperation program established by SSB 5374. The program was established to assist labor and management in resolving workers' compensation and return-to-work issues in a nonadversarial environment.

Statutory Authority for Adoption: SSB 5374, chapter 172, Laws of 1991.

Pursuant to notice filed as WSR 91-22-092 on November 6, 1991.

Changes Other than Editing from Proposed to Adopted Version: The following sentence added to subsection (2): "The department may assist committee interactions by providing forums for committee meetings."

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

January 13, 1992

Joseph A. Dear

Director

NEW SECTION

WAC 296-14-015 INDUSTRIAL INSURANCE LABOR-MANAGEMENT COOPERATION PROGRAM. (1) In accordance with authority contained in SSB 5374, the industrial insurance labor-management cooperation program is established within the industrial insurance division of the department to nurture and support efforts by labor and management throughout the state to cooperatively address issues specific to the industrial insurance system and its operation in a local area or industry. The program is dedicated to assisting labor and management in forming committees to help injured workers with industrial insurance claim problems, speedy recovery, and return to employment. The department will assist and facilitate, but not dominate, the committees' functions. The ultimate goal of this program is the creation of safer workplaces and a better working environment for all employees. To achieve this goal, the department's actions will include, but not be limited to:

(a) Hiring a coordinator to establish and implement the program.

(b) Developing a marketing strategy to assist in the development of the program.

(c) Contacting interested businesses, agencies, and labor organizations to participate in the program.

(d) Continuing efforts with existing committees established prior to passage of SSB 5374 to ensure continued success.

(e) Developing an agency protocol that will include, but not be limited to:

(i) A marketing package.

(ii) A vehicle for measuring program results.

(iii) A communications network to disseminate news, events, and highlights of the program.

(2) Established committees will be encouraged to meet and interact at local, regional, and state-wide levels. The department may assist committee interactions by providing forums for committee meetings.

(3) The department will report quarterly to the workers' compensation advisory committee and annually to the legislature on the progress and status of the program as long as the program is legislatively authorized.

WSR 92-03-054
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
(Board of Natural Resources)
 [Memorandum—January 9, 1992]

NOTICE OF CHANGE OF REGULARLY SCHEDULED
 MEETING

The Board of Natural Resources meeting regularly scheduled for Tuesday, February 4, 1992, has been re-scheduled to be held Wednesday, February 12, 1992, at 9:00 a.m. in the Brouillet Conference Room, Old Capitol Building, Olympia, Washington.

WSR 92-03-055
PROPOSED RULES
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY

[Filed January 13, 1992, 12:42 p.m.]

Continuance of WSR [91-20-001].

Title of Rule: Policies, operations and procedures.

Other Identifying Information: WAC 178-01-010.

Date of Intended Adoption: March 27, 1991 [1992].

January 9, 1992

Jerry A. Viscione

Board Member

CHAPTER 178-01 WAC
 POLICIES

NEW SECTION

WAC 178-01-010 OPERATIONS AND PROCEDURES. (1) Uniform procedure rules: Practice and procedure in and before the authority are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may add from time to time. The authority reserves the rights to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.

(2) Officers: The authority shall have the following officers each of whom are members of the board:

(a) Chair, who shall be designated by the governor,

(b) Vice chair, who shall be elected by a majority of a quorum of the authority,

(c) Secretary, who shall be the treasurer of the state of Washington, an ex-officio member of the board.

(3) Authority meetings: The meetings of the authority shall be "regular meetings" as these designations are defined in chapter 42.30 RCW. They may be called at any time and place by the chair or a majority of the members of the authority. At least 24 hours notice of all special meetings shall be given by delivering personally or by mail to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chairman, and by giving such notice to the public as may be required by law. An executive session may be called by the chairman or by a majority of all members of the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110.

(4) Quorum: Ten members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter.

(5) Chair's voting rights: The chair shall have the right to vote on all matters before the authority, just as any other authority member.

(6) Minutes of meetings: Minutes shall be kept of the proceedings of the authority.

(7) Rules of order: The authority shall generally follow Robert's Rules of Order, newly revised, in conducting its business meetings.

(8) Form of authority action: The authority shall act on the basis of a resolution when authorizing issuance of bonds pursuant to RCW 43.163.130 and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for providing financing for an applicant. Such resolutions shall be adopted upon the affirmative vote of a majority of a quorum of the members of the authority and shall be signed by the secretary. In all other instances the authority may act on the basis of a motion. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting.

(9) Public participation in the meetings of the authority shall be allowed at the discretion of the chair who may recognize anyone in the audience who indicates a desire to speak at such meeting, provided that remarks by any individual person shall be limited to an amount of time granted by the chair.

WSR 92-03-056
EMERGENCY RULES
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY
 [Filed January 13, 1992, 1:52 p.m.]

Date of Adoption: August 16, 1991.

Purpose: Establishment of the officers of the board of the authority, operation of meetings, voting requirements at meetings, authority for official actions of the board, public participation in meetings, and recordkeeping.

Statutory Authority for Adoption: RCW 43.163.100(18).

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 rules are necessary to permit the issuance of revenue bonds for economic development which the legislature has determined are essential for the preservation of the health, safety and welfare of all Washington citizens. A bond resolution has been brought before the board.

Effective Date of Rule: Immediately.

January 9, 1992
 Jerry A. Viscione
 Board Member

CHAPTER 178-01 WAC
POLICIES

NEW SECTION

WAC 178-01-010 OPERATIONS AND PROCEDURES. (1) *Uniform procedure rules: Practice and procedure in and before the authority are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may add from time to time. The authority reserves the rights to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.*

(2) *Officers: The authority shall have the following officers each of whom are members of the board:*

- (a) *Chair, who shall be designated by the governor,*
- (b) *Vice chair, who shall be elected by a majority of a quorum of the authority,*
- (c) *Secretary, who shall be the treasurer of the state of Washington, an ex-officio member of the board.*

(3) *Authority meetings: The meetings of the authority shall be "regular meetings" as these designations are defined in chapter 42.30 RCW. They may be called at any time and place by the chair or a majority of the members of the authority. At least 24 hours notice of all special meetings shall be given by delivering personally or by mail to each member a written notice specifying the time and place of the meeting and a copy of the agenda*

prepared by the executive director in consultation with the chairman, and by giving such notice to the public as may be required by law. An executive session may be called by the chairman or by a majority of all members of the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110.

(4) *Quorum: Ten members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter.*

(5) *Chair's voting rights: The chair shall have the right to vote on all matters before the authority, just as any other authority member.*

(6) *Minutes of meetings: Minutes shall be kept of the proceedings of the authority.*

(7) *Rules of order: The authority shall generally follow Robert's Rules of Order, newly revised, in conducting its business meetings.*

(8) *Form of authority action: The authority shall act on the basis of a resolution when authorizing issuance of bonds pursuant to RCW 43.163.130 and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for providing financing for an applicant. Such resolutions shall be adopted upon the affirmative vote of a majority of a quorum of the members of the authority and shall be signed by the secretary. In all other instances the authority may act on the basis of a motion. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting.*

(9) *Public participation in the meetings of the authority shall be allowed at the discretion of the chair who may recognize anyone in the audience who indicates a desire to speak at such meeting, provided that remarks by any individual person shall be limited to an amount of time granted by the chair.*

WSR 92-03-057
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
 [Memorandum—January 10, 1992]

In accordance with the requirements of RCW 42.30.075, listed below is the regular meeting schedule of the board of trustees of Shoreline Community College, District Number Seven for 1992.

All regular meetings of the board commence at 8:00 a.m. and are held in the board room of the administration building on the college campus, 16101 Greenwood Avenue North.

Friday	January 17, 1992
Friday	February 21, 1992
Friday	March 20, 1992
Friday	April 17, 1992
Friday	May 15, 1992
Friday	June 19, 1992
Friday	July 17, 1992
Friday	August 21, 1992

Friday September 18, 1992
 Friday October 16, 1992
 Friday November 29, 1992
 Friday December 18, 1992

WSR 92-03-058
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Strawberry Commission)
 [Memorandum—January 9, 1992]

The Washington Strawberry Commission plans to hold a meeting on December 3, 1992, at the Puyallup experiment station starting at 9:00.

WSR 92-03-059
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—January 13, 1992]

BOARD OF TRUSTEES
 REGULAR MEETING
 BUILDING G - 9 A.M.
 JANUARY 16, 1992

In keeping with RCW 42.30.110, the board of trustees will convene an executive session for one hour to review professional negotiations and personnel matters. Action may be taken, if necessary, as a result of items discussed in the executive session.

WSR 92-03-060
RULES COORDINATOR
SKAGIT VALLEY COLLEGE
 [Filed January 13, 1992, 2:20 p.m.]

This is notice that the rules coordinator for Skagit Valley College is Dr. Wally Sigmar. The address for the office is: Dr. Wally Sigmar, Dean, Administrative and Student Services, Skagit Valley College, 2405 College Way, Mt. Vernon, WA 98273, phone (206) 428-1180, 542-1180 scan.

Dr. James M. Ford
 President

WSR 92-03-061
MARITIME COMMISSION
 [Filed January 13, 1992, 5:00 p.m.]

At the regular commission meeting in December, attended by representatives of the Washington State Department of Ecology and the Oregon State Department of Environmental Quality, a cooperative approach to oil spill contingency planning by vessels transiting the portion of the Columbia River which runs between the two states was agreed upon.

As a consequence, the commission unanimously adopted a resolution that its assessments on vessels operating on that portion of the Columbia River be deferred beyond January 1, 1992, until such time as the commission deems that assessments should be commenced if contingency planning now under way in Oregon is not favorable. In short, the effective date set forth in the last sentence of WAC 318-030 [318-04-030] has been indefinitely deferred pending further commission action.

Please make the deferred effective date of Columbia River assessments a part of the Commission's official file.

Richard W. Buchanan
 Rules Coordinator

WSR 92-03-062
WITHDRAWAL OF PROPOSED RULES
BOARD OF ACCOUNTANCY
(By the Code Reviser's Office)
 [Filed January 14, 1992, 8:05 a.m.]

WAC 4-25-190, proposed by the Board of Accountancy in WSR 91-14-090, appearing in issue 91-14 of the State Register, which was distributed on July 17, 1991, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 92-03-063
WITHDRAWAL OF PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
(By the Code Reviser's Office)
 [Filed January 14, 1992, 8:07 a.m.]

WAC 392-202-110, 392-202-115 and 392-202-120, proposed by the Superintendent of Public Instruction in WSR 91-14-036, appearing in issue 91-14 of the State Register, which was distributed on July 17, 1991, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 92-03-064
PREPROPOSAL COMMENTS
DEPARTMENT OF AGRICULTURE
 [Filed January 14, 1992, 9:10 a.m.]

Subject of Possible Rule Making: Pesticide penalty matrix schedule for violations of the provisions of chapters 17.21 and 15.58 RCW.

Persons may comment on this subject in writing no later than February 26, 1992. Comments should be directed to Washington State Department of Agriculture, Pesticide Management Division, Attention Cliff Weed, P.O. Box 42589, Olympia, WA 98504-2589.

Other Information or Comments by Agency at this Time, if any: Copies of the draft rules can be obtained by calling the Pesticide Management Division at (206) 753-5062.

January 14, 1992
Art Losey
Assistant Director

WSR 92-03-065
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed January 14, 1992, 11:36 a.m.]

Original Notice.

Title of Rule: New section WAC 458-20-18601 Wholesale and retail cigarette vendor licenses.

Purpose: To implement chapter 321, Laws of 1986, which became effective July 1, 1991, due to the sunseting of chapter 286, Laws of 1957. This rule implements the licensing obligations of chapter 321, Laws of 1986 on wholesale and retail sellers and distributors of cigarettes. The provision of chapter 458-24 WAC are being repealed due to the sunseting of the Unfair Cigarette Sales Below Cost Act as provided in chapter 19.91 RCW.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: The rule will include licensing information for persons making retail and wholesale sales of cigarettes.

Reasons Supporting Proposal: The sunseting of the Unfair Cigarette Sales Below Cost Act as provided in chapter 19.91 RCW.

Name of Agency Personnel Responsible for Drafting: Robert Heller, 711 Capitol Way, #205, Olympia, (206) 753-1971; Implementation: Les Jaster, 711 Capitol Way, #205, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way, #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule explains the licensing provisions that apply to retail and wholesale vendors of cigarettes. The rule also explains the bonding requirements of wholesale cigarette vendors, and outlines the proceedings for the suspension and/or revocation of a vendor's license.

Proposal Changes the Following Existing Rules: The administrative provisions in chapter 458-24 WAC are being repealed. Portions of chapter 458-24 WAC pertaining to the administration of the cigarette licensing program are being incorporated into WAC 458-20-18601.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses.

A small business economic impact statement is not required for the following reason(s): No economic impact, this rule has no identifiable administrative costs to business; and negligible impact, this rule requires no additional action on the part of small business.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 26, 1992, at 9:30 a.m.

Submit Written Comments to: Robert Heller, Administrative Law Judge, Department of Revenue, P.O. Box 47458, FAX (206) 586-7603, Olympia, WA 98504-7458, by February 26, 1992.

Date of Intended Adoption: March 4, 1992.

January 13, 1992
Edward L. Faker
Assistant Director

NEW SECTION

WAC 458-20-18601 WHOLESALE AND RETAIL CIGARETTE VENDOR LICENSES. (1) Definitions. For purposes of this section, the following terms mean:

(a) "Wholesaler" is any person who purchases, sells, or distributes cigarettes to retailers for the purpose of resale only.

(b) "Retailer" is any person, other than a wholesaler, who purchases, sells, offers for sale or distributes cigarettes at retail and all persons operating under a retailer's registration certificate.

(c) "Place of business" is any location where business is transacted with, or sales are made to, customers. The term also includes any vehicle, truck, vessel, or the like at which sales are made.

(d) "Department" is the department of revenue.

(2) Wholesale License. Prior to the sale or distribution of cigarettes at wholesale, each wholesaler must first be issued a wholesale cigarette license from the department of licensing.

(a) Applications for license or renewal of license shall be made on forms supplied by the department of licensing and shall be accompanied by the annual license fee of \$650. A wholesale cigarette license shall be valid for one year from the date of issuance.

(b) If the wholesaler sells, or intends to sell, cigarettes at more than one place of business, whether temporary or established, a separate license with a license fee of \$115 shall be required for each additional place of business. Each license shall be exhibited in the place of business for which it is issued.

(c) Each licensed wholesaler shall file a bond with the department of revenue in an amount determined by the department of revenue, which amount shall not be less than \$5,000. The bond shall be executed by the wholesaler as principal, and by a corporation approved by the department of licensing and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license.

(3) Retail License. Prior to the retail sale or distribution of cigarettes, each retailer must first be issued a retail cigarette license from the department of licensing.

(a) Applications for license or renewal of license shall be made on forms supplied by the department of licensing and shall be accompanied by the annual license fee of \$10. A retail cigarette license shall be valid for one year from the date of issuance.

(b) Retailers operating cigarette vending machines are required to pay an additional fee of \$1 for each such vending machine.

(4) Persons Acting as Wholesalers as Retailers. Persons may sell cigarettes both as retailers and wholesalers only if appropriate licenses are first secured for sales in both capacities. The sale of cigarettes by any person who does not possess a valid license authorizing such sale shall be considered a violation of this section.

(5) Revocation or Suspension of License. The department shall revoke or suspend the license of any wholesale or retail cigarette dealer found to have violated the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section. Upon a finding by the department of a

failure to comply with the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section, it shall:

(a) For the first offense, suspend the license or licenses of the offender for a period of not less than thirty consecutive business days;

(b) In the case of a second or multiple offense, suspend the license or licenses of the offender for not less than ninety consecutive business days nor more than twelve months;

(c) In the case of a finding that the offender is guilty of wilful and persistent violations, revoke the offender's license or licenses.

(6) Revocation or Suspension Hearing.

(a) If the department determines that a license holder has violated the provisions of chapter 82.24 RCW, WAC 458-20-186, or this section, a hearing will be scheduled to consider the license revocation or suspension of such license holder. In the event of such a determination, the department shall so notify the license holder in writing of its intent to revoke or suspend the license. Such notice shall inform the license holder of the date scheduled for hearing and shall also contain the information specified in RCW 34.05.434.

(b) Revocation or suspension hearings shall be held before the assistant director of the miscellaneous tax division or his or her designee in the department's offices in Olympia unless a different location is specified in the notice of hearing. The department shall schedule the hearing no earlier than twenty days from the date of mailing of notice of the hearing.

(c) The hearing will be conducted in accordance with the provisions of chapter 34.05 RCW (Administrative Procedure Act). Following the hearing the department shall issue a written order revoking or suspending the license or finding in favor of the license holder. The order of the department shall represent the final decision of the department and shall be binding unless the license holder files a timely petition for review with the department's interpretation and appeal division. (See WAC 458-20-100 for appeal procedures.)

(d) The license holder may seek review of any order revoking or suspending a license by filing a petition for review with the department's interpretation and appeals division within thirty days from the date of the order of revocation or suspension. The decision of the interpretation and appeals division shall represent the final position of the department and shall be binding unless timely appealed.

(e) Appeals from orders of the department revoking or suspending a license may be appealed to the superior court of Thurston County.

(7) Reinstatement of License.

(a) Any person whose license or licenses have been revoked may apply to the department of revenue at the expiration of one year for a reinstatement of the license or licenses. The license or licenses may be reinstated by the department if it appears to the satisfaction of the department that the license holder will comply with the provisions of chapter 82.24 RCW, WAC 458-20-186, and this section.

(b) Application for reinstatement is to be made to the miscellaneous tax division of the department. Upon receipt of an application for reinstatement of license, the department shall schedule a hearing for consideration of the application and shall notify the applicant of the date and time of the hearing. Such notice shall be sent at least twenty days prior to the date set for the hearing.

(c) Hearings for consideration of reinstatement of a license shall be conducted as provided in subsection (6) of this section. Any applicant whose petition for reinstatement is denied may file a petition for review as provided in subsection (6)(d) of this section or appeal the denial to the superior court of Thurston County.

WSR 92-03-066

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed January 14, 1992, 11:38 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-105 Employees distinguished from persons engaging in business.

Purpose: To implement chapter 324, Laws of 1991, which includes certain persons licensed under chapter 18.16 RCW within the definition of "engaging in business"; and to cross reference amendments to WAC 458-20-164 which implement chapter 275, Laws of 1991.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: To include certain persons licensed under chapter 18.16 RCW (cosmetologists, barbers, manicurists, etc.) within the definition of "engaging in business" under RCW 82.04.150; and to cross reference amendments to WAC 458-20-164 (insurance agents, brokers and solicitors) which expands the definition of "employee" under RCW 82.04.360 to include full-time life insurance agents.

Reasons Supporting Proposal: To expand the definition of employees.

Name of Agency Personnel Responsible for Drafting: Robert Heller, 711 Capitol Way, #205, Olympia, (206) 753-1971; Implementation: Les Jaster, 711 Capitol Way, #205, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way, #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides tax reporting information to persons engaged in the business of selling life insurance and persons licensed under chapter 18.16 RCW (cosmetologists, barbers, manicurists, etc.) The rule is amended to provide that persons who are full-time life insurance salespersons who are treated as statutory employees for federal income tax purposes will be recognized as employees for purposes of the business and occupation tax. The rule also explains when cosmetologists, barbers, manicurists and others licensed under chapter 18.16 RCW are considered engaged in business.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses.

A small business economic impact statement is not required for the following reason(s): We are not aware of any economic administrative impact on small businesses.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA on February 26, 1992, at 9:30 a.m.

Submit Written Comments to: Robert Heller, Administrative Law Judge, Department of Revenue, P.O. Box 47458, FAX (206) 586-7603, Olympia, WA 98504-7458, by February 26, 1992.

Date of Intended Adoption: March 4, 1992.

January 14, 1992
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 89-10, filed 8/1/89)

WAC 458-20-105 EMPLOYEES DISTINGUISHED FROM PERSONS ENGAGING IN BUSINESS. (1) The Revenue Act imposes taxes upon persons engaged in business but not upon persons acting solely in the capacity of employees.

(2) While no one factor definitely determines employee status, the most important consideration is the employer's right to control the employee. The right to control is not limited to controlling the result of the work to be accomplished, but includes controlling the details and means by which the work is accomplished. In cases of doubt about employee status all the pertinent facts should be submitted to the department of revenue for a specific ruling.

(3) **PERSONS ENGAGING IN BUSINESS.** The term "engaging in business" means the act of transferring, selling or otherwise dealing in real or personal property, or the rendition of services, for consideration except as an employee. The following conditions will serve to indicate that a person is engaging in business.

If a person is:

(a) Holding oneself out to the public as engaging in business with respect to dealings in real or personal property, or in respect to the rendition of services;

(b) Entitled to receive the gross income of the business or any part thereof;

(c) Liable for business losses or the expense of conducting a business, even though such expenses may ultimately be reimbursed by a principal;

(d) Controlling and supervising others, and being personally liable for their payroll, as a part of engaging in business;

(e) Employing others to carry out duties and responsibilities related to the engaging in business and being personally liable for their pay;

(f) Filing a Statement of Business Income and Expenses (Schedule C) for federal income tax purposes;

(g) A party to a written contract, the intent of which establishes the person to be an independent contractor;

(h) Paid a gross amount for the work without deductions for employment taxes (such as Federal Insurance Contributions Act, Federal Unemployment Tax Act, and similar state taxes).

(4) **EMPLOYEES.** The following conditions indicate that a person is an employee.

If the person:

(a) Receives compensation, which is fixed at a certain rate per day, week, month or year, or at a certain percentage of business obtained, payable in all events;

(b) Is employed to perform services in the affairs of another, subject to the other's control or right to control;

(c) Has no liability for the expenses of maintaining an office or other place of business, or any other overhead expenses or for compensation of employees;

(d) Has no liability for losses or indebtedness incurred in the conduct of the business;

(e) Is generally entitled to fringe benefits normally associated with an employer-employee relationship, e.g., paid vacation, sick leave, insurance, and pension benefits;

(f) Is treated as an employee for federal tax purposes;

(g) Is paid a net amount after deductions for employment taxes, such as those identified in subsection (3)(h) of this section.

(5) FULL-TIME LIFE INSURANCE SALESPERSONS. Chapter 275, Laws of 1991, effective July 1, 1991, provides that individuals performing services as full-time life insurance salespersons, as provided in section 3121 (d)(3)(B) of the Internal Revenue Code, will be considered employees. Treatment as an employee under this subsection (5) applies only to persons engaged in the full-time sale of life insurance. The status of other persons, including others listed in section 3121(d) of the Internal Revenue Code, will be determined according to the provisions of subsections (1) and (2) of this section. (See WAC 458-20-164 for the proper tax treatment of insurance agents, brokers, and solicitors.)

(6) ((5)) OPERATORS OF RENTED OR OWNED EQUIPMENT. Persons who furnish equipment on a rental or other basis for a charge and who also furnish the equipment operators, are engaging in business and are not employees of their customers. Likewise, persons who furnish materials and the labor necessary to install or apply the materials, or produce something from the materials, are presumed to be engaging in business and not to be employees of their customers.

(7) ((6)) CASUAL LABORERS. Persons regularly performing odd job carpentry, painting or paperhanging, plumbing, bricklaying, electrical work, cleaning, yard work, etc., for the public generally are presumed to be engaging in business. The burden of proof is upon such persons to show otherwise. However, refer to WAC 458-20-101 and 458-20-104 for registration and reporting requirements for such activities.

(8) ((7)) A corporation, joint venture, or any group of individuals acting as a unit, is not an employee.

(9) BOOTH RENTERS. For purposes of the business and occupation tax a "booth renter," as defined in RCW 18.16.020(19), is considered engaged in business and not an employee. A "booth renter" is any person who:

(a) performs cosmetology, barbering, esthetics, or manicuring services for which a license is required pursuant to chapter 18.16 RCW and

(b) pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

(c) See WAC 458-20-118 for the proper treatment of amounts received for the rental or licensing of real estate and WAC 458-20-200 for the proper treatment of amounts received for leased departments.

WSR 92-03-067

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed January 14, 1992, 11:44 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-164 Insurance agents, brokers and solicitors.

Purpose: To implement chapter 275, Laws of 1991, which expands the definition of "employee" under RCW 82.04.360 to include full-time life insurance agents.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: To expand the definition of "employee" to include full-time life insurance agents for purposes of the exemption from the B&O tax provided in RCW 82.04.360.

Reasons Supporting Proposal: To clarify the taxability of insurance agents, brokers and solicitors.

Name of Agency Personnel Responsible for Drafting: Robert Heller, 711 Capitol Way, #205, Olympia, (206) 753-1971; Implementation: Les Jaster, 711 Capitol Way, #205, Olympia, (206) 586-7150; and Enforcement: Ed Faker, 711 Capitol Way, #400, Olympia, (206) 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides tax reporting information to persons engaged in the full-time business of selling life insurance. The rule clarifies the meaning of gross income of an insurance agent, broker or solicitor; and clarifies when a full-time life insurance salespersons will be treated as an employee under the business and occupation tax.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses.

A small business economic impact statement is not required for the following reason(s): To the best of our knowledge, there is no economic administrative impact on any small business as a result of this rule amendment.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on February 26, 1992, at 9:30 a.m.

Submit Written Comments to: Robert Heller, Administrative Law Judge, Department of Revenue, P.O. Box 47458, FAX (206) 586-7603, Olympia, WA 98504-7458, by February 26, 1992.

Date of Intended Adoption: March 4, 1992.

January 13, 1992
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-6, filed 8/23/83)

WAC 458-20-164 INSURANCE AGENTS, BROKERS AND SOLICITORS. (1) INTRODUCTION. This section explains the taxability of amounts received by insurance agents, brokers, or solicitors.

(2) DEFINITION. The words "agent," "broker," and "solicitor(;;)" ~~((as used herein mean respectively;))~~ mean a person licensed as such under the provisions of chapter 48.17 RCW.

(3) BUSINESS AND OCCUPATION TAX. Every person engaging in business as an insurance ((acting in the capacity of)) agent, broker, or solicitor ((is presumed to be engaging in business and)) is taxable under the insurance agents and brokers classification upon the gross income of the business. ~~((unless such person is a bona fide employee. The burden is upon such person to establish the fact of his status as an employee. (See WAC 458-20-105 Employees.) Gross income of the business is determined by the amount of gross commissions received or retained, not by the gross premiums paid by the insured.~~

The term "gross income of the business" includes gross income from commissions, fees or other emoluments however designated which the agent, broker, or solicitor receives or becomes entitled to receive but does not include amounts held in trust for the insurer or the client. ~~(See also WAC 458-20-111 - Advances and reimbursements.)~~

No deduction is allowed for commissions, fees, or salaries paid to other agents, brokers, or solicitors nor for other expenses of doing business.))

(a) The gross income of the business is determined by the amount of gross commissions received, not by the gross premiums paid by the insured. The term "gross income of the business" includes gross receipts from commissions, fees or other amounts which the agent, broker, or solicitor receives or becomes entitled to receive. The gross income of the business does not include amounts held in trust for the insurer or the client. (See also WAC 458-20-111 - Advances and reimbursements.)

(b) No deduction is allowed for commissions, fees, or salaries paid to other agents, brokers, or solicitors nor for other expenses of doing business.

(c) Every person acting in the capacity of agent, broker, or solicitor is presumed to be engaging in business and subject to the business and occupation tax unless such person can demonstrate he or she is a bona fide employee. The burden is upon such person to establish the fact of his or her status as an employee. (See WAC 458-20-105 Employees.)

(4) FULL-TIME LIFE INSURANCE SALESPERSONS. Persons who sell life insurance on a full-time basis, as provided in section 3121 (d)(3)(B) of the Internal Revenue Code (statutory employee), will be considered employees. Such persons will not be subject to the business and occupation tax on amounts received in their capacity as employees. Treatment as an employee under this subsection is only available to full-time life insurance salespersons who are issued a Form W-2 (federal income tax wage and tax statement) with the appropriate box checked indicating that they are statutory employees. A person's status as an employee under this subsection is limited to amounts reported on a properly marked W-2 as compensation for the sale of life insurance.

(a) A person will be considered employed as a full-time life insurance salesperson for only one company issuing a proper Form W-2 during any taxable period, regardless of whether the person sells life insurance on behalf of other companies.

(b) Examples.

(i) A person acts as a sales person on a full-time basis on behalf of a life insurance company. The company issues the sales person a Form W-2 which indicates that the salesperson is a statutory employee. Under these circumstances, the salesperson will be considered an employee as to amounts reported on the Form W-2 as compensation for the

sale of life insurance and will not be taxable under the business and occupation on such amounts.

(ii) A person acts as a sales person on behalf of several insurance companies two of which are life insurance companies and the others are casualty insurance companies. The sales person sells both life insurance and casualty insurance. One of the life insurance companies issues the sales person a Form W-2 indicating that the person is a statutory employee. The sales person will be considered an employee as to amounts reported on the Form W-2 as compensation for the sale of life insurance and will not be taxable under the business and occupation tax on such amounts.

(5) SHARED COMMISSIONS. Where an insurance association, licensed as a broker, agent or solicitor negotiates with a public body for the placement of its insurance coverage and arranges for the servicing of such insurance through a broker, agent or solicitor and there is an agreement between the association and the broker, agent or solicitor and the prospective insured that the commission on the policy premium will be shared, the entity receiving the commission need only include in gross income its share of the commission. It need not include in gross income the portion of the commission earned by the other broker, agent and/or solicitor nor need the other broker, agent and/or solicitor include in gross income the portion retained by the entity which first receives payment. (For tax liability of insurance adjusters, see WAC 458-20-212.)

(6) SPECIAL CLASSIFICATION FOR CERTAIN MANAGING GENERAL AGENTS. Under RCW 82.04.280(5) persons representing and performing services for fire or casualty insurance companies as independent resident managing general agents are subject to tax at the prevailing rate upon the gross income of the business. (a) In view of the small number of persons falling in this special category, no separate classification line on the combined excise tax return ~~((s (Form 2406)))~~ has been provided for reporting this income; it should be shown on line 1 of the combined excise tax return with the explanatory note: "Income for insurance managing general agent taxable under RCW 82.04.280(5)."

(b) Any person claiming to fall within this tax classification must demonstrate:

(i) ((+)) That he is licensed as a resident general agent by the insurance commissioner; and

(ii) ((#)) That he performs the following independent manager functions:

(aa) ((*)) Pays all sales and/or production expense; including salaries of special field representatives, underwriters, and inspectors as well as all office expenses of rent, supplies, secretarial help, etc.

(bb) ((b)) Bills all premiums for the company so represented.

(cc) ((c)) Directly contracts for or hires all selling agents.

(dd) ((d)) Exercises final responsibility with respect to selecting risks and underwriting matters.

(ee) ((e)) Makes all arrangements for reinsurance.

(ff) ((f)) Handles all claims adjustments directly with the insured (by his own staff or through hiring an independent adjuster).

(c) Persons wishing to claim qualification for this special insurance agent classification should request application forms from the department of revenue ((to make application therefor)).

~~((Revised December 12, 1968:))~~

WSR 92-03-068

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 14, 1992, 11:48 a.m.]

Date of Adoption: January 14, 1992.

Purpose: To provide county assessors with the interest rate and property tax component for use in valuing agricultural land classified under current use, for assessment year 1992.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-262.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Pursuant to notice filed as WSR 91-24-091 on December 4, 1991.

Effective Date of Rule: Thirty-one days after filing.
 January 13, 1992
 William N. Rice
 Assistant Director

WSR 92-03-069
 PROPOSED RULES
 DEPARTMENT OF AGRICULTURE
 [Filed January 14, 1992, 11:51 a.m.]

AMENDATORY SECTION (Amending WSR 91-04-001, filed 1/24/91, effective 2/24/91)

WAC 458-30-262 AGRICULTURAL LAND VALUATION—INTEREST RATE—PROPERTY TAX COMPONENT. For assessment year ((1991)) 1992, 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 ((+0.65)) 10.55 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.38	Lewis	1.27
Asotin	1.54	Lincoln	1.48
Benton	1.51	Mason	1.28
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))		
COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.52	Lewis	1.29
Asotin	1.46	Lincoln	1.49
Benton	1.56	Mason	1.36
Chelan	1.50	Okanogan	1.45
Clallam	1.29	Pacific	1.45
Clark	1.42	Pend Oreille	1.06
Columbia	1.45	Pierce	1.66
Cowlitz	1.24	San Juan	1.03
Douglas	1.46	Skagit	1.29
Ferry	0.98	Skamania	1.03
Franklin	1.59	Snohomish	1.36
Garfield	1.76	Spokane	1.64
Grant	1.44	Stevens	1.22
Grays Harbor	1.47	Thurston	1.60
Island	0.97	Wahkiakum	1.19
Jefferson	1.18	Walla Walla	1.40
King	1.17	Whatcom	1.41
Kitsap	1.34	Whitman	1.53
Kittitas	1.29	Yakima	1.43
Klickitat	1.31		

Original Notice.

Title of Rule: Agriculture marketing and fair practices.

Purpose: To amend the period of time for negotiations between processors and associations representing producers of potatoes and sweet corn and to adopt a record-keeping requirement for negotiations.

Statutory Authority for Adoption: RCW 15.83.100.

Statute Being Implemented: Chapter 15.83 RCW.

Summary: The period of time for negotiations between processors and associations representing producers of potatoes and sweet corn is being changed from thirty to forty-five days and a record-keeping requirement for summaries of negotiations is being created.

Reasons Supporting Proposal: In order to better carry out the provisions and purpose of the Agriculture Marketing and Fair Practices Act.

Name of Agency Personnel Responsible for Drafting: Mike Schwisow, 406 General Administration Building, Olympia, 753-5035; Implementation and Enforcement: Mike Willis, 406 General Administration Building, Olympia, 753-5065.

Name of Proponent: Potato Growers of Washington, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The period of time for negotiations between processors and associations representing producers of potatoes and sweet corn is being changed from thirty to forty-five days and a record-keeping requirement for summaries of negotiations is being created.

Proposal Changes the Following Existing Rules: The period of time for negotiations between processors and associations representing producers of potatoes and sweet corn is being changed from thirty to forty-five days.

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

Hearing Location: Department of Agriculture, 2015 South 1st Street, Yakima, WA 98903, on February 26, 1992, at 1:00 p.m.

Submit Written Comments to: Mike Willis, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by February 26, 1992.

Date of Intended Adoption: March 10, 1992.

January 14, 1992
 Mike Willis
 Assistant Director

AMENDATORY SECTION (Amending WSR 90-08-069; filed 4/2/90)

WAC 16-622-050 NEGOTIATING PERIOD. The negotiating period provided in RCW 15.83.010 ((and 15.83.060)) shall commence each year on ((February 1st)) January 15th for potatoes and ((on February 5th for)) sweet corn. Negotiations may begin at any time prior to ((these)) this date(s) and may continue past the date which is ((thirty)) forty-five days following ((these)) this date(s) by mutual

consent of the affected parties. Contracts which are agreed to during this mutual consent period will be considered advance contracts.

NEW SECTION

WAC 16-622-060 REPORT OF NEGOTIATING SESSION. (1) Each accredited association of producers and handler shall, within a reasonable time following a negotiating session, place a copy of a summary of the discussions into their respective accreditation file maintained for that negotiating unit. For the purposes of this section, a negotiating session is a meeting of the parties at which pertinent information is exchanged. Each summary shall accurately reflect the substance of discussions and the points raised by either side. Each summary shall be signed by an authorized representative of the association of producers or handler which prepared it. Each summary shall contain the last offer of contract terms placed on the table during that negotiating session. Either party may place supplementary materials regarding the negotiation into their file. (2) At the conclusion of the forty-five day negotiating period which is thirty days prior to the normal planting date, each of the parties to a negotiation shall place, in their respective accreditation file for that negotiating unit, a report summarizing the negotiations and indicating whether an agreement was reached.

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

WSR 92-03-070
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
[Filed January 14, 1992, 11:57 a.m.]

Date of Adoption: January 14, 1992.

Purpose: To amend the period of time for negotiations between processors and associations representing producers of potatoes and sweet corn and to adopt a record-keeping requirement for negotiations.

Citation of Existing Rules Affected by this Order: Amending WAC 16-622-050.

Statutory Authority for Adoption: RCW 15.83.100.

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: This action establishes the negotiating period for potatoes and sweet corn for the upcoming season.

Effective Date of Rule: Immediately.

January 14, 1992
Mike Willis
Assistant Director

AMENDATORY SECTION (Amending WSR 90-08-069, filed 4/2/90)

WAC 16-622-050 NEGOTIATING PERIOD. *The negotiating period provided in RCW 15.83.010 ((and 15.83.060)) shall commence each year on ((February 1st)) January 15th for potatoes and ((on February 5th for)) sweet corn. Negotiations may begin at any time prior to ((these)) this date(s) and may continue past the date which is ((thirty)) forty-five days following ((these)) this date(s) by mutual consent of the affected*

parties. Contracts which are agreed to during this mutual consent period will be considered advance contracts.

NEW SECTION

WAC 16-622-060 REPORT OF NEGOTIATING SESSION. (1) Each accredited association of producers and handler shall, within a reasonable time following a negotiating session, place a copy of a summary of the discussions into their respective accreditation file maintained for that negotiating unit. For the purposes of this section, a negotiating session is a meeting of the parties at which pertinent information is exchanged. Each summary shall accurately reflect the substance of discussions and the points raised by either side. Each summary shall be signed by an authorized representative of the association of producers or handler which prepared it. Each summary shall contain the last offer of contract terms placed on the table during that negotiating session. Either party may place supplementary materials regarding the negotiation into their file. (2) At the conclusion of the forty-five day negotiating period which is thirty days prior to the normal planting date, each of the parties to a negotiation shall place, in their respective accreditation file for that negotiating unit, a report summarizing the negotiations and indicating whether an agreement was reached.

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

WSR 92-03-071
RULES COORDINATOR
DEPARTMENT OF
TRADE AND ECONOMIC DEVELOPMENT
[Filed January 14, 1992, 1:48 p.m.]

To comply with RCW 34.05.310(3) of the Administrative Procedure Act, the Department of Trade and Economic Development has designated that the department's rules coordinator for calendar year 1992 will be: C. H. (Skip) Houser, Director, Administrative Services, Department of Trade and Economic Development, 101 General Administration Building, Olympia, WA 98504-0613, phone (206) 753-7426.

C. H. (Skip) Houser
Director, Administrative Services

WSR 92-03-072
RULES COORDINATOR
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 14, 1992, 1:49 p.m.]

Beginning January 20, 1992, in accordance with RCW 34.05.310(3), the new rules coordinator for the Department of Social and Health Services is Sharon Staley, Office of Issuances, Third Floor, Office Building #2, Mailstop 5805, Olympia, Washington 98504, phone (206) 586-6423, 321-6423 scan.

Les James, Director
Administrative Services Division

WSR 92-03-073
PERMANENT RULES
PUGET SOUND
AIR POLLUTION CONTROL AGENCY

[Filed January 14, 1992, 1:52 p.m.]

Date of Adoption: January 9, 1992.

Purpose: Amend Regulation II to conform to WAC and to implement.

Citation of Existing Rules Affected by this Order: Amending PSAPCA Regulation II, Sections 2.05 and 2.07.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 91-23-094 on November 20, 1991.

Changes Other than Editing from Proposed to Adopted Version: Section 2.05(c) 2nd paragraph, the "or" was changed to "and"; Section 2.07 (c)(1), "located in ozone nonattainment areas" was added after August 2, 1991; Section 2.07 (c)(2), new paragraph added and old 2.07 (c)(2) was changed to 2.07 (c)(3); Table 2.07 (e)(4), "in ozone nonattainment areas" was added after facility, and application date was changed from July 1, 1992, to December 31, 1996; and Table 2.07 (e)(5), new paragraph added.

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

January 13, 1992

Harry A. Watters

Senior Air Pollution Engineer

AMENDATORY SECTION (Amending WSR 90-08-069, filed 4/2/90)

SECTION 2.05 GASOLINE LOADING TERMINALS

(a) Section 2.05 shall apply to all gasoline loading terminals with an annual gasoline throughput greater than ~~((27,594,000 liters (7,300,000 gallons)))~~ 7,200,000 gallons.

(b) It shall be unlawful for any person to cause or allow the loading of gasoline into any transport tank unless all the following conditions are met:

(1) The loading terminal shall employ bottom loading and be equipped with a vapor recovery system;

(2) All loading lines and vapor lines shall be equipped with vapor-tight fittings that close automatically upon disconnect;

(3) All vapor return lines shall be connected between the transport tank and the vapor recovery system such that all displaced volatile organic compounds are vented to the vapor recovery system;

(4) The back-pressure in the vapor lines shall not exceed 4.5 kPa (18 inches) of water pressure.

(c) The vapor recovery system required by Section 2.05(b) shall prevent the emission of at least 90% by weight of the volatile organic compounds and shall limit the emission of volatile organic compounds to no more

than 80 milligrams per liter (mg/l) of gasoline transferred.

After December 31, 1993, the vapor recovery system shall limit the emission of VOC to no more than 35 mg/l of gasoline transferred and 2.0% VOC by volume, measured as propane. If the existing system cannot meet these emission limits, the owner shall submit a Notice of Construction for a new or modified system by September 1, 1992.

(d) The vapor recovery system required by Section 2.05(b) shall be equipped with a continuous emission monitoring system meeting the requirements of Article 12 of Regulation I.

(e) The provisions of Section 2.05(d) shall take effect May 1, 1992.

AMENDATORY SECTION

SECTION 2.07 GASOLINE STATIONS

(a) Section 2.07(b) shall apply to:

(1) All gasoline stations (including any gasoline dispensing facility) in existence on January 1, 1979 with a total annual gasoline output greater than ~~((757,000 liters (200,000 gallons)))~~ 200,000 gallons and total gasoline storage capacity greater than ~~((37,850 liters (10,000 gallons)))~~ 10,000 gallons; and

(2) All stationary gasoline storage tanks, greater than ~~((3,785 liters capacity (1,000 gallons)))~~ 1,000 gallons capacity, installed or reconstructed after January 1, 1979.

(b) It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank ~~((except as provided in Section 2.07(c)))~~ unless the following conditions are met:

(1) Such stationary storage tank ~~((is))~~ shall be equipped with a permanent submerged fill pipe and "CARB-certified" Stage 1 vapor recovery system that is maintained and operated according to the manufacturer's specifications;

(2) Such transport tank ~~((is))~~ shall be equipped to balance vapors; and

(3) All vapor return lines ~~((are))~~ shall be connected between the transport tank and the stationary storage tank, and the Stage 1 vapor recovery system ~~((is))~~ shall be operating. All vapor return couplings shall have vapor-tight gasket seals and all vapor return clam locks shall be in good working order and be locked.

~~((c) Notwithstanding the requirements of Section 2.07(a), the following stationary gasoline storage tanks are exempt from the requirements of Section 2.07(b):~~

~~(1) All tanks with a capacity less than 7,570 liters (2,000 gallons) installed before January 1, 1979;~~

~~(2) All tanks with offset fill lines installed before January 1, 1979;~~

~~(3) All tanks with a capacity less than 1,000 liters (264 gallons);)~~

(c) Section 2.07 (d) and (e) shall apply to:

(1) All gasoline stations (including any gasoline dispensing facility) in existence on August 2, 1991 located in ozone nonattainment areas with a total annual gasoline output greater than 600,000 gallons and a total gasoline storage capacity greater than 10,000 gallons; and

(2) All gasoline stations (including any gasoline dispensing facility) in existence on August 2, 1991 located in ozone attainment areas with a total annual gasoline output greater than 840,000 gallons and a total gasoline storage capacity greater than 10,000 gallons; and

(3) All stationary gasoline storage tanks, greater than 1,000 gallons capacity, installed or reconstructed after August 2, 1991.

(d) It shall be unlawful for the owner or operator of a gasoline station to cause or allow the transfer of gasoline from any stationary storage tank into any motor vehicle (except motorcycles) fuel tank unless all of the following requirements are met:

(1) Each gasoline dispenser shall be equipped with a "CARB-certified" Stage 2 vapor recovery system, approved under Article 6 of Regulation I, and installed in accordance with the schedule in Section 2.07(e);

(2) All vapor return lines shall be connected between the stationary storage tank and the motor vehicle fuel tank;

(3) All Stage 2 vapor recovery equipment shall be installed in accordance with the system's certification requirements and shall be maintained to be leak free, vapor-tight, and in good working order;

(4) Whenever a Stage 2 vapor recovery system component is determined to be defective, the owner or operator shall take the system out of service until it has been repaired, replaced, or adjusted, as necessary. The operator shall inspect each nozzle bellows daily;

(5) The owner or operator of each gasoline station utilizing a Stage 2 vapor recovery system shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly using the vapor recovery nozzles and include a warning against topping off. Additionally, the instructions shall include a prominent display of the Department of Ecology's toll-free telephone number for complaints regarding the operation and condition of the vapor recovery nozzles.

(e) The owner or operator of a gasoline station shall install a Stage 2 vapor recovery system in accordance with the following schedule:

Table 2.07(e)

Type of Gasoline Dispensing Facility or Gas Station	Notice of Construction Application by	Stage 2 System Installed by
<u>(1) All new or upgraded facilities with storage tank greater than 1,000 gallons</u>	<u>30 days before installation</u>	<u>5/1/92 or before startup</u>
<u>(2) Existing facility with a throughput of 1,200,000 gallons or more/year and owner has 10 or more WA stations</u>	<u>7/1/92</u>	<u>5/1/93 for 50% of stations</u>
<u>(3) Existing facility with a throughput of 1,200,000 gallons or more per year</u>	<u>7/1/92</u>	<u>5/1/94</u>
<u>(4) Existing facility in ozone nonattainment areas with a throughput of 600,000 gallons or more per year</u>	<u>12/31/96</u>	<u>12/31/98</u>

Type of Gasoline Dispensing Facility or Gas Station	Notice of Construction Application by	Stage 2 System Installed by
<u>(5) Existing facility in ozone attainment areas with a throughput of 840,000 gallons or more per year</u>	<u>12/31/96</u>	<u>12/31/98</u>

**WSR 92-03-074
PERMANENT RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)**

[Order 235B—Filed January 14, 1992, 3:03 p.m.]

Date of Adoption: December 2, 1991.

Purpose: To establish operating policies promulgated by board policy or legislation. The rules also incorporate routine housekeeping-type corrections to existing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 246-933-250 and 246-933-280.

Statutory Authority for Adoption: RCW 18.92.030.

Pursuant to notice filed as WSR 91-21-113 on October 22, 1991.

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

December 2, 1991

Dr. Susan M. Shirley

Chairwoman

AMENDATORY SECTION (Amending Order 108B, filed 12/28/90, effective 1/31/91)

WAC 246-933-250 EXAMINATION PROCEDURES. (1) The examination consists of three parts: The National Board Examination for Veterinary Medical Licensing (NBE), the Clinical Competency Test (CCT), and the Washington state examination. No part of the examination may be taken prior to six months preceding graduation from a course of instruction as described in WAC ((308-151-050)) 246-933-220.

(2) Failure to follow written or oral instructions relative to the conduct of the examination, including termination times of the examination ((with)) shall be considered grounds for ((expulsion)) disqualification from the examination.

(3) Applicants shall be required to refrain from talking to other examinees during the examination unless specifically directed or permitted to do so by a proctor. Any applicant observed talking or attempting to give or receive information, or using unauthorized materials during any portion of the examination will be expelled from the examination and not allowed to complete it.

AMENDATORY SECTION (Amending Order 108B, filed 12/28/90, effective 1/31/91)

WAC 246-933-280 EXAMINATION REVIEW PROCEDURES. (1) Each individual who takes the Washington state examination for licensure as a veterinarian and does not pass the Washington state examination section may request review ((by the board of his or her examination results)) of the examination results by the board. This request ((must)) shall be in writing and

~~((must)) shall be ((received-by)) postmarked to the board within thirty days of notification of the examination results. The request ((must)) shall state the reason or reasons the applicant feels the results of the examination should be changed. The board ((with)) shall not consider any challenges to examination scores unless the total revised score could result in the issuance of a license. The board ((with)) shall consider the following to be adequate reasons for consideration for review and possible modification of examination results:~~

~~(a) A showing of a significant procedural error in the examination process;~~

~~(b) Evidence of bias, prejudice or discrimination in the examination process;~~

~~(c) Other significant errors which result in substantial disadvantage to the applicant.~~

~~(2) Any applicant who is not satisfied with the result of the examination review may appeal the board's decision and may request a formal hearing to be held before the board pursuant to the Administrative Procedure Act. Such hearing ((must)) shall be requested and post-marked within twenty days ((of receipt)) of the ((receipt)) receipt of the board's review of the examination results. The board ((with)) shall not consider any challenges to examination scores unless the total revised score could result in the issuance of a license.~~

NEW SECTION

WAC 246-933-300 VETERINARY SPECIALTY LICENSURE. (1) A person may be licensed to practice only specialized veterinary medicine in Washington state. Application for specialty licensure shall be made on forms provided by the secretary and include:

(a) Official transcript or other evidence of graduation from an American Veterinary Medical Association approved or accredited college or university; or

(b) Certification from the Educational Commission for Foreign Veterinary Graduates; and

(c) Documented licensure, in good standing, to practice veterinary medicine in any state, United States territory, or province of Canada; and

(d) Certification as a diplomate of a national board or college recognized in the specialty area for which application is submitted.

(2) Applicants must pass a written examination approved by the board pertaining to laws regulating the practice of veterinary medicine in the state of Washington. Examination grades will be based on a possible score of one hundred percent with a minimum passing score of seventy percent.

(3) At the time of license renewal, licensees must present evidence of continued certification by the veterinary specialty board authority.

(4) The veterinary board of governors recognizes all veterinary medicine specialties recognized by the American Veterinary Medical Association. The practice of a veterinarian licensed as a specialized practitioner is limited to the specific specialty for which licensed.

(5) Individuals licensed as a veterinary specialist are subject to chapter 18.130 RCW.

(6) Veterinary specialty licensees shall be charged the impaired veterinarian assessment on each license issuance or renewal: PROVIDED HOWEVER, That no licensee shall pay more than one impaired veterinarian assessment per year.

NEW SECTION

WAC 246-933-305 VETERINARY RETIRED ACTIVE LICENSE. (1) RCW 18.130.250 provides for a retired active license status for individuals already licensed who wish to practice only in emergent or intermittent circumstances. For the purposes of implementing RCW 18.130.250, "emergent or intermittent circumstances" is defined as follows:

(a) The licensee resides and practices in another state, and practices no more than thirty days each year in Washington state;

(b) The licensee resides and practices in this state, but practices no more than thirty days each year.

(c) The licensee does not normally practice or meet the criteria of (a) or (b) of this subsection, but is available to practice for an extended period of time for the purposes of providing veterinary care in emergency circumstances such as earthquakes, floods, times of declared war, or other declared states of emergency.

(2) Individuals requesting a retired active license status must submit a letter to the department with their renewal declaring their intent to practice only on an intermittent or emergent basis. Veterinary retired active licenses will not be retroactively issued for prior years. Subsequent to being issued a retired active license, the licensee must report with the renewal payments the dates and circumstances under which they practiced during the previous year. If the licensee wishes to practice on an active basis, the licensee must notify the department five days in advance of the change to reinstate the license to an active license status.

(3) Individuals on a retired active license status are subject to chapter 18.130 RCW to the same extent as individuals holding an active license.

(4) Retired active licensees must meet the continuing education requirement established in WAC 246-933-420 and submit an affidavit of compliance at the end of each three-year period as prescribed in WAC 246-933-470.

WSR 92-03-075

PERMANENT RULES DEPARTMENT OF LICENSING

[Filed January 14, 1992, 4:36 p.m.]

Date of Adoption: January 8, 1992.

Purpose: To amend WAC 308-93-050 Vessels exempt from registration; 308-93-070 Application for title/registration; and 308-93-290 Transfer of ownership.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-050, 308-93-070, and 308-93-290.

Statutory Authority for Adoption: RCW 88.02.100.

Other Authority: Sections 30 and 31, chapter 339, Laws of 1991.

Pursuant to notice filed as WSR 91-23-061 on November 18, 1991.

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

January 13, 1992

Mary Riveland
Director

AMENDATORY SECTION (Amending WSR 90-08-018, filed 3/28/90, effective 4/28/90)

WAC 308-93-050 VESSELS EXEMPTED FROM REGISTRATION, EXCISE TAX AND TITLING. The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels either:

(a) Registered or numbered under the laws of a country other than the United States; or

(b) Having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94;

(4) ~~Vessels ((owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state. PROVIDED, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter)) that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in another state but that is removed to this state for principal use is subject to registration under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state;~~

(5) Vessels owned by a resident of another state if the vessel is located upon the waters of this state exclusively for repairs or reconstruction, or any testing related to the repair or reconstruction conducted in this state if an employee of the repair facility is on board the vessel during any testing; provided, that if any vessel owned by a resident of another state is located upon the waters of this state exclusively for repairs, reconstruction, or testing for a period longer than sixty days, that the nonresident shall file an affidavit with the department of revenue verifying the vessel is located upon the waters of this state for repair, reconstruction, or testing and shall continue to file such affidavit every sixty days thereafter while the vessel is located upon the waters of this state exclusively for repairs, reconstruction, or testing;

(6) All vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and

are powered by propulsion machinery of ten or less horsepower;

(7) Vessels equipped with propulsion machinery of less than ten horsepower that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels which are temporarily in this state undergoing repair or alteration;

(10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters.

(11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States;

(12) A vessel not using the waters of this state;

(13) Commercial vessels which display decals issued annually by the department of revenue.

AMENDATORY SECTION (Amending Order TL-RG-19, filed 11/19/85)

WAC 308-93-070 APPLICATION FOR TITLE/REGISTRATION. (1) An application for certificate of title or registration of a vessel shall be completed and shall include:

(a) The names, addresses and ZIP codes of all owners of the vessel being registered including a lessor if applicable.

(b) Make, model year and length of vessel.

(c) Type of power (gasoline, diesel, propane, etc.).

(d) Primary use.

(e) Primary method of propulsion (inboard, outboard, inboard/outboard, jet, sail, etc.).

(f) Type of vessel (open, cabin, house, or other).

(g) Primary vessel construction (fiberglass, wood, aluminum, etc.).

(h) County of moorage.

(i) Coast guard number, if any.

(j) Purchase ((cost)) price and purchase year of vessel or declared value and year of declaration. Purchase price includes the price purchaser paid for the vessel, vessel motor, or engine, and all other equipment and accessories, but does not include a boat trailer, purchased in a single transaction.

(k) Hull identification number.

(l) The number previously issued by an issuing authority for the vessel, if any.

(m) That the application is for a new number, renewal or transfer of ownership.

(n) State in which vessel is or will be principally used.

- (o) Federal document number, if applicable.
- (2) Name and address of the legal owner or a statement of fact by the registered owner that the vessel is free of all liens other than those shown on the application.
- (3) In the event a vessel is homemade, the owner must complete and sign a declaration of value form. The signature of the registered owner of a homemade vessel must be notarized by a notary public.
- (4) The names of all owners will appear on the application for registration and title. The application must be signed by all owners. This signature must be notarized or certified by an authorized registration agent.
- (5) The application for certificate of title or registration shall be accompanied by the following where applicable:
- A copy of the bill of sale or sales agreement.
 - Vessel data form.
 - Declaration of value form.
 - All proper fees and excise tax.
 - Previous ownership document properly released.
 - Excise exemption affidavit.
 - Proof of sales tax paid.
 - Proof of personal property tax paid.
 - Manufacturer's statement of origin or original factory invoice.
 - Copy of carpenter certificate.
 - Copy of any filing pursuant to Article 62A.9 RCW, Uniform commercial code-secured transactions.
 - Release of interest form.
 - Verification of ownership.
 - Copy of certificate of ownership of vessel issued by United States Coast Guard.
 - Additional documentation for issuance of class "A" title as described in WAC 308-93-074.
- (6) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit subsection (1)(b), (c), (e), (f), (g), and (k) of this section.
- (7) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit subsection (1)(c) and (e) of this section.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-290 TRANSFER OF OWNERSHIP, HOW PERFECTED. A transfer of ownership in a vessel is perfected by compliance with the requirements of this section.

(1) If an owner transfers an interest in a vessel other than by the creation of a security interest, ~~((he))~~ the transferor shall, at the time of the delivery of the vessel, execute an assignment to the transferee and cause the certificate and assignment to be transmitted to the transferee, and shall within ~~((fifteen))~~ five days, excluding Saturdays, Sundays, and state and federal holidays, notify the department in writing on the appropriate form of the sale or transfer of all or any part of the ownership of a vessel.

(2) The transferee ~~((of ownership))~~ shall, within fifteen days after accepting delivery ~~((to him))~~ of the vessel, ~~((execute the application))~~ apply for a new certificate of title ~~((in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department))~~.

(3) Upon request of the owner or transferee, a secured party in possession of the certificate of title shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party under the security agreement.

(4) If a security interest is reserved or created at the time of the transfer, the certificate of title shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provision of WAC 308-93-230.

(5) Upon receipt of an application for ~~((the reissue of))~~ a certificate of title and ~~((transfer of))~~ registration, accompanied by the endorsed certificate of title and such other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of title and registration have been complied with, issue a new certificate ~~((s))~~ of title and registration ~~((as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer, to be deposited in the general fund))~~.

WSR 92-03-076
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed January 14, 1992, 4:39 p.m.]

Date of Adoption: January 8, 1992.

Purpose: Amending WAC 308-96A-100 Licensing according to use instead of vehicle type; and WAC 308-96A-306, 308-96A-310, 308-96A-315, 308-96A-320, 308-96A-325, 308-96A-330, 308-96A-335 and adding WAC 308-96A-340 all concerning disabled person parking privileges.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-100, 308-96A-306, 308-96A-310, 308-96A-315, 308-96A-320, 308-96A-325, 308-96A-330, and 308-96A-335.

Statutory Authority for Adoption: RCW 46.01.110 and 46.16.276.

Pursuant to notice filed as WSR 91-23-062 on November 18, 1991.

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

January 13, 1992
Mary Riveland
Director

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-100 LICENSING ACCORDING TO USE INSTEAD OF VEHICLE TYPE. ~~((Where a))~~ Certain types of vehicles ~~((is to be))~~ used for a purpose other than the normal use for that type of vehicle ~~((; the vehicle))~~ may be licensed according to that use:

(1) Passenger cars used to transport commodities, merchandise, produce, freight or animals for commercial purposes may be licensed as commercial use trucks.

(2) Trucks used as passenger cars may be licensed as passenger cars if the following conditions are met:

(a) Seats have been permanently installed in or in place of the bed of the truck,

(b) The vehicle has been inspected and approved for this change of class by an authorized member of the Washington state patrol.

(3) Vehicles which are not readily identified as either passenger cars or trucks, such as Jeeps, Blazers and Broncos, may be licensed either as passenger or truck vehicles depending on their use.

(4) Vehicles such as farm tractors, motorcycles, and mopeds may only be licensed for the normal use for that type of vehicle and may not be licensed as commercial use trucks.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-306 DEFINITIONS—DISABLED PERSON SPECIAL PARKING PRIVILEGES. For the purposes of determining eligibility for special parking ~~((permits))~~ placards, the following definitions apply:

(1) "Public transportation authorities" are those entities operating motor vehicles or other devices capable of being moved on a public highway. The vehicles shall be owned or operated by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations and must be used for the purpose of carrying passengers and their baggage or freight incident to business or programs conducted by those authorities: PROVIDED, That those authorities may contract with private carriers to perform services entitling the carriers to the special parking privileges.

(2) "Private carriers" are those entities contracting with public transportation authorities to perform their services.

(3) "Nursing homes" are those entities licensed as nursing homes with the department of social and health services. For purposes of this chapter, nursing homes include adult family homes licensed by the department of social and health services as provided in chapter 70.128 RCW.

(4) "Senior citizen centers" are bona fide senior citizen centers recognized by the bureau of aging and adult services or a specific county government.

(5) "Private nonprofit agencies" are those entities on file with the secretary of state's office as a nonprofit organization.

AMENDATORY SECTION (Amending Order TL/RG 39, filed 12/7/87)

WAC 308-96A-310 APPLICATION—DISABLED PERSON PARKING PRIVILEGES. Application must be made on forms provided by the department and signed by the disabled person. If the applicant is physically unable to sign, the application may be signed by a family member, stating his or her relationship to the applicant. If signed by mark (X), signatures of two witnesses are required.

A statement from a physician is required to certify the applicant's disability ~~((; except loss of both hands or lower limbs may be visually verified by the licensing agent))~~. If the disability is temporary, the physician must indicate the expected length of disability.

~~((Special license plates may be issued for a vehicle registered to the applicant. If the vehicle is not registered to the applicant, a special decal may be issued. Provided, That a statement is submitted to verify (a) the relationship of the registered owner to the applicant and (b) that the vehicle is used as the primary source of transportation for the applicant.))~~

AMENDATORY SECTION (Amending Order TL-RG 6, filed 8/15/84)

WAC 308-96A-315 TEMPORARY ~~((PERMITS))~~ PLACARDS. A temporary ~~((permit))~~ placard valid for no more than two weeks may be issued upon visual verification of a ~~((temporary))~~ qualifying disability ~~((for a maximum of two weeks and))~~. The placard may not be extended without a physician's certificate of disability. ~~((An))~~ Out-of-state visitors may be issued ~~((a))~~ temporary ~~((permit provided he or she submits proof that))~~ placards by providing evidence they have ~~((been determined eligible for))~~ valid disabled person parking privileges in ~~((another))~~ their home state.

AMENDATORY SECTION (Amending Order TL-RG 6, filed 8/15/84)

WAC 308-96A-320 CARDIOVASCULAR DISEASE OR CARDIAC CONDITION. Functional limitations of cardiovascular disease or cardiac condition as classified under standards accepted by the American Heart Association are defined as:

(1) Class III. Patients with cardiac disease or condition resulting in marked limitation of physical activity. They are comfortable at rest. Less than ordinary physical activity causes fatigue, palpitation, dyspnea, or anginal pain.

(2) Class IV. Patients with cardiac disease or condition resulting in inability to carry on any physical activity without discomfort. Symptoms of cardiac insufficiency or of the anginal syndrome may be present even at rest. If any physical activity is undertaken, discomfort is increased.

AMENDATORY SECTION (Amending Order TL/RG 39, filed 12/7/87)

WAC 308-96A-325 LOSS OF DISABLED PERSON PARKING ~~((CARD, DECAL))~~ PLACARD,

PLATE. Replacement of a disabled person ((special)) parking ((privilege special card, decal)) placard or license plate will be issued upon receipt of a signed request from the applicant stating that the ((permit, decal)) placard or license plate has been lost, stolen, destroyed or mutilated. If the applicant is physically unable to sign, the statement may be signed by a family member or legal guardian.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-330 APPLICATION, ELIGIBILITY—PUBLIC TRANSPORTATION AUTHORITIES, NURSING HOMES, SENIOR CITIZEN CENTERS, AND PRIVATE NONPROFIT AGENCIES—DISABLED PERSON PARKING ((PERMITS)) PLACARDS. Application for public transportation authority, nursing homes, senior citizen, and private nonprofit agencies for disabled person special parking ((privilege permits for disabled persons must)) placards shall be made on forms provided by the department and signed by an appropriate official of the organization((-certifying)). The applicant shall certify that the organization ((meets)) satisfies the eligibility requirements for special disabled person parking ((privilege permits for disabled persons, defined under)) placards provided in RCW 46.16.381 and chapter 308-96A WAC.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-335 SPECIAL PARKING PRIVILEGE ((PERMITS)) PLACARDS FOR PUBLIC TRANSPORTATION AUTHORITIES, NURSING HOMES, SENIOR CITIZEN CENTERS, AND PRIVATE NONPROFIT AGENCIES—TRANSFER, LIMITATIONS. One special disabled person parking ((privilege permits)) placard may be issued to public transportation authorities, nursing homes, senior citizen centers, and private nonprofit agencies ((are limited to one)) for each vehicle ((used)) the organization uses to transport eligible disabled persons. ((Permits issued to public transportation authorities, nursing homes, senior citizen centers, and private nonprofit agencies are not transferable to another vehicle:)) When ((the assigned vehicle)) a placard is no longer being used by the organization to transport qualified disabled persons, the responsible official of the organization must notify the department and surrender the ((permit. In lieu of the permit:)) placard. A written statement verifying the ((permit)) placard has been destroyed may be accepted.

((The special parking permits for the transportation of the disabled will be issued for a specified period of time as follows:

(1) Nursing homes will have permits issued to correspond with the duration of the license to operate which was issued to the nursing home by the department of social and health services, state of Washington.

(2) Senior citizen centers will be issued permits for a three-year period beginning with the date the permit was issued by the department of licensing.

(3) Private nonprofit agencies will be issued permits for a three-year period beginning with the date the permit was issued by the department of licensing.

(4) Public transportation authorities will be issued permits for a three-year period beginning with the date the permit was issued by the department of licensing.

(5) Private carriers who contract with public transportation authorities will be issued permits to correspond with the duration of such contract but for a period of time not to exceed three years.

A new application must be submitted before a new permit may be issued, to certify eligibility of the organization:))

NEW SECTION

WAC 308-96A-340 DISABLED PERSON PARKING PRIVILEGES—VALIDATION TERM.

(1) A permanent disabled person special parking placard shall be issued for a term not to exceed five years from the month and year in which the placard is issued. The placard may be renewed by providing written notice to the department. The notice must be signed by the applicant and state that the applicant continues to have disability conditions listed in RCW 46.16.381 (1)(a) through (g). Upon receipt of the written notice and approval by the department, the department shall issue a new placard valid for an additional five-year term.

(2) A temporary disabled person special parking placard shall be issued for the term of the applicant's temporary disability, but shall not exceed six months from the date the placard is issued. Upon expiration of such placard, an additional temporary placard may be issued upon verification by a licensed physician that the applicant continues to have a qualifying temporary disability.

(3) A special disabled person parking license plate may be issued for the same term as the permanent disabled person parking placard issued for the applicant. The license fees and taxes for the vehicle displaying a disabled person parking license plate must be paid when due.

(4) A permanent or temporary disabled person parking placard is invalid after the date indicated on the placard. A special disabled person parking license plate is invalid when the vehicle license fees and taxes are past due or when the permanent disabled person parking placard issued in conjunction with the license plate is invalid.

(5) Temporary and permanent disabled person parking permits, decals, and special license plates issued prior to July 28, 1991, shall be valid through January 31, 1993. Temporary and permanent disabled person parking permits, decals, and special license plates issued prior to July 28, 1991, shall be invalid after January 31, 1993. Any person that has a valid disabled person parking permit, decal, or special license plate issued prior to July 28, 1991, may submit a written notice requesting a disabled person parking placard as provided in subsection (1) of this section for renewal of a permanent placard. A special disabled person parking license plate may be retained when a permanent disabled person parking placard is obtained.

WSR 92-03-077
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 14, 1992, 4:41 p.m.]

Date of Adoption: January 8, 1992.

Purpose: Amending WAC 308-56A-140 Department temporary; and adding WAC 308-56A-470 Issuance of certificates—Contents.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-140.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.12.151 and 46.12.050.

Pursuant to notice filed as WSR 91-23-063 on November 18, 1991.

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

January 13, 1992

Mary Riveland

Director

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-140 DEPARTMENTAL TEMPORARY. If the proper documentation is not immediately available, the department may, at its option, issue a temporary permit. This permit will be valid for ~~((30))~~ sixty days ((or until proper documentation is received, whichever comes first)). The temporary permit ~~((will only be))~~ is available at ((the department's Olympia office or at a county auditor's)) any vehicle license office. The application must be on the form supplied by the department and must be completed in accordance with the instructions issued by the department. All title and licensing fees except any fees for license plates must be paid, including the temporary permit fee.

Fees for license plates will be paid at the time the license plates are issued. When license fees are being paid monthly in accordance with RCW 46.16.135, the license fees paid must be for at least the entire term of the temporary permit being issued.

The hard copy of the temporary permit must be displayed according to instructions on the permit and the signed registration must be carried in the vehicle or the towing vehicle ((at all times the vehicle is in operation. If the vehicle is designed with a rear window, the permit will be attached to the inside of the rear window in the lower left corner with the large numbers visible to one standing or following at the rear of the vehicle. The means of attachment will not obscure the information recorded on the permit. The temporary permit and the missing documentation must be surrendered before the vehicle will be registered)).

NEW SECTION

WAC 308-56A-470 ISSUANCE OF CERTIFICATES—CONTENTS. Both the certificate of ownership and the certificate of license registration shall contain upon the face thereof, in addition to all other vehicle and owner identification, a description of any facts

pertaining to previous license or operations of the vehicle. Facts pertaining to the vehicle may include but are not limited to:

- (1) The vehicle having been rebuilt;
- (2) Special certificates issued by previous states;
- (3) Previous use of the vehicle such as: A taxicab or for hire vehicle with six seats or less; or
- (4) The vehicle being previously owned and operated by a government agency.

WSR 92-03-078
PROPOSED RULES
SOUTHWEST AIR
POLLUTION CONTROL AUTHORITY

[Filed January 15, 1992, 12:40 p.m.]

Continuance of WSR 91-22-054.

Title of Rule: Southwest Air Pollution Control Authority general regulation for air pollution sources, Section 400-100 Registration required, 400-110 New source review (NSR), 400-200 Regulatory actions and 400-120 Criminal penalties.

Hearing Location: Franklin Building, Clark County Commissioner's Hearing Room, 1012 Franklin, Vancouver, WA, on January 21, 1992, at 3:30 p.m.

Submit Written Comments to: Southwest Air Pollution Control Authority, 1307 N.E. 134th Street, Suite D, Vancouver, WA 98685-2747, by January 20, 1992.

Date of Intended Adoption: January 21, 1992.

January 2, 1992

Thomas C. Tabor

Acting Executive Director

WSR 92-03-079
WITHDRAWAL OF PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD

[Filed January 15, 1992, 1:20 p.m.]

The Higher Education Personnel Board hereby withdraws proposed WAC 251-01-255 rule amendments filed with the code reviser's office on December 30, 1991, as WSR 92-02-059 and 92-02-064.

In addition, the Higher Education Personnel Board hereby withdraws proposed WAC 251-01-395 rule amendments filed with the code reviser's office on December 23, 1991, and December 30, 1991, as WSR 92-02-024 and 92-02-065, respectively.

John A. Spitz

Director

WSR 92-03-080
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
TRADE AND ECONOMIC DEVELOPMENT
(Business Assistance Center)
(Child Care Facility Fund)
[Memorandum—January 15, 1992]

The scheduled January 24, 1992, Child Care Facility Fund (CCFF) meeting has been cancelled.

The scheduled February 21, 1992, CCFF meeting has been moved to February 14, 1992. It will be held in the Host International Large Auditorium at Sea-Tac International Airport. The meeting will start at 8:45 and is expected to end at 2:00 p.m.

WSR 92-03-081
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
COMMUNITY DEVELOPMENT
(Development Loan Fund)
[Memorandum—January 13, 1992]

Pursuant with RCW 42.30.075, schedule of regular meetings, the following schedule of meetings dates is provided:

1st Calendar Quarter	March 13, 1992
2nd Calendar Quarter	June 19, 1992
3rd Calendar Quarter	September 18, 1992
4th Calendar Quarter	December 11, 1992

WSR 92-03-082
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-367, Docket No. TG-911200—Filed January 15, 1992, 3:20 p.m.]

In the matter of amending WAC 480-70-350 relating to a uniform system of accounts and annual reports for solid waste collection companies.

This action is taken pursuant to Notice No. WSR 91-24-008 filed with the code reviser on November 22, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement that statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-24-008 the above matter was scheduled for consideration at 9:00 a.m.,

Wednesday, January 8, 1992, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to December 30, 1991, and orally at 9:00 a.m., Wednesday, January 8, 1992, in the commission's hearing room above noted.

At the January 8, 1992, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-70-350 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-70-350 as amended will change the breaking point between Class A and Class B solid waste haulers and create a new Class C for specialized carriers hauling specific waste products from specific customers, which class will be required to file a less complicated annual report.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-70-350 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order be forwarded to the code reviser for filing and recorded in the order register of the Washington Utilities and Transportation Commission pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 14th day of January, 1992.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-335, Docket No. TG-900718, filed 1/14/91, effective 2/14/91)

WAC 480-70-350 ACCOUNTS—UNIFORM SYSTEM ADOPTED—REPORTS. (1) Effective January 1, 1989, a "uniform system of accounts" is hereby prescribed for use of solid waste collection companies in the state of Washington operating under chapter 295, Laws of 1961 (chapter 81.77 RCW).

(2) The various carriers shall be divided into ((two)) three classes as per ((average)) yearly gross revenue according to the following schedule:

- Class A - Those carriers having an annual yearly gross revenue of ((\$500,000)) \$1,000,000 or over per year.

Class B - Those carriers having an annual yearly gross revenue of less than ~~(((\$500,000))~~ \$1,000,000 per year.

Class C - Specialized carriers, generally hauling specific waste products for specific customers. This class of carrier is not involved in traditional residential or commercial solid waste operations.

As set forth in the above classification, any carrier may, at its option, place itself in a group higher than the one in which it falls on the basis of its annual gross operating revenue.

(3) Each solid waste collection company must secure from the commission a copy of the "uniform system of accounts" applicable to its business and keep its accounts and other records in conformity therewith to the end that its records may be kept and the annual report required to be filed by it may be compiled in accordance therewith.

(4) For purposes of rendering annual reports, solid waste collection companies shall secure from the commission the proper forms and make and file annual reports as soon after the close of the calendar year as possible, but in no event later than May 1st of the succeeding year. Failure to file such reports will be sufficient cause for the commission, in its discretion, to revoke a certificate.

(5) In the event that a certificate is transferred, or is canceled for any cause, the annual report required by this rule must be filed immediately covering the period from the first of the year to the date on which the solid waste collection company ceased operations. Where operations are discontinued prior to the close of the calendar year, or where operations are started during the calendar year, an annual report shall be rendered covering that portion of the calendar year during which the solid waste collection company operated and shall show on the face thereof the exact period covered thereby.

(6) Each solid waste collection company must maintain complete records of the collection service provided to each customer, showing for each and every customer served the amount billed, the categories and quantity of service provided, the amounts collected, and the balance due. Such customer records must also be maintained in such manner so that the service provided and the rates and charges assessed are easily identifiable in tariff terms contained in the applicable tariff of each carrier. These records must be kept on file in the general office of each company, in alphabetical, address or route order, for a period of three years subject to inspection by the commission so that the commission may ascertain at any time the number of customers served, the amounts being billed and collected, and the balance due from each and every customer. Customers requesting either by letter, telephone or office visit an itemized statement of all charges shall be furnished same.

WSR 92-03-083
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3308—Filed January 15, 1992, 3:24 p.m.]

Date of Adoption: January 15, 1992.

Purpose: Allow pregnant children under the children's health state-funded program to remain on the program until the end of the post partum period.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-033 Children—Eligible to eighteen years of age.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-22-043 on October 31, 1991.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-83-033 (1)(a) and (b) have minor revisions to clarify the age of a child eligible for certain categories of medical assistance.

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

January 15, 1992

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3179, filed 5/21/91, effective 6/21/91)

WAC 388-83-033 CHILDREN—ELIGIBLE TO EIGHTEEN YEARS OF AGE. (1) The department shall find a child who has not yet attained eighteen years of age eligible for Medicaid when the child meets citizenship, residence, and ~~((enumeration))~~ Social Security Number requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) A child born on or before ~~((October 1, 1983, who attains seven years of age))~~ September 30, 1983, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income and resources are equal to or less than the AFDC income and resource standards;

(b) A child six years of age or older born on or after ~~((September 30, 1983, who attains six years of age, but has not attained eight years of age))~~ October 1, 1983, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. One hundred percent of the 1991 poverty income guidelines is:

	FAMILY SIZE	MONTHLY
(i)	One	\$ 552
(ii)	Two	\$ 740
(iii)	Three	\$ 928
(iv)	Four	\$ 1,117
(v)	Five	\$ 1,305
(vi)	Six	\$ 1,493
(vii)	Seven	\$ 1,682
(viii)	Eight	\$ 1,870

(ix) For family units with more than eight members, add \$188 to the monthly income for each additional member.

(c) A child who attains one year of age, but has not attained six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred thirty-three percent of the 1991 federal poverty income guidelines is:

	FAMILY SIZE	MONTHLY
(i)	One	\$ 734
(ii)	Two	\$ 984
(iii)	Three	\$ 1,234
(iv)	Four	\$ 1,486
(v)	Five	\$ 1,736
(vi)	Six	\$ 1,986
(vii)	Seven	\$ 2,237
(viii)	Eight	\$ 2,487

(ix) For family units with more than eight members, add \$250 to the monthly income for each additional member.

(d) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the 1991 federal poverty income guidelines. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age and born before January 1, 1991, eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household and the mother remains eligible for medical assistance.

(b) Find an infant under one year of age and born on or after January 1, 1991, eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household.

(c) Not consider citizenship, ~~((enumeration))~~ application for, or possession of, a Social Security Number, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or ~~((enumeration))~~ application for, or possession of a Social Security Number, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the 1991 federal poverty income guidelines. See income guidelines as described under subsection (1)(b) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section except in subsection (1)(a) of this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

(7) A child eligible under subsection (3) if pregnant, shall remain eligible:

(a) Regardless of the changes in family income; and

(b) Through the end of the month including the sixtieth day from the day the pregnancy ends.

WSR 92-03-084
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3309—Filed January 15, 1992, 3:26 p.m.]

Date of Adoption: January 15, 1992.

Purpose: This new section establishes regulations for processing requests for medical services, and the amended section corrects changes cited in the Washington State Register.

Citation of Existing Rules Affected by this Order: New WAC 388-81-038 Medical services request; and amending WAC 388-86-005 Services available to recipients of categorical needy medical assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-22-040 on October 31, 1991.

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

January 15, 1992

Leslie F. James, Director
 Administrative Services

NEW SECTION

WAC 388-81-038 MEDICAL SERVICES REQUEST. (1) The department shall evaluate the request for medical services listed in WAC 388-86-005.

(2) The department shall base a decision to approve or deny a service on obtainable evidence that establishes whether the service is "medically necessary" as defined under WAC 388-80-005.

(a) In each case, the department shall make an individualized decision whether a requested service is "medically necessary." A decision that a requested service is

not "medically necessary" shall be based only on information contained in the recipient's file.

(b) The evidence must be sufficient to determine that the requested service is or is not "medically necessary," and may include:

- (i) A physiological description of the disease, injury, impairment, or other ailment;
- (ii) Pertinent laboratory findings;
- (iii) X-ray reports;
- (iv) Patient profiles; and
- (v) Other objective medical information, including but not limited to medically acceptable clinical findings and diagnoses resulting from physical or mental examinations.

(3) In deciding to approve or deny a durable medical equipment or prosthetic device request, the department shall give substantial weight to objective medical information, and conclusions based thereon, from an examining physician responsible for the recipient's diagnosis or treatment or both when:

(a) There is an uncontradicted and adequately substantiated conclusion of an examining physician that the requested service is "medically necessary," the department shall accept the examining physician's conclusion unless the department presents in specific detail reasons for rejecting that conclusion that are consistent with sound medical practice and supported by objective medical information in the recipient's file; or

(b) Two or more examining physicians provide conflicting medical information on conclusions about whether the requested durable medical equipment or a prosthetic device is "medically necessary," the department may conclude the durable medical equipment or a prosthetic device is not "medically necessary" only if the department enumerates specific reasons for its conclusion that are supported by objective medical information in the recipient's file.

(4) The department shall deny a requested service when the service is:

(a) Not medically necessary as defined under WAC 388-80-005;

(b) Generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient demonstrates through sufficient objective clinical evidence the existence of particular circumstances rendering the requested service medically necessary; or

(c) Not a covered medical service.

(5) The department shall:

(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or

(b) Return a request to the requesting provider when the information submitted is insufficient for a determination of medically necessary. The department shall make a request for justifying additional information from the requesting provider within five working days of the original receipt. If additional information is:

(i) Not received by the department within thirty days of the date requested, then the department shall deny the original request within five days after the thirty-day period on the basis of insufficient justification of medical necessity;

(ii) Received by the department, the department shall make a final determination on the request within five working days of the receipt of the additional information.

(c) Send a copy of the request to the recipient for additional information justifying medical necessity for durable medical equipment or a prosthetic device.

(6) When the department denies a request for medical services, including all or part of requested services, the department shall, within five working days of the decision, give the recipient and the provider written notice of the denial. The notice shall state:

(a) The WAC references used as a basis for the decision;

(b) A summary statement of the specific facts the department relied upon for the decision;

(c) An explanation of the reasons for denial, including the reasons why the specific facts relied on did not meet the requirements for approval;

(d) When required by subsection (3) of this section, a specific statement of reasons and their supporting facts for rejecting any medical information or conclusions of an examining physician;

(e) The recipient's right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing;

(f) The recipient may be represented at the hearing by legal counsel or other representative;

(g) That the community service office (CSO) shall furnish the recipient, upon the recipient's request, the name and address of the nearest legal services office; and

(h) If a fair hearing is requested, a medical assessment from other than the person involved in making the original decision may be obtained at the department's expense.

AMENDATORY SECTION (Amending Order 3056, filed 8/21/90)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF CATEGORICAL NEEDY MEDICAL ASSISTANCE. (1) The department shall provide the following Title XIX mandatory services:

(a) Early and periodic screening diagnosis and treatment services to an eligible ((individuals)) person twenty years of age or under;

(b) Family planning services;

(c) Federally qualified health center services;

(d) Home health agency services;

(e) Inpatient and outpatient hospital care;

(f) Medicare certified rural health clinic services;

(g) Other laboratory and x-ray services;

(h) Skilled nursing home care;

(i) Certified registered nurse practitioner services; and

(j) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

(a) Anesthesia services;

(b) Blood;

(c) Chiropractic services;

(d) Drugs and pharmaceutical supplies;

(e) Eyeglasses and examination;

- (f) Hearing aids and examinations;
- (g) Hospice services;
- (h) Licensed midwife services;
- (i) Maternity support services;
- (j) Oxygen;
- (k) Personal care services;
- (l) Physical therapy services;
- (m) Private duty nursing services;
- (n) Surgical appliances;
- (o) Prosthetic devices and certain other aids to mobility; and

(p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the recipient is in the home, hospital, or kidney center as described under WAC 388-86-050(5).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs certified under chapter 275-19 WAC.

~~(8) ((The department shall approve requested services:~~

~~(a) Listed in this section; and~~

~~(b) Where evidence is obtainable to establish medical necessity as defined under WAC 388-80-005, if the recipient or provider submits sufficient objective clinical information including, but not limited to:~~

~~(i) A physiological description of the disease, injury, impairment, or other ailment;~~

~~(ii) Pertinent laboratory findings;~~

~~(iii) X-ray reports; and~~

~~(iv) Patient profiles.~~

~~(9) The department shall deny a request for medical services when the requested service is:~~

~~(a) Not medically necessary as defined under WAC 388-80-005; or~~

~~(b) Generally regarded by the medical profession as experimental in nature or as unacceptable treatment; unless the recipient demonstrates through sufficient objective clinical evidence the existence of particular circumstances rendering the requested service medically necessary.~~

~~(10) The department shall:~~

~~(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or~~

~~(b) If additional justifying information is necessary before a decision can be made, neither approve nor deny the request, but shall return the request to the provider within five working days of the original receipt. If additional justifying information is:~~

~~(i) Not returned within thirty days of the date the request was returned to the provider, then the department shall approve or deny the original request.~~

~~(ii) Returned to the department, the department shall act on the request within five working days of the receipt of the additional justifying information.~~

~~(11) When the department denies a request for medical services, the department shall, within five working days of the decision, give the recipient and the provider written notice of the denial. The notice shall state:~~

~~(a) The specific reasons for the department's conclusion to deny the requested service;~~

~~(b) The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing;~~

~~(c) The recipient may be represented at the hearing by legal counsel or other representative;~~

~~(d) That upon request, the community service office (CSO) shall furnish the recipient the name and address of the nearest legal services office; and~~

~~(e) If a fair hearing is requested, a medical assessment from other than the person involved in making the original decision may be obtained at the department's expense.~~

~~((12))) For services available under the ((limited casualty)):~~

~~(a) Limited casualty program—medically needy, see chapter 388-99 WAC; and~~

~~(b) Limited casualty program—medically indigent, see chapter 388-100 WAC.~~

~~((13)) (9) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.~~

~~((14)) (10) The department shall designate diagnoses that may require surgical intervention:~~

~~(a) Performed in other than a hospital in-patient setting; and~~

~~(b) Requiring prior approval by the ((central authorization unit)) department for a hospital admission.~~

~~((15)) (11) The department shall assure the availability of necessary transportation to and from ((covered Title XIX)) medical services covered under a recipient's medical program.~~

WSR 92-03-085

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 3310—Filed January 15, 1992, 3:28 p.m.]

Date of Adoption: January 15, 1992.

Purpose: The legislature mandated that the pilot expire June 30, 1991.

Citation of Existing Rules Affected by this Order:
Repealing WAC 388-33-480 Direct rental payments to landlords—Pilot program.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 91-22-042 on October 31, 1991.

Effective Date of Rule: Thirty-one days after filing.
January 15, 1992
Leslie F. James, Director
Administrative Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-33-480 Direct rental payments to landlords—Pilot program.

WSR 92-03-086
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3311—Filed January 15, 1992, 3:30 p.m.]

Date of Adoption: January 15, 1992.

Purpose: Amendments are to conform WAC 388-49-520 to requirements of 7 CFR 273.21(b).

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-520 Prospective income budgeting.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 91-21-121 on October 23, 1991.

Effective Date of Rule: Thirty-one days after filing.
January 15, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3184, filed 5/31/91, effective 7/1/91)

WAC 388-49-520 PROSPECTIVE INCOME BUDGETING. (1) The department shall budget income, income deductions, and income exclusions prospectively for the first two beginning months.

(2) The department shall budget income, income deductions, and income exclusions prospectively for the entire certification period for:

(a) Households in which all adult members are elderly or disabled and do not have:

(i) Earned income; or

(ii) Recent work history as defined in WAC 388-49-020(65);

(b) Migrant households;

(c) Seasonal farmworker households; and

(d) Households in which all members are homeless individuals.

(3) The department shall budget the following income, income deductions, and income exclusions prospectively, except as provided under WAC 388-49-535(6):

(a) Monthly student financial aid, except for work study;

(b) Public assistance;

(c) Supplemental security income (SSI); and

(d) Income from a new household member for the first two months of participation when the:

(i) Household timely reports the new member; and

(ii) New member has not received benefits within the last calendar month.

~~((4) The department shall consider income exclusions and deductions prospectively when budgeting income for households defined in subsections (1) and (2) of this section.))~~

WSR 92-03-087
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3312—Filed January 15, 1992, 3:32 p.m.]

Date of Adoption: January 15, 1992.

Purpose: To assure correctness of compliance with current policy.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-013 Cooperation in securing medical support.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-22-039 on October 31, 1991.

Effective Date of Rule: Thirty-one days after filing.
January 15, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3175, filed 5/1/91, effective 6/1/91)

WAC 388-83-013 COOPERATION IN SECURING MEDICAL SUPPORT. (1) As a condition of eligibility for ~~((medical assistance))~~ Medicaid, the department shall require ~~((the applicant or recipient/enrollee))~~ a client, unless ~~((a))~~ pregnant ~~((woman))~~ or there is a finding of good cause, to cooperate with the department in:

(a) Obtaining medical support, as defined under WAC 388-11-011, for the ~~((applicant or recipient/enrollee))~~ client or for any other ~~((applicant or recipient/enrollee))~~ client other than an unborn for whom the ~~((applicant or recipient/enrollee))~~ client can legally assign rights; and

(b) Identifying and providing information to assist the department in pursuing any liable third party; and

~~(c) Establishing paternity of the client's child.~~

(2) The department shall ~~((also))~~ require ~~((an AFDC/FIP-related medical assistance))~~ a Medicaid client to cooperate as described under WAC 388-14-200 (2)(a), (b), (c), (3), (4), (5), (6), (7), (8), (9), and (16), unless ~~((a))~~:

~~(a) The client is pregnant ((woman)); or~~

~~(b) There is a finding of good cause under WAC 388-24-111((, except for the provision under WAC 388-24-111 (15)(b), in establishing:~~

~~(a) The paternity of a child; and~~

~~(b) Medical support as defined under WAC 388-11-011).~~

(3) The department shall waive such client's cooperation requirements if the department finds the ~~((applicant or recipient/enrollee))~~ client has good cause ~~((under WAC 388-83-014))~~ for noncooperation as described under WAC 388-83-014.

(4) Unless the department finds good cause for noncooperation under WAC 388-24-111 or 388-83-014, the department shall find the ~~((applicant or recipient/enrollee))~~ client, who refuses to cooperate under subsection (1) of this section, ineligible to receive ~~((medical assistance))~~ Medicaid.

(5) The department shall provide ~~((medical assistance))~~ Medicaid to an otherwise eligible ~~((applicant or recipient/enrollee))~~ client when the person ~~((who has))~~ having the legal authority to cooperate on behalf of the ~~((applicant or recipient/enrollee))~~ client refuses such cooperation.

(6) Effective March 1, 1991, the department shall not establish an obligation to collect a client's birth costs that are:

(a) Paid or expected to be paid by the department; and

(b) Defined under WAC 388-11-011.

(7) The department may seek reimbursement of a client's birth costs covered by available insurance or other liable third party.

WSR 92-03-088
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3313—Filed January 15, 1992, 3:34 p.m.]

Date of Adoption: January 15, 1992.

Purpose: This amendment allows additional time for the transfer of resources for the support of the community spouse when a court order is required.

Citation of Existing Rules Affected by this Order: Amending WAC 388-95-337 Availability of resources.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-22-041 on October 31, 1991.

Changes Other than Editing from Proposed to Adopted Version: Subsection (5)(b)(i) changed to read "sixty-eight thousand seven hundred dollars effective January 1, 1992."

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

January 15, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2567 [3150], filed 12/11/87 [3/11/91])

WAC 388-95-337 AVAILABILITY OF RESOURCES. (1) Resources are defined under WAC 388-92-005 for the SSI-related applicant or recipient and

under WAC 388-22-030 for an AFDC-related applicant or recipient.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer(s) of resources are evaluated under WAC 388-95-395.

(3) The department shall ~~((follow))~~ determine ownership of resources following Washington state community property principles ~~((in determining the ownership of resources))~~:

(a) For a person(s):

(i) Whose most recent period of institutionalization began before October 1, 1989; and ~~((remains))~~

(ii) Remaining continuously institutionalized.

(b) For purposes of Medicaid eligibility, the department shall presume all resources are:

(i) Community resources if jointly held in the names of both the husband and wife, or in the name of the applicant/recipient only;

(ii) The separate property of the nonapplicant spouse if:

(A) Held in the separate name of the nonapplicant spouse; or

(B) Transferred between spouses as described under WAC 388-92-043(6).

(c) The department shall divide by two, the total value of the community resources the husband and wife own and assign one-half of the total value to each spouse.

(4) A person is no longer continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive ~~((COPES/CAP/OBRA/ECASA/HOSPICE))~~ home or community based waived services.

(5) The department shall use the following criteria for the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989:

(a) The department shall exclude resources in WAC 388-95-380 with the exception of subsection (3) under WAC 388-95-380. One automobile per couple is totally excluded without regard to use;

(b) The department shall consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) ~~((Sixty-six thousand four hundred eighty))~~ Sixty-eight thousand seven hundred dollars effective January 1, ~~((1991))~~ 1992;

(ii) An amount established by a fair hearing under chapter 388-08 WAC if the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) The resources available to the community spouse shall be in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse before the first regularly scheduled eligibility review ~~((after the initial eligibility determination is completed))~~ or as soon as practicable

thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse; and

(d) The department shall consider resources greater than such resources in subsection (5)(b) of this section available to the institutional spouse.

(6) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse during a continuous period of institutionalization; or

(b) When the institutionalized spouse acquires resources in excess of the one-person resource maximum, if the most recent period of institutionalization began after September 30, 1989.

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

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 92-03-089
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3314—Filed January 15, 1992, 4:18 p.m.]

Date of Adoption: January 15, 1992.

Purpose: The amendment enables CSO field staff to meet bonafide emergent needs through the vendor payment process only for utility shut-off or impending eviction.

Citation of Existing Rules Affected by this Order: Amending WAC 388-33-460 Payment to vendor of goods and services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-21-068 on October 17, 1991.

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

January 15, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1637, filed 4/15/81)

WAC 388-33-460 PAYMENT TO VENDOR OF GOODS AND SERVICES. (1) A vendor payment may be used ~~((in place of a one-time payment))~~ to provide assistance for ~~((an individual))~~ a person who is in emergent need only if:

(a) The ~~((individual))~~ person has been served a ~~((sheriff's))~~ written notice of eviction, and it is verified that the landlord:

(i) ~~((It is verified that the landlord))~~ Will not forestall eviction ((until a one-time)) unless a vendor payment is received, and

(ii) ~~((It is verified that the landlord))~~ Will not evict the ((individual)) person after receiving the vendor payment; or

(b) The ~~((individual))~~ person has been served a utility shut-off notice, and it is verified that the vendor:

(i) ~~((It is verified that the vendor))~~ Will not forestall shut-off ((until a one-time grant)) unless a vendor payment is received, and

(ii) ~~((It is verified that the vendor))~~ Will not shut off the utility after the vendor payment is received; or

(c) ~~((The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment:~~

~~(d))~~ The ((individual)) person requests in writing that a vendor payment be made.

(2) Vendor payments listed in item (1) of this section shall:

(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595 ~~((2)(c))~~.

(b) Not be authorized to the extent that the ~~((individual))~~ person can meet the emergent need from his/her cash savings.

(3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

(4) A vendor payment may be used for an AFDC recipient when:

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the ~~((WIN))~~ JOBS program is determined by the ~~((state employment service))~~ JOBS program staff to have refused ~~((employment))~~ or failed to participate in the ~~((WIN))~~ JOBS program without good cause, and vendor payments are the necessary form of payment - see WAC ~~((388-33-450))~~ 388-47-210.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

(5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home - see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility - see WAC 388-34-370 through 388-34-384.

WSR 92-03-090
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3315—Filed January 15, 1992, 4:20 p.m.]

Date of Adoption: January 15, 1992.

Purpose: Change the way the department applies earned income disregards for children to bring state regulations into compliance with federal regulations, per recent federal clarification.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-535 Cash income—Determination—Deductions from gross income—Income of child.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 91-21-067 on October 17, 1991.

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

January 15, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2442, filed 11/10/86)

WAC 388-28-535 NET CASH INCOME—DETERMINATION—DEDUCTIONS FROM GROSS INCOME—INCOME OF CHILD. (1) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which (~~he or she~~) the child is a member, the following rules apply:

(a) ~~The department shall disregard all of the child's monthly earned income ((of a child in an assistance unit shall be disregarded in determining eligibility for six months when he or she is a full-time student and disregarded in determining payment amount when he or she)) when the following circumstances apply:~~

(i) When determining whether total family income exceeds one hundred and eighty-five percent of the need standard for an applicant or recipient child who is a full-time student, limited to six months per calendar year;

(ii) When determining whether total family income exceeds one hundred percent of the need standard for:

(A) An applicant child, who is a full-time student, provided that such income is also disregarded under subsection (1)(a)(i) of this section; or

(B) A recipient child, who is a full-time student or a part-time student who is not a full-time employee.

(iii) When determining the payment amount for an applicant or recipient child who is a full-time student or a part-time student who is not a full-time employee.

(b) A student is (~~one~~) defined as a person attending a school, college or university, or a course of vocational or technical training designed to fit him or her for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain his or her status as a student during the summer vacation.

(c) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part-time student working less than full time.

(d) To be employed full time, a child must be working thirty-five hours a week or the number of hours considered full time by the industry for which he or she works, whichever is less.

(e) Summer employment of students shall not be considered as full-time employment due to the temporary nature of such employment, even though the hours worked may exceed thirty-five hours a week.

(f) In determining the amount of a nonstudent child's earned income available to meet the current needs of the assistance unit, net income shall be computed according to WAC 388-28-570.

(2) A child may receive income paid in his or her behalf to the parent or parents or other needy caretaker relative. Such income includes earned income, allotments, retirement, survivors and disability insurance, veterans' benefits, court-ordered support payments, trust fund payments, or other income legally designated for the benefit of an individual child. Such income of a child ineligible to be included as a member of the assistance unit shall be considered as follows:

(a) If the child is ineligible due to noncooperation with the Washington state employment opportunities programs, or with child support enforcement if the child is a minor parent, such child's income shall be considered available to meet the need of the assistance unit;

(b) If the child is ineligible due to any other factor of eligibility, none of the child's income shall be considered available to meet the need of the assistance unit.

(3) A stepchild may receive income as specified in subsection (2) of this section. According to WAC 388-24-050(3), when the assistance unit does not include a stepchild's sibling or half-sibling, the family shall have the option to:

(a) Include the stepchild as a member of the assistance unit with all of the stepchild's income considered as available to the assistance unit; or

(b) Exclude the stepchild from the assistance unit, with none of the stepchild's income considered as available to the assistance unit.

(4) If the income of an ineligible child or stepchild, including a stepchild excluded from the assistance unit as specified in subsection (3) of this section, contains a portion for such child's caretaker relative, that portion shall be considered as available to the assistance unit.

WSR 92-03-091
PERMANENT RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY

[Filed January 16, 1992, 11:28 a.m.]

Date of Adoption: January 9, 1992.

Purpose: To add control measures for ethylene oxide sterilizers and aerators and to clarify the chrome plating and anodizing rule.

Citation of Existing Rules Affected by this Order: Amending PSAPCA Regulation III, Sections 1.07, 2.01, and 3.01.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 91-24-083 on December 4, 1991.

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

January 15, 1992

Margaret L. Corbin
Air Toxics Specialist

AMENDATORY SECTION

SECTION 1.07 SPECIAL DEFINITIONS

(a) ACCEPTABLE SOURCE IMPACT LEVEL (ASIL) means a concentration of a toxic air contaminant in the atmosphere that is used to evaluate the air quality impact of a single source. There are three types of acceptable source impact levels: risk based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

(b) AIR POLLUTION means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(c) AMPERE-HOURS means the integral of electrical current applied to a plating or anodizing tank (amperes) over a period of time (hours).

(d) ANTI-MIST ADDITIVE means a chemical which reduces the hexavalent chromium emission rate from a tank.

(e) BEST AVAILABLE CONTROL TECHNOLOGY (BACT) means an emission limitation based on the maximum degree of reduction, which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such source through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each pollutant.

(f) CHROMIC ACID ANODIZING means an electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.

(g) CHROMIC ACID PLATING means an electrolytic process by which chromium is deposited on a base metal surface.

(h) COLD SOLVENT CLEANER or COLD CLEANER means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.

(i) ETHYLENE OXIDE AERATOR means any equipment, space, or room in which air is used to remove residual ethylene oxide from sterilized materials.

(j) ETHYLENE OXIDE STERILIZER means any chamber or related piece of equipment that uses ethylene oxide or an ethylene oxide mixture in any sterilization or fumigation process.

((††)) (k) FREEBOARD RATIO means the freeboard height (the distance from the top of the degreaser to the

air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).

((††)) (l) REFRIGERATED FREEBOARD CHILLER means a set of cooling coils situated above the condenser which operates at 2°C or less.

((††)) (m) TOXIC AIR CONTAMINANT (TAC) means any air contaminant listed in Appendix A of this Regulation III or listed in the Administrative Regulations of the United States of America in 40 CFR Part 372, Subpart D, as both now exist or are hereinafter amended, and both of which by this reference are incorporated herein and made a part hereof.

((††)) (n) VAPOR DEGREASER means a degreasing tank in which the solvent is heated at or above the boiling point.

AMENDATORY SECTION

SECTION 2.01 APPLICABILITY

(a) Article 2 of this Regulation III shall apply to all sources of toxic air contaminants except the following:

(1) Asbestos Removal Operations (see Article 4 of Regulation III)

(2) Chromic Acid Plating and Anodizing Tanks (see Section 3.01 of Regulation III)

(3) Solvent Metal Cleaners (see Section 3.05 of Regulation III)

(4) Perchloroethylene Dry Cleaners (see Section 3.03 of Regulation III)

(5) Petroleum Solvent Dry Cleaning Systems (see Section 3.07 of Regulation II)

(6) Gasoline Storage and Dispensing Operations (see Article 2 of Regulation II)

(7) Graphic Arts Systems (see Section 3.05 of Regulation II)

(8) Can and Paper Coating Operations (see Section 3.03 of Regulation II)

(9) Motor Vehicle and Mobile Equipment Coating Operations (see Section 3.04 of Regulation II)

(10) Polyester/Vinylester/Gelcoat/Resin Operations (see Section 3.08 of Regulation II)

(11) Coatings and Ink Manufacturing (see Section 3.11 of Regulation II)

(12) Ethylene Oxide Sterilizers and Aerators (see Section 3.07 of Regulation III)

(b) Any demonstration required by this Article shall be conducted in accordance with the Agency "Guidelines For Evaluating Sources of Toxic Air Contaminants", which are hereby incorporated by reference.

AMENDATORY SECTION

SECTION 3.01 CHROMIC ACID PLATING AND ANODIZING

(a) It shall be unlawful for any person to cause or allow the operation of any chromic acid plating or anodizing tank unless the tank is equipped with ((am)) a permanent ampere-hour accumulator that is operating at all times electrical current is applied to the tank and the facility-wide uncontrolled hexavalent chromium emissions from plating or anodizing tanks are reduced by at

least 95% using either of the following control techniques:

(1) An anti-mist additive or other equally effective control method which has been approved by the Control Officer shall be employed; or

(2) The tank shall be equipped with:

(A) A capture system approved by the Control Officer, which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

~~((B) A control device which shall reduce hexavalent chromium emissions by at least 95%.)~~

(B) ((C)) A combination of anti-mist additives or other control method and use of control devices which collectively shall limit hexavalent chromium emissions to less than 0.15 milligrams per ampere-hour of electrical charge applied to the tank.

(b) It shall be unlawful for any person to cause or allow the operation of any chromic acid plating or anodizing tank at a facility where the facility-wide hexavalent chromium emissions from chromic acid plating and anodizing are greater than 1 kilogram per year after the application of the control techniques required by (a) above, unless the facility-wide uncontrolled hexavalent chromium emissions from plating and anodizing tanks are reduced by at least 99% using either of the following control techniques:

(1) An anti-mist additive or other equally effective control method which has been approved by the Control Officer shall be employed; or

(2) The tank shall be equipped with:

(A) A capture system approved by the Control Officer, which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

~~((B) A control device which shall reduce hexavalent chromium emissions by at least 99%.)~~

(B) ((C)) A combination of anti-mist additives or other control method and use of control devices which collectively shall limit hexavalent chromium emissions to less than 0.03 milligrams per ampere-hour of electrical charge applied to the tank.

(c) It shall be unlawful for any person to cause or allow the operation of any chromic acid plating or anodizing tank at a facility where the facility-wide hexavalent chromium emissions from chromic acid plating and anodizing would be greater than 1 kilogram per year after the application of the control techniques required by (b) above, unless the facility-wide uncontrolled hexavalent chromium emissions from plating and anodizing tanks are reduced by at least 99.8% using either of the following control techniques:

(1) An anti-mist additive or other equally effective control method which has been approved by the Control Officer shall be employed; or

(2) The tank shall be equipped with:

(A) A capture system approved by the Control Officer, which represents good engineering practice and which shall be in place and in operation at all times electrical current is applied to the tank; and

~~((B) A control device which shall reduce hexavalent chromium emissions by at least 99.8%.)~~

~~(B) ((C))~~ A combination of anti-mist additives or other control method and use of control devices which collectively shall limit hexavalent chromium emissions to less than 0.006 milligrams per ampere-hour of electrical charge applied to the tank.

(d) The owner or operator of the source shall report the facility-wide hexavalent chromium emissions to the Agency annually using procedures approved by the Control Officer.

~~((e) The provisions of Section 3.01(a) shall be effective January 1, 1991.)~~

~~(e) ((f))~~ The provisions of Sections 3.01 (b) and (c) shall be met on the following schedule:

~~((1) Submit Notice of Construction by July 1, 1991; and))~~

~~(1) ((2))~~ Submit Progress Report by January 1, 1992; and

~~(2) ((3))~~ Achieve Final Compliance by July 1, 1992.

~~((g) The provisions of Section 3.01(d) shall be effective upon adoption.)~~

NEW SECTION

SECTION 3.07 ETHYLENE OXIDE STERILIZERS AND AERATORS

(a) The provisions of this rule do not apply if the facility-wide usage of ethylene oxide is less than 11 kilograms (25 pounds per year).

(b) It shall be unlawful for any person to cause or allow the emission of ethylene oxide from the operation of any sterilizer or aerator unless ethylene oxide emissions from each device meet the following control efficiencies:

Facility-wide Usage of Ethylene Oxide kg/yr (lbs/yr)	Exhaust Streams to be Controlled	Control Efficiency (%)
≥11 and ≤272 (≥25 and ≤600)	Sterilizer	99.0
	Aerator	90.0
>275 and ≤2,270 (>600 and ≤5,000)	Sterilizer	99.9
	Aerator	95.0
2270 (>5,000)	Sterilizer	99.9
	Aerator	99.0

(c) It shall be unlawful for any person to cause or allow the operation of an ethylene oxide sterilizer or aerator unless the maximum concentration of ethylene oxide is less than 10 ppm as measured 1 centimeter away from any portion of the equipment other than the exhaust.

(d) It shall be unlawful for any person to cause or allow the discharge of ethylene oxide in the sterilizer exhaust vacuum pump working fluid to the wastewater stream.

(e) Annual source tests shall be conducted in accordance with Section 1.09 of Regulation III to verify compliance with the requirements in this section.

(f) The provisions of this section shall be met on the following schedule:

(1) Submit Notice of Construction by July 1, 1992; and

(2) Submit Progress Report by July 1, 1993; and

(3) Achieve Final Compliance by July 1, 1994.

WSR 92-03-092
PERMANENT RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY
 [Filed January 16, 1992, 11:32 a.m.]

Date of Adoption: January 9, 1992.

Purpose: Add short title and general definitions sections and amend special definitions and perchloroethylene dry cleaner sections. Update the list of acceptable source impact levels to be consistent with chapter 173-460 WAC and add EPA toxic air contaminants not already on the list.

Citation of Existing Rules Affected by this Order: Amending PSAPCA Regulation III, Sections 1.07, 3.03, and Appendix A.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 91-23-096 on November 20, 1991.

Changes Other than Editing from Proposed to Adopted Version: New Section 1.06 was renumbered as 1.07. Amended Section 1.07 was renumbered as 1.08. In Appendix A we clarified the list by adding additional synonyms.

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

January 15, 1992
 Margaret L. Corbin
 Air Toxics Specialist

NEW SECTION

SECTION 1.02 SHORT TITLE

This Regulation may be known and cited as "Regulation III of the Puget Sound Air Pollution Control Agency".

NEW SECTION

SECTION 1.07 GENERAL DEFINITIONS

All definitions in Regulation I, Section 1.07, General Definitions, are fully applicable to Regulation III.

AMENDATORY SECTION

SECTION ~~((+07))~~ 1.08 SPECIAL DEFINITIONS

(a) ACCEPTABLE SOURCE IMPACT LEVEL (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

~~((b) AIR POLLUTION means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.))~~

(b) ~~((c))~~ AMPERE-HOURS means the integral of electrical current applied to a plating or anodizing tank (amperes) over a period of time (hours).

(c) ~~((d))~~ ANTI-MIST ADDITIVE means a chemical which reduces the hexavalent chromium emission rate from a tank.

~~((c) BEST AVAILABLE CONTROL TECHNOLOGY (BACT) means an emission limitation based on the maximum degree of reduction, which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such source through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each pollutant:))~~

(d) ~~((f))~~ CHROMIC ACID ANODIZING means an electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.

(e) ~~((g))~~ CHROMIC ACID PLATING means an electrolytic process by which chromium is deposited on a base metal surface.

(f) ~~((h))~~ COLD SOLVENT CLEANER OR COLD CLEANER means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.

(g) ~~((i))~~ FREEBOARD RATIO means the freeboard height (the distance from the top of the degreaser to the air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).

(h) ~~((j))~~ REFRIGERATED FREEBOARD CHILLER means a set of cooling coils situated above the condenser which operates at 2°C or less.

(i) ~~((k))~~ TOXIC AIR CONTAMINANT (TAC) means any air contaminant listed in Appendix A of this Regulation III or listed in the Administrative Regulations of the United States of America in 40 CFR Part 372, Subpart D, as both now exist or are hereinafter amended, and both of which by this reference are incorporated herein and made a part hereof.

(j) ~~((l))~~ VAPOR DEGREASER means a degreasing tank in which the solvent is heated at or above the boiling point.

AMENDATORY SECTION

SECTION 3.03 PERCHLOROETHYLENE DRY CLEANERS

(a) This section applies to all dry cleaning systems using perchloroethylene, except systems with annual uncontrolled emissions of 300 kilograms or less.

(b) It shall be unlawful for any person to operate a perchloroethylene dry cleaning system unless the entire dryer exhaust is vented through a control device which will reduce VOC emissions to 5 kilograms or less per 100 kilograms dry weight of cleaned articles.

(c) It shall be unlawful for any person to cause or allow the operation of a perchloroethylene dry cleaner unless the control device meets one of the following conditions:

(1) The exhaust from a carbon adsorber shall contain less than 100 ppm perchloroethylene as measured over a period of one minute before dilution; or

(2) The air temperature at the outlet of a refrigerated condenser must reach 7°C or less during the cool-down period. A temperature gauge (~~with a minimum range from -32°C to 75°C~~) shall be installed on the condenser outlet duct; or

(3) The demonstrated control efficiency for any other control device must be 90% or greater by weight, prior to the discharge to the atmosphere measured over a complete control cycle.

(d) It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaner unless all of the following conditions are met:

(1) All leaking components shall be repaired immediately.

(2) If filtration cartridges are drained, they shall be drained in an enclosed container for at least twenty-four (24) hours before discarding the cartridges.

AMENDATORY SECTION

APPENDIX A, REGULATION III ACCEPTABLE SOURCE IMPACT LEVELS

COMPOUND NAME	CAS CODE	ASIL $\mu\text{g}/\text{m}^3$	TYPE
Acetaldehyde	75-07-0	.45	A
Acetamide	60-35-5	TBD	D
ANTU	86-88-4	1.0	B
Acetic acid	75-07-0	83.3	B
Acetic anhydride	108-24-7	66.6	B
Acetone	67-64-1	5927.4	B
Acetonitrile	75-05-8	233.1	B
Acetophenone	98-86-2	TBD	D
2-Acetylaminofluorene	53-96-3	TBD	D
Acetylene tetrabromide	79-27-6	50.0	B
Acrolein	107-02-8	0.8	B
Acrylamide	79-06-1	0.1	B
Acrylic acid	79-10-7	99.9	B
Acrylonitrile	107-13-1	0.015	A
Aldrin	309-00-2	0.0002	A
Allyl alcohol	107-18-6	16.7	B
Allyl chloride	107-05-1	TBD	D
Allyl glycidyl ether (AGE)	106-92-3	73.3	B
Allyl propyl disulfide	2179-59-1	40.0	B
Aluminum, Al alkyls	7429-90-5	6.7	B
Aluminum, as Al metal dust	7429-90-5	33.3	B
Aluminum, as Al pyro powders	7429-90-5	16.7	B
Aluminum, as Al soluble salts	7429-90-5	6.7	B
Aluminum, as Al welding fumes	7429-90-5	16.7	B
2-Aminoanthraquinone	117-79-3	TBD	A
o-Aminoazotoluene	97-56-3	TBD	A
4-Aminobiphenyl	92-67-1	TBD	A
2-Aminopyridine	504-29-0	6.7	B
Amitrole	61-82-5	((TBD)) 0.6	((A)) C
Ammonia	7664-41-7	59.9	B
Ammonium chloride fumes	12125-02-9	33.3	B
Ammonium perfluorooctanoate	3825-26-1	0.3	B
Ammonium sulfamate	7773-06-0	33.3	B
n-Amyl acetate	628-63-7	1764.9	B
sec-Amyl acetate	626-38-0	2214.5	B
Aniline and homologues	62-53-3	33.3	B
Anisidine(o-,p- isomers)	29191-52-4	1.7	B
o-Anisidine	90-04-0		
Antimony & compounds, as Sb	7440-36-0	1.7	B
Antimony trioxide, as Sb	1309-64-4	1.7	B

COMPOUND NAME	CAS CODE	ASIL $\mu\text{g}/\text{m}^3$	TYPE
Arsenic and inorganic arsenic compounds	7440-38-2	.00023	A
Arsine	7784-42-1	0.7	B
Asbestos (Note: fibers/ml)	1332-21-4	0.0000042	A
Asphalt (petroleum) fumes	8052-42-4	16.7	B
Atrazine	1912-24-9	16.7	B
Auramine (technical grade)	2465-27-2	TBD	A
Azinphos-methyl	86-50-0	0.7	B
Barium, soluble compounds Ba	7440-39-3	1.7	B
Bcnomyl	17804-35-2	33.3	B
Benz(a)anthracene	56-55-3	TBD	A
Benzene	71-43-2	0.12	A
Benzidine and its salts	92-87-5	0.000015	A
Benzotrichloride	98-07-7	TBD	D
Benzoyl peroxide	94-36-0	16.7	B
Benzo(a)pyrene	50-32-8	((FBD)) <u>0.006</u>	A
Benzo(b)fluoranthene	204-99-2	TBD	A
Benzo(j)fluoranthene	205-82-3	TBD	A
Benzo(k)fluoranthene	205-08-9	TBD	A
Benzyl chloride	100-44-7	16.7	B
Benzyl violet 4b	1694-09-3	TBD	A
Beryllium and its compounds	7440-41-7	0.00042	A
Biphenyl	92-52-4	5.0	B
((Bis(2-chloro-1-methyl-ethyl)ether	108-60-1	0.0005	A))
Bis(2-chloroethyl)ether (Dichloroethyl ether)	111-44-4	0.003	A
Bis(2-chloroethyl)ether (Dichloroethyl ether)	111-44-4	99.9	B
Bis(2-ethylhexyl)phthalate (DEHP; Di(2-ethylhexyl)phthalate)	117-81-7	TBD	A
Bis(2-ethylhexyl)phthalate (DEHP; Di(2-ethylhexyl)phthalate)	117-81-7	16.7	B
Bis(chloromethyl)ether and tech. grade chloromethyl methyl ether	542-88-1	0.000016	A
Bismuth telluride	1304-82-1	33.3	B
Bismuth telluride Se doped	1304-82-1	16.7	B
Borates, anhydrous	1303-96-4	3.3	B
Borates, decahydrate	1303-96-4	16.7	B
Borates, pentahydrate	1303-96-4	3.3	B
Boron oxide	1303-86-2	33.3	B
Boron tribromide	10294-33-4	33.3	B
Boron trifluoride	7637-07-2	10.0	B
Bromacil	314-40-9	33.3	B
Bromine	7726-95-6	2.3	B
Bromine pentafluoride	7789-30-2	2.3	B
Bromoform	75-25-2	16.7	B
1,3-Butadiene	106-99-0	((FBD)) <u>73.3</u>	((A)) C
Butane	106-97-8	6327.0	B
2-Butanone (Methyl ethyl ketone)	78-93-3	1964.7	B
2-Butoxyethanol (Butyl cellosolve)	111-76-2	399.6	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
n-Butyl acetate	123-86-4	2364.3	B
sec-Butyl acetate	105-46-4	3163.5	B
tert-Butyl acetate	540-88-5	3163.5	B
Butyl acrylate	141-32-2	183.2	B
n-Butyl alcohol	71-36-3	499.5	B
sec-Butyl alcohol	78-92-2	1015.7	B
tert-Butyl alcohol	75-65-0	999.0	B
tert-Butyl chromate, as CrO ₃	1189-85-1	0.3	B
n-Butyl glycidyl ether (BGE)	2426-08-6	449.6	B
n-Butyl lactate	138-22-7	83.3	B
Butyl mercaptan	109-79-5	5.0	B
Butylamine	109-73-9	50.0	B
o-sec-Butylphenol	89-72-5	99.9	B
p-tert-Butyltoluene	98-51-1	199.8	B
B-Butyrolactone	3068-88-0	TBD	A
Cadmium and compounds	7440-43-9	0.00056	A
Calcium cyanamide	156-62-7	1.7	B
Calcium hydroxide	1305-62-0	16.7	B
Calcium oxide	1305-78-8	6.7	B
Camphor, synthetic	76-22-2	40.0	B
Caprolactam, dust	105-60-2	3.3	B
Caprolactum, vapor	105-60-2	66.6	B
Captafol	2425-06-1	0.3	B
Captan	133-06-2	16.7	B
Carbaryl	63-25-2	16.7	B
Carbofuran	1563-66-2	0.3	B
Carbon black	1333-86-4	11.7	B
Carbon disulfide	75-15-0	99.9	B
Carbon tetrabromide	558-13-4	4.7	B
Carbon tetrachloride	56-23-5	0.067	A
Carbonyl fluoride	353-50-4	16.7	B
Carbonyl sulfide	463-58-1	TBD	D
Catechol	120-80-9	66.6	B
Cesium hydroxide	21351-79-1	6.7	B
Chloramben	133-90-4	TBD	D
Chlordane	57-74-9	0.0027	A
Chlorinated camphene (Toxaphene)	8001-35-2	0.003	A
Chlorinated camphene (Toxaphene)	8001-35-2	1.7	B
Chlorinated diphenyl oxide	55720-99-5	1.7	B
Chlorine	7782-50-5	10.0	B
Chlorine dioxide	10049-04-4	1.0	B
Chlorine trifluoride	7790-91-2	1.3	B
1-Chloro-1-nitropropane	663-25-9	33.3	B
Chloroacetaldehyde	107-20-0	10.0	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Chloroacetic acid	79-11-8	TBD	D
a-Chloroacetophenone	532-27-4	1.0	B
Chloroacetyl chloride	79-04-9	0.7	B
((4-Chloroaniline	106-47-8	TBD	A))
o-Chlorobenzylidene malononitrile	2698-41-1	1.3	B
Chlorobenzene	108-90-7	1165.5	B
Chlorobenzilate	510-15-6	TBD	D
Chlorobromomethane	74-97-5	3496.5	B
Chlorodibromomethane	74-87-3	TBD	A
Chlorodifluoromethane	75-45-6	11655.0	B
Chloroethane (Ethyl chloride)	75-00-3	((FBD)) 8658.0	B
Chloroform	67-66-3	0.043	A
Chloromethane (Methyl chloride)	74-87-3	((0.056)) 349.7	((A)) B
Chloromethyl methyl ether (technical grade)	107-30-2	TBD	A
Chloropentafluoroethane	76-15-3	21045.6	B
Chlorophenols	108-43-0	((FBD)) 0.18	A
Chloropicrin	76-06-2	2.3	B
Chloroprene	126-99-8	((FBD)) 116.6	((A)) C
o-Chlorostyrene	1331-28-8	949.1	B
o-Chlorotoluene	95-49-8	832.5	B
Chlorpyrifos	2921-88-2	0.7	B
Chromium (II) compounds, as Cr	7440-47-3	1.7	B
Chromium (III) compounds, as Cr	7440-47-3	1.7	B
Chromium (VI) compounds	7440-47-3	0.000083	A
Chromium (metal)	7440-47-3	1.7	B
Chromyl chloride	14977-61-8	0.5	B
Clopidol	2971-90-6	33.3	B
Cobalt as Co, metal, dust and fume	7440-48-4	0.2	B
Cobalt carbonyl as Co	10210-68-1	0.3	B
Cobalt hydrocarbonyl	16842-03-8	0.3	B
Coke oven emissions	81103*	0.0016	A
Copper as Cu, dusts and mists	7440-50-8	3.3	B
Copper, fume	7440-50-8	0.7	B
Cotton dust, raw	81106*	0.7	B
Creosote	8001-58-9	TBD	A
Cresol, all isomers	1319-77-3	73.3	B
m-Cresol	108-39-4		
o-Cresol	95-48-7		
p-Cresol	106-44-5		
Crotonaldehyde	4170-30-3	20.0	B
Cruformate	299-86-5	16.7	B
Cumene (Isopropylbenzene)	98-82-8	815.9	B
Cupferron	135-20-6	TBD	A
Cyanamide	420-04-2	6.7	B
Cyanides, as CN	151-50-8	16.7	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Cyanogen	460-19-5	66.6	B
Cyanogen chloride	506-77-4	2.0	B
Cyclohexane	110-82-7	3496.5	B
Cyclohexanol	108-93-0	666.0	B
Cyclohexanone	108-94-1	333.0	B
Cyclohexene	110-83-8	3380.0	B
Cyclohexylamine	108-91-8	133.2	B
Cyclonite	121-82-4	5.0	B
Cyclopentadiene	542-92-7	666.0	B
Cyclopentane	287-92-3	5727.6	B
Cyhexatin	13121-70-5	16.7	B
2,4-D salts and esters (2,4-Dichlorophenoxy acetic acid)	94-75-7	33.3	B, C
DDE	3547-04-4	TBD	D
DDT (1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane)	50-29-3	.01	A
Decaborane	17702-41-9	1.0	B
Demeton	8065-48-3	0.3	B
Di(2-ethylhexyl)phthalate (Bis(2-ethylhexyl)phthalate; DEHP)	117-81-7	TBD	A
Di(2-ethylhexyl)phthalate (Bis(2-ethylhexyl)phthalate; DEHP)	117-81-7	16.7	B
Diacetone alcohol	123-42-2	799.2	B
N,N-Diacetylbenzidine	613-35-4	TBD	A
4,4'-Diaminodiphenyl ether	101-80-4	TBD	A
Diazinon	333-41-5	0.3	B
Diazomethane	334-88-3	1.3	B
Dibenz(a,h)acridine	226-36-8	TBD	A
Dibenz(a,h)anthracene	53-70-3	TBD	A
Dibenz(a,j)acridine	224-42-0	TBD	A
Dibenzo(a,c)pyrene	192-65-4	TBD	A
Dibenzo(a,h)pyrene	189-64-0	TBD	A
Dibenzo(a,l)pyrene	191-30-0	TBD	A
Dibenzofurans	132-64-9	TBD	D
1,2,7,8-Dibenzopyrene(Dibenzo(a,i)pyrene)	189-55-9	TBD	A
Diborane	19287-45-7	0.3	B
1,2-Dibromo-3-chloropropane	96-12-8	TBD	D
Dibutyl phosphate	107-66-4	16.7	B
Dibutyl phthalate	84-74-2	16.7	B
2-N-Dibutylaminoethanol	102-81-8	46.6	B
1,1-Dichloro-1-nitroethane	594-72-9	33.3	B
1,3-Dichloro-5, 5-dimethyl hydantoin	118-52-5	0.7	B
((Dibutyl nitrosoamino		TBD	A))
Dichloroacetylene	7572-29-4	1.3	B
1,4-Dichloro-2-butene	764-41-0	0.00038	A
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	TBD	A
1,4-Dichlorobenzene (p-Dichlorobenzene)	106-46-7 ((TBD))	1500.0	((A)) C
1,4-Dichlorobenzene (p-Dichlorobenzene)	106-46-7	1498.5	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
o-Dichlorobenzene	95-50-1	999.0	B
3,3'-Dichlorobenzidine	91-94-1	TBD	A
Dichlorodifluoromethane	75-71-8	16483.5	B
1,1-Dichloroethane	75-34-3	2697.3	B
1,2-Dichloroethane (Ethylene chloride)	107-06-2	0.04	A
<u>Dichloroethyl ether (Bis (2-chloroethyl)ether)</u>	111-44-4	0.003	A
Dichloroethyl ether (<u>Bis (2-chloroethyl)ether</u>)	111-44-4	99.9	B
1,1-Dichloroethylene (Vinylidene chloride)	75-35-4	((0.02)) 66.6	((A)) B
1,2-Dichloroethylene	540-59-0	2630.7	B
Dichlorofluoromethane	75-43-4	133.2	B
Dichloromethane (Methylene chloride)	75-09-2	((2.0)) 2.0	A
Dichlorophenylarsine (arsenic group)	696-28-6	TBD	A
1,2-Dichloropropane (<u>Propylene dichloride</u>)	78-87-5	1165.5	B
<u>1,2-Dichloropropane (Propylene dichloride)</u>	78-87-5	1166.6	C
1,3-Dichloropropene	542-75-6	16.7	B
2,2-Dichloropropionic acid	75-99-0	20.0	B
Dichlorotetrafluoroethane	76-14-2	23310.0	B
Dichlorvas	62-73-7	3.3	B
Dicrotophos	141-66-2	0.8	B
Dicyclopentadiene	77-73-6	99.9	B
Dicyclopentadienyl iron	102-54-5	33.3	B
Dieldrin	60-57-1	0.0002	A
Dieldrin	60-57-1	0.8	B
Diethanolamine	111-42-2	50.0	B
Diethyl ketone	96-22-0	2347.7	B
Diethyl nitrosamine (DEN; <u>N-Nitrosodiethylamine</u>)	<u>55-18-5</u>	TBD	A
Diethyl phthalate	84-66-2	16.7	B
<u>Diethyl sulfate</u>	64-67-5	TBD	D
Diethylamine	109-89-7	99.9	B
Diethylaminoethanol	100-37-8	166.5	B
Diethylene triamine	111-40-0	13.3	B
1,2-Diethylhydrazine	1615-80-1	TBD	A
Difluorodibromomethane	75-61-6	2863.8	B
Diglycidyl ether	2238-07-5	1.7	B
Diglycidyl resorcinol ether	101-90-6	TBD	A
Diisobutyl ketone	108-83-8	499.5	B
Diisopropylamine	108-18-9	66.6	B
3,3'-Dimethoxybenzidine (ortol-dianisidine)	119-90-4	TBD	A
Dimethylacetamide	127-19-5	116.6	B
Dimethylamine	124-40-3	59.9	B
<u>Dimethyl aminoazobenzene</u>	60-11-7	TBD	D
N,N-Dimethylaniline (<u>N,N-Diethyl aniline</u>)	121-69-7	83.3	B
<u>3,3'-Dimethyl benzidine</u>	119-93-7	TBD	D
<u>Dimethyl carbamoyl chloride</u>	79-44-7	TBD	D
Dimethylformamide	68-12-2	99.9	B

COMPOUND NAME	CAS CODE	ASIL µg/m ³	TYPE
1,1-Dimethylhydrazine	57-14-7	3.3	B
1,2-Dimethylhydrazine	540-73-8	((TBD)) 3.3	((A)) B,C
Dimethylnitrosoaminc (N-Nitrosodimethylamine)	62-75-9	TBD	A
Dimethyl phthalate	131-13-7	16.7	B
Dimethyl sulfate	77-78-1	((TBD)) 1.6	((A)) C
Dinitolmide	148-01-6	16.7	B
4,6-Dinitro-o-cresol <u>and salts</u>	534-52-1	0.7	B
Dinitrobenzene	528-29-0	3.3	B
2,4-Dinitrophenol	51-28-5	TBD	D
Dinitrotoluenes (mixed)	25321-14-6	TBD	A
2,4-Dinitrotoluene	121-14-2	TBD	D
1,4-Dioxane (1,4-Diethylene oxide)	123-91-1	((TBD)) 300	((A)) C
Dioxathion	78-34-2	0.7	B
Dioxins and furans	43110*	TBD	A
Diphenylamine	122-39-4	33.3	B
1,2-Diphenyl hydrazine	122-66-7	0.0045	A
Dipropyl ketone	123-19-3	782.6	B
Dipropylene glycol methyl ether	34590-94-8	1998.0	B
Diquat	85-00-7	1.7	B
Disulfiram	97-77-8	6.7	B
Disulfuton	298-04-4	0.3	B
2,6-Ditert. butyl-p-cresol	128-37-0	33.3	B
Diuron	330-54-1	33.3	B
Divinyl benzene	108-57-6	166.5	B
EPN	2104-64-5	1.7	B
Endosulfan	115-29-7	0.3	B
Endrin	72-20-8	0.3	B
Enflurane	13838-16-9	1914.8	B
Epichlorohydrin (1-Chloro-2, 3-epoxypropane)	106-89-8	TBD	((A)) D
1,2-Epoxybutane (1,2-Butylene oxide)	106-88-7	TBD	D
Ethanolamine	141-43-5	26.6	B
Ethion	563-12-2	1.3	B
2-Ethoxyethanol (Cellosolve)	110-80-5	63.3	B
2-Ethoxyethyl acetate	111-15-9	89.9	B
Ethyl acetate	141-78-6	4662.0	B
Ethyl acrylate	140-88-5	66.6	B
Ethyl alcohol	64-17-5	6327.0	B
Ethyl amyl ketone	541-85-5	432.9	B
Ethyl benzene	100-41-4	1448.6	B
Ethyl bromide	74-96-4	2963.7	B
Ethyl butyl ketone	106-35-4	765.9	B
Ethyl carbamate (Urethane)	51-79-6	TBD	D
Ethyl chloride (Chloroethane)	75-00-3	8658.0	B
Ethyl Ether	60-29-7	3996.0	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Ethyl formate	109-94-4	999.0	B
Ethyl mercaptan	75-08-1	3.3	B
Ethyl silicate	78-10-4	283.1	B
Ethylamine	75-04-7	59.9	B
Ethylene chlorohydrin	107-07-3	10.0	B
Ethylene Dibromide (1,2-Dibromoethane)	106-93-4	0.0045	A
Ethylene Dichloride (1,2-Dichloroethane)	107-06-2	0.04	A
Ethylene glycol	107-21-1	416.3	B
Ethylene glycol dinitrate	628-96-6	1.0	B
Ethylene oxide	75-21-8	0.010	A
Ethylene thiourea	96-45-7	TBD	D
Ethylenediamine	107-15-3	83.3	B
Ethylene imine (Aziridine)	151-56-4	3.3	B
Ethylidene norbornene	16219-75-3	83.3	B
N-Ethylmorpholine	100-74-3	76.6	B
Fenamiphos	22224-92-6	0.3	B
Fensulfothion	115-90-2	0.3	B
Fenthion	55-38-9	0.7	B
Ferbam	14484-64-1	33.3	B
Ferrovandium dust	12604-58-9	3.3	B
Fibrous glass dust	81111*	33.3	B
Fine mineral fibers	81104*	TBD	D
Fluorides, as F	81112*	8.3	B
Fluorine	7782-41-4	6.7	B
Fonofos	944-22-9	0.3	B
Formaldehyde	50-00-0	0.077	A
Formamide	75-12-7	50.0	B
Formic acid	64-18-6	30.0	B
Furfural	98-01-1	26.6	B
Furfuryl alcohol	98-00-0	133.2	B
Furium (nitrofurane group)	43111*	TBD	A
((Gasoline-----	8006-61-9-----	TBD-----	A))
Germanium tetrahydride	7782-65-2	2.0	B
Glutaraldehyde	111-30-8	2.3	B
Glyciadalddehyde	765-34-4	TBD	A
Glycidol	556-52-5	249.8	B
Glycol ethers	43107*	TBD	D
Hafnium	7440-58-6	1.7	B
Halothane	151-67-7	1332.0	B
Heptachlor	76-44-8	0.00077	A
Heptane (n-Heptane)	142-82-5	5328.0	B
Hexachlorobenzene	118-74-1	0.0020	A

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Hexachlorobutadiene	87-68-3	((045)) 8	((B)) B
Hexachlorocyclohexane (Lindane) Alpha (BHC)	319-84-6	TBD	A
Hexachlorocyclohexane (Lindane) Beta (BHC)	319-85-7	TBD	A
Hexachlorocyclohexane (Lindane) Gamma (BHC)	580-89-9	TBD	A
Hexachlorocyclopentadiene	77-47-4	0.3	B
1,2,3,6,7,8-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	34465-46-8	TBD	A
1,2,3,7,8,9-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	19408-74-3	TBD	A
Hexachloroethane	67-72-1	0.25	A
Hexachloronaphthalene	1335-87-1	0.7	B
Hexafluoroacetone	684-16-2	2.3	B
Hexamethylenc-1,6-diisocyanate	822-06-0	0.1	B
Hexamethylphosphoramide	680-31-9	TBD	D
Hexane (n-Hexane)	110-54-3	599.4	B
Other isomers		5994.0	B
2-Hexanone (Methyl butyl ketone)	591-78-6	66.6	B
sec-Hexyl acetate	108-84-9	999.0	B
Hexylene glycol	107-41-5	416.3	B
Hydrazine	302-01-2	TBD	((B)) D
Hydrogen bromide	10035-10-6	33.3	B
Hydrogen chloride (<u>Hydrochloric acid</u>)	7647-01-0	23.3	B
Hydrogen cyanide	74-90-8	33.3	B
Hydrogen fluoride (<u>Hydrofluoric acid</u>)	7664-39-3	8.3	B
Hydrogen peroxide	7722-84-1	5.0	B
Hydrogen selenide, as Se	7783-07-5	0.7	B
Hydrogen sulfide	7783-06-4	46.6	B
Hydroquinone	123-31-9	6.7	B
2-Hydroxypropyl acrylate	999-61-1	10.0	B
Indene	95-13-6	149.9	B
Indeno(1,2,3-cd)pyrene	193-39-5	TBD	A
Indium, & compounds as In	7440-74-6	0.3	B
Iodine	7553-56-2	3.3	B
Iodoform	75-47-8	33.3	B
Iron oxide fume, Fe ₂ O ₃ as Fe	1309-37-1	16.7	B
Iron pentacarbonyl, as Fe	13463-40-6	2.7	B
Iron salts, soluble as Fe		3.3	B
Isoamyl acetate	123-92-2	1748.3	B
Isoamyl alcohol	123-51-3	1198.8	B
Isobutyl acetate	110-19-0	2331.0	B
Isobutyl alcohol	78-83-1	499.5	B
Isocetyl alcohol	26952-21-6	899.1	B
Isophorone	78-59-1	83.3	B
Isophorone diisocyanate	4098-71-9	0.1	B
Isopropoxyethanol	109-59-1	349.7	B
Isopropyl acetate	108-21-4	3163.5	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Isopropyl alcohol	67-63-0	3263.4	B
Isopropyl ether	108-20-3	3496.5	B
Isopropyl glycidyl ether (<u>IGE</u>)	4016-14-2	799.2	B
Isopropylamine	75-31-0	40.0	B
N-Isopropylaniline	768-52-5	33.3	B
Isopropyl oils	<u>43112*</u>	TBD	A
Ketene	463-51-4	3.0	B
Lead acetate	301-04-2	TBD	A
Lead arsenate, as Pb ₃ (AsO ₄) ₂	3687-31-8	0.5	B
Lead chromate, as Cr	7758-97-6	0.2	B
<u>Lead compounds</u>	<u>7439-92-1</u>	<u>TBD</u>	<u>D</u>
Lead phosphate	7446-27-7	TBD	A
<u>Lindane (all isomers)</u>	<u>58-89-9</u>	<u>1.6</u>	<u>C</u>
Liquified petroleum gas	68476-85-7	5994.0	B
Lithium hydride	7580-67-8	0.1	B
Magnesium oxide fume	1309-48-4	33.3	B
Malathion	121-75-5	33.3	B
Malic anhydride	108-31-6	3.3	B
Manganese, dust and compounds	7439-96-5	16.7	B
Manganese, fume	7439-96-5	3.3	B
Manganese cyclopentadienyl tricarbonyl	12079-65-1	0.3	B
Mercury,	7439-97-6		
as Hg, Alkyl compounds		0.03	B
as Aryl & inorganic compounds		0.3	B
as vapors except alkyl		0.2	B
Mesityl oxide	141-79-7	199.8	B
Methacrylic acid	79-41-4	233.1	B
Methomyl	16752-77-5	8.3	B
Methoxychlor	72-43-5	33.3	B
2-Methoxyethanol (methyl cellosolve)	109-86-4	53.3	B
2-Methoxyethyl acetate	110-49-6	79.9	B
4-Methoxyphenol	150-76-5	16.7	B
2-Methyl-1-nitroanthraquinone	129-15-7	TBD	A
Methyl 2-cyanoacrylate	137-05-3	26.6	B
Methyl acetate	79-20-9	2031.3	B
Methyl acetylene	74-99-7	5494.5	B
Methyl acetylene-propadiene mixture (MAPP)	<u>43113*</u>	5994.0	B
Methyl acrylate	96-33-3	116.6	B
Methyl alcohol (<u>Methanol</u>)	67-56-1	865.8	B
N-Methyl aniline	100-61-8	6.7	B
Methylazoxymethanol & acetate	592-62-1	TBD	A
Methyl bromide (<u>Bromomethane</u>)	74-83-9	66.6	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Methyl cellosolve (2-Methoxyethanol)	109-86-4	53.3	B
Methyl chloride (<u>Chloromethane</u>)	74-87-3	349.7	B
Methyl chloroform (<u>1,1,1-Trichloroethane</u>)	71-55-6	6327.0	B
Methyl demeton	8022-00-2	1.7	B
Methyl ethyl ketone (MEK; 2-Butanone)	78-93-3	1964.7	B
Methyl ethyl ketone peroxide	1338-23-4	5.0	B
Methyl formate	107-31-3	832.5	B
Methyl hydrazine	60-34-4	1.2	B
Methyl iodide (<u>Iodomethane</u>)	74-88-4	33.3	B
Methyl isoamyl ketone	110-12-3	799.2	B
Methyl isobutyl carbinol	108-11-2	333.0	B
Methyl isobutyl ketone (MIBK; <u>Hexone</u>)	108-10-1	682.7	B
Methyl isocyanate	624-83-9	0.2	B
Methyl isopropyl ketone	563-80-4	2347.7	B
Methyl mercaptan	74-93-1	3.3	B
Methyl methacrylate	80-62-6	1365.3	B
Methyl n-amyl ketone	110-43-0	782.6	B
Methyl n-butyl ketone	591-78-6	66.6	B
Methyl parathion	298-00-0	0.7	B
Methyl propyl ketone	107-87-9	2331.0	B
Methyl silicate	681-84-5	20.0	B
a-Methyl styrene	98-83-9	799.2	B
<u>Methyl tert butyl ether</u>	1634-04-4	TBD	D
Methylacrylonitrile	126-98-7	10.0	B
Methylal	109-87-5	10323.0	B
Methylamine	74-89-5	40.0	B
5-Methylchrysene	3697-24-3	TBD	A
Methylcyclohexane	108-87-2	5328.0	B
Methylcyclohexanol	25639-42-3	782.6	B
o-Methylcyclohexanone	583-60-8	765.9	B
Methylcyclopentadienyl manganese tricarbonyl	12108-13-3	0.7	B
Methylene bis(4-cyclo-hexylisocyanate)	5124-30-1	0.2	B
4,4'-Methylene bis(2-methylaniline)	838-88-0	TBD	A
4,4'-Methylene bis(2-chloroaniline)	101-14-4	((TBD)) 0.7	((A)) C
Methylene diphenyl diisocyanate (MDI; Methylene bisphenyl isocyanate)	101-68-8	0.2	B
Methylene Chloride (Dichloromethane)	75-09-2	((0.24)) 2.0	A
4,4-Methylenedianiline dihydrochloride	13552-44-8	TBD	A
4,4-Methylene dianiline	101-77-9	2.7	B
<u>4,4-Methylene dianiline</u>	101-77-9	2.6	C
4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone	64091-91-4	TBD	A
Metribuzin	21087-64-9	16.7	B
Mevinphos	7786-34-7	0.3	B
Mirex	<u>2385-85-5</u>	TBD	A
Molybdenum, as Mo	7439-98-7		B
soluble compounds		16.7	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
insoluble compounds		33.3	
Monocrotophos	6923-22-4	0.8	B
Morpholine	1109-10-8	233.1	B
5-(Morpholinomethyl)-3-((5-nitrofurfurylidenc)amino)-2-oxazolidinone	139-91-3	TBD	A
Naled	300-76-5	10.0	B
Naphtha (Rubber solvents)	8030-30-6	5328.0	B
Naphthalene	91-20-3	166.5	B
1-Naphthylamine	134-32-7	TBD	A
Nickel and compounds	7440-02-2	((TBD)) 3.3	((A)) C
((Nickel carbonyl, as Ni	13463-39-3	TBD	A
Nickel oxide	1313-99-1	TBD	A
Nickel Refinery dust	7440-02-0	TBD	A
Subsulfide	12035-72-2	TBD	A
Nickel sulfide Roasting, fume and dust, as Ni		TBD	A))
Nicotine	54-11-5	1.7	B
Nitrapyrin	1929-82-4	33.3	B
Nitric acid	7697-37-2	16.7	B
Nitric oxide	10102-43-9	99.9	B
5-Nitroacenaphthene	602-87-9	TBD	A
p-Nitroaniline	100-01-6	10.0	B
Nitrobenzene	98-95-3	16.7	B
4-Nitrobiphenyl	92-93-3	TBD	D
p-Nitrochlorobenzene	100-00-5	2.0	B
Nitroethane	79-24-3	1032.3	B
Nitrofen	1836-75-5	TBD	A
Nitrofurans Furazolidone	43114*	TBD	A
Nitrofurazone	59-87-0	TBD	A
1-(5-Nitrofurfurylidenc)amino)-2-imidazolidinone	555-84-9	TBD	A
Nitrogen mustard N-oxide	126-85-2	TBD	A
Nitrogen mustard n-oxide hydro-chloride	302-70-5	TBD	A
Nitrogen trifluoride	7783-54-2	99.9	B
Nitroglycerin	55-63-0	1.7	B
4-Nitrophenol	100-02-7	TBD	D
Nitromethane	75-52-5	832.5	B
1-Nitropropane	108-03-2	299.7	B
2-Nitropropane	79-46-9	((TBD)) 116.1	((A)) C
N-Nitrosodichthylamine(Dichthyl-nitrosoamine) (DEN)	55-18-5	TBD	A
N-Nitrosodimethylamine	62-75-9	TBD	A
N-Nitrosodi-n-butylamine	924-16-3	TBD	A
N-Nitrosodi-n-propylamine	621-64-7	TBD	A
N-Nitrosodiphenylamine	86-30-6	TBD	A
N-Nitrosomethylchthylamine	10595-95-6	TBD	A
N-Nitrosomorpholine	59-89-2	TBD	A
N-Nitroso-n-ethylurea (NEU)	759-73-9 ((G-00018))	TBD	A

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
N-Nitroso-N-methylurca (NMU)	<u>684-93-5</u>	TBD	((A)) <u>D</u>
N-Nitroso-n-methylurethane	615-53-2	TBD	A
((N-Nitrosopyrrolidine	-----	TBD	-----A))
Nitrotoluene	88-72-2	36.6	B
N-(4-(5-Nitro-2-furyl)-2-thiazolyl)acetamide	531-82-8	TBD	A
Nonane	111-84-2	3496.5	B
Octachloronaphthalene	2234-13-1	0.3	B
Octane	111-65-9	4828.5	B
Oil mist, mineral	8012-95-1	16.7	B
Oil orange SS	2646-17-5	TBD	A
Osmium tetroxide as Os	20816-12-0	0.007	B
Oxalic acid	144-62-7	3.3	B
Oxygen difluoride	7783-41-7	0.3	B
Panfuran S (dihydroxymethyl-furatrizine)	794-93-4	TBD	A
Paraffin wax fume	8002-74-2	6.7	B
Paraquat	4685-14-7	0.3	B
Parathion	56-38-2	((FBD)) <u>0.3</u>	((A)) <u>B</u>
Pentaborane	19624-22-7	0.03	B
Pentachloronaphthalene	1321-64-8	1.7	B
<u>Pentachloronitrobenzene (Quintobenzene)</u>	<u>82-68-8</u>	<u>TBD</u>	<u>D</u>
Pentachlorophenol	87-86-5	1.7	B
Pentane	109-66-0	5994.0	B
Perchloroethylene (Tetrachloroethylene)	127-18-4	1.1	A
Perchloromethyl mercaptan	594-42-3	2.7	B
Perchloryl fluoride	7616-94-6	46.6	B
Phenol	108-95-2	63.3	B
Phenothiazine	92-84-2	16.7	B
Phenoxybenzamine hydrochloride	63-92-3	TBD	A
Phenyl ether	101-84-8	23.3	B
Phenyl glycidyl ether	122-60-1	20.0	B
Phenyl mercaptan	108-98-5	6.7	B
p-Phenylenediamine	106-50-3	0.3	B
Phenylhydrazine	100-63-0	66.6	B
Phenylphosphine	638-21-1	0.8	B
N-Phenyl-2-naphthylamine	<u>135-88-6</u>	TBD	A
Phorate	298-02-2	0.2	B
Phosgene	75-44-5	1.3	B
Phosphine	7803-51-2	1.3	B
Phosphoric acid	7664-38-2	3.3	B
Phosphorus	7723-14-0	0.3	B
Phosphorus oxychloride	10025-87-3	2.0	B
Phosphorus pentachloride	10026-13-8	3.3	B
Phosphorus pentasulfide	1314-80-3	3.3	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Phosphorus trichloride	7719-12-2	5.0	B
Phthalic anhydride	85-44-9	20.0	B
m-Phthalodinitrile	626-17-5	16.7	B
Picloram	1918-02-1	33.3	B
Picric acid	88-89-1	0.3	B
Pindone	83-26-1	0.3	B
Piperazine dihydrochloride	142-64-3	16.7	B
Platinum	7440-06-4		
Metals		3.3	B
Soluble salts as Pt		0.007	B
Polyaromatic Hydrocarbons (PAH)	43116*	((FBD)) 0.0006	A
Polychlorinated Biphenyls (PCBs)	1336-36-3	TBD	A
Polycyclic Organic Matter	43108*	TBD	D
Poncau MX	3761-53-3	TBD	A
Potassium hydroxide	1310-58-3	6.7	B
Primary Aluminum Smelter uncontrolled roof vent PAH emissions	81113*	0.0013	A
1,3-Propane sultone	1120-71-4	TBD	D
Propargyl alcohol	107-19-7	6.7	B
beta-Propiolactone	57-57-8	5.0	B
Propoxur (Baygon)	114-26-1	1.7	B
Propionaldehyde	123-38-6	TBD	D
Propionic acid	79-09-4	99.9	B
n-Propyl acetate	109-60-4	2797.2	B
Propyl alcohol	71-23-8	1665.0	B
n-Propyl nitrate	627-13-4	349.7	B
Propylene dichloride (1,2-Dichloropropane)	78-87-5	1165.5	B
Propylene glycol dinitrate	6423-43-4	1.0	B
Propylene glycol mono-methyl ether	107-98-2	1198.9	B
Propylene oxide	75-56-9	TBD	((A)) D
1,2-Propylenimine (2-Methyl aziridine)	75-55-8	16.7	B
Pyrethrum	8003-34-7	16.7	B
Pyridine	110-86-1	50.0	B
Quinoline	91-22-5	TBD	D
Quinone(1,4-Cyclohexadienedione)	106-51-4	1.3	B
Quintobenzene (Pentachloronitrobenzene)	82-68-8	TBD	D
Radionuclides (including radon)	81105*		
Resorcinol	108-46-3	149.9	B
Rhodium	7440-16-6		
Metal		3.3	B
Insoluble compounds		3.3	B
Soluble compounds		0.03	B
Ronnel	299-84-3	33.3	B
Rotenone	83-79-4	16.7	B

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Rubber solvent (Naphtha)	<u>8030-30-6</u>	5328.0	B
Selenium compounds, as Sc	7782-49-2	0.7	B
Selenium hexafluoride, as Sc	7783-79-1	0.7	B
((Selenium sulfide	7446-34-6	TBD	B))
Sesone	136-78-7	33.3	B
Silicon tetrahydride	7803-62-5	23.3	B
Silver	7440-22-4		
Metal		0.3	B
Soluble compounds, as Ag		0.03	B
Sodium azide	26628-22-8	1.0	B
Sodium bisulfite	7631-90-5	16.7	B
((Sodium diethyldithiocarbamate	148-18-5	TBD	A))
Sodium fluoroacetate	62-74-8	0.2	B
Sodium hydroxide	1310-73-2	6.7	B
Sodium metabisulfite	7681-57-4	16.7	B
((Soots, tars, and mineral oils		TBD	A))
Stibine	7803-52-3	1.7	B
((Stoddard solvent	8052-41-3	1748.3	B))
Strychnine	57-24-9	0.5	B
Styrene	100-42-5	716.0	B
Styrene oxide	96-09-3	TBD	D
Subtilisins	1395-21-7	0.0002	B
Sulfotep	3689-24-5	0.7	B
Sulfur hexafluoride	2551-62-4	19980.0	B
Sulfur monochloride	10025-67-9	20.0	B
Sulfur pentafluoride	5714-22-7	0.3	B
Sulfur tetrafluoride	7783-60-0	1.3	B
Sulfuric acid	7664-93-9	3.3	B
Sulfuryl fluoride	2699-79-8	66.6	B
Sulprofos	35400-43-2	3.3	B
2,4,5-T	93-76-5	33.3	B
TEPP	107-49-3	((0.3)) 0.2	B
Tantalum, metal & oxide dusts	7440-25-7	16.7	B
Tellurium & compounds as Te	13494-80-9	0.3	B
Tellurium hexafluoride, as Te	7783-80-4	0.7	B
Temephos	3383-96-8	33.3	B
Terphenyls	26140-60-3	16.7	B
P(p)(alpha, alpha, alpha) Tetra-chlorotoluene	<u>5216-25-1</u>	TBD	A
2,3,7,8-Tetrachlorodibenzi-p-dioxin (2,3,7,8-TCDD)	1746-01-6	0.00000003	A
1,1,2,2-Tetrachloro-1,2-difluoroethane	76-12-0	13886.1	B
1,1,2,2-Tetrachloro-2,2-difluoroethane	76-11-9	13886.1	B
1,1,2,2-Tetrachloroethane	79-34-5	((0.017)) 23.3	((A)) B
Tetrachloroethylen (Perchloroethylen)	127-18-4	1.1	A

COMPOUND NAME	CAS CODE	ASIL μg/m ³	TYPE
Tetrachloronaphthalene	1335-88-2	6.7	B
Tetraethyl lead, as Pb	78-00-2	0.3	B
Tetrahydrofuran	109-99-9	1964.7	B
Tetramethyl lead, as Pb	75-74-1	0.5	B
Tetramethyl succinonitrile	3333-52-6	10.0	B
Tetranitromethane	509-14-8	26.6	B
Tetrasodium pyrophosphate	7722-88-5	16.7	B
Tetryl	479-45-8	5.0	B
Thallium soluble compounds, Ti	7440-28-0	0.3	B
4,4-Thiobis(6-tert, butyl-m-cresol)	96-69-5	33.3	B
4,4'-Thiodianiline	139-65-1	TBD	A
Thioglycolic acid	68-11-1	13.3	B
Thionyl chloride	7719-09-7	16.7	B
Thirum	137-26-8	16.7	B
Thorium dioxide	1314-20-1	TBD	A
Tin	7440-31-5		
Metal		6.7	B
Organic compounds, as Sn		0.3	B
Oxide & inorganic except SnH ₄		6.7	B
<u>Titanium tetrachloride</u>	7550-45-0	TBD	D
Toluene	108-88-3	1248.8	B
<u>2,4-Toluene diamine (2,4-Diamino toluene)</u>	95-80-7	TBD	D
2,4-Toluene-diisocyanate (TDI)	584-84-9	0.1	B, C
m-Toluidine	108-44-1	30.0	B
o-Toluidine and its hydrochlorides	((636-21-5)) <u>95-53-4</u>	30.0	((A)) C
p-Toluidine	106-49-0	30.0	B
Toxaphene (<u>Chlorinated camphene</u>)	8001-35-2	0.003	A
<u>Toxaphene (Chlorinated camphene)</u>	8001-35-2	1.7	B
Trans-2((Dimethylamino)methylimino)-5-(5-nitro-2-furyl) vinyl-1,3,4-oxadiazole	55738-54-0	TBD	A
Tributyl phosphate	126-73-8	8.3	B
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	25308.0	B
Trichloroacetic acid	76-03-9	23.3	B
((2,4,6-trichloroanilino hydrochloride		TBD	A))
1,2,4-Trichlorobenzene	120-82-1	133.2	B
1,1,1-Trichloroethane	71-55-6	6327.0	B
1,1,2-Trichloroethane	79-00-5	((0.062)) <u>149.9</u>	((A)) B
Trichloroethylene	79-01-6	0.8	A
Trichlorofluoromethane	75-69-4	18648.0	B
Trichloronaphthalene	1321-65-9	16.7	B
Trichlorophenol (mixed)	25167-82-2	0.18	A
<u>2,4,5-Trichlorophenol</u>	<u>95-95-4</u>		
2,4,6-Trichlorophenol	((95-95-4)) <u>88-06-2</u>	((TBD))	((A))
1,2,3-Trichloropropane	96-18-4	199.8	B
Triethylamine	121-44-8	133.2	B
Trifluorobromomethane	75-63-8	20313.0	B

COMPOUND NAME	CAS CODE	ASIL $\mu\text{g}/\text{m}^3$	TYPE
Trifluralin	1582-09-8	TBD	D
((Trihalogenated-methanes	-----	TBD	-----A))
Trimellitic anhydride	552-30-7	0.1	B
Trimethyl benzene	2551-13-7	416.3	B
Trimethyl phosphite	121-45-9	33.3	B
Trimethylamine	75-50-3	79.9	B
2,2,4-Trimethylpentane	540-84-1	TBD	D
2,4,6-Trinitrotoluene	118-96-7	1.7	B
Triorthocresyl phosphate	78-30-8	0.3	B
Triphenyl amine	603-34-9	16.7	B
Triphenyl phosphate	115-86-6	10.0	B
Tungsten, insoluble compounds	7440-33-7	16.7	B
Tungsten, soluble compounds	7440-33-7	3.3	B
Turpentine	8006-64-2	1864.8	B
Uranium, insoluble & soluble	7440-61-1	0.7	B
Urethane monomer (Ethyl carbamate)	51-79-6	TBD	D
VM & P Naphtha	8032-32-4	4495.5	B
n-Valeraldehyde	110-62-3	582.8	B
Vanadium, as V_2O_5	1314-62-1	0.2	B
Vinyl acetate	108-05-4	99.9	B
Vinyl bromide	593-60-2	66.6	B
Vinyl chloride	75-01-4	0.023	A
Vinyl cyclohexene dioxide	106-87-6	199.8	B
Vinyl toluene	25013-15-4	799.2	B
Vinylidene Chloride (1,1-Dichloroethylene)	75-35-4	((FBD)) 66.6	((A)) B
Warfarin	81-81-2	0.3	B
Welding fumes	81108*	16.7	B
m-Xylene a,a'-diamine	1477-55-0	0.3	B
Xylenes (m-,o-,p-isomers)	1330-20-7	1448.6	B
m-Xylenes	108-38-3		
o-Xylenes	95-47-6		
p-Xylene	106-42-3		
Xylidene	1300-73-8	33.3	B
Yttrium, metal and cpds as Y	7440-65-5	3.3	B
Zinc chloride fume	7646-85-7	3.3	B
Zinc chromates	13530-65-9	0.03	B
Zinc oxide, fume	1314-13-2	16.7	B
Zirconium compounds, as Zr	7440-67-2	16.7	B

Type A toxics are carcinogens. The averaging time for Type A ASILS is an annual arithmetic mean.

Type B toxics are noncarcinogens. The averaging time for Type B ASILS is a 24-hour arithmetic mean.

Type C toxics are carcinogens. The averaging time for Type C ASILS is a 24-hour arithmetic mean.

Type D toxics are listed in the federal Clean Air Act, but not included in WAC 173-460-150 and WAC 173-460-160.

TBD = To Be Determined

* PSAPCA assigned numbers

WSR 92-03-093
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 13, 1992]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Office of the Vice-President for Health Sciences.

Express Committee

Meeting Dates	Location	Time
January 2	C-314	3:00 p.m.
February 6	C-314	3:00 p.m.
March 5	C-314	3:00 p.m.
April 2	C-314	3:00 p.m.
May 7	C-314	3:00 p.m.
June 4	C-314	3:00 p.m.
July 2	C-314	3:00 p.m.
August 6	C-314	3:00 p.m.
September 3	C-314	3:00 p.m.
October 1	C-314	3:00 p.m.
November 5	C-314	3:00 p.m.
December 3	C-314	3:00 p.m.

WSR 92-03-094
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 13, 1992]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Philosophy.

Philosophy Faculty

Meeting Dates	Location	Time
Tuesdays (weekly), January 7, 1992– December 29, 1992	345C Savery Hall	3:30

WSR 92-03-095
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
 [Filed January 16, 1992, 2:55 p.m.]

Original Notice.

Title of Rule: Facsimile transmission of prescription orders.

Purpose: Sets requirements for the transmission of facsimile prescription orders.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: Sets requirements for transmitting prescription orders to pharmacies from prescriber's offices and health care facilities using facsimile machines.

Reasons Supporting Proposal: To set requirements for the use of facsimile machines in transmitting prescription orders.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. H. Williams, 1300 Quince Street S.E., Box 47863, Olympia, 98504-7863, 753-6834.

Name of Proponent: Pharmacy Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets requirements under which prescription orders may be transmitted to pharmacies from prescriber's offices and health care facilities using facsimile machines.

Proposal does not change existing rules.

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

Hearing Location: Holiday Inn – Renton, 800 Rainier Avenue South, Renton, WA 98057, on March 19, 1992, at 10:00.

Submit Written Comments to: D. H. Williams, 1300 Quince Street S.E., P.O. Box 47863, Olympia, WA 98504-7863, by March 12, 1992.

Date of Intended Adoption: March 19, 1992.

January 6, 1992
 Donald H. Williams
 Executive Director

NEW SECTION

WAC 246-869-095 FACSIMILE TRANSMISSION OF PRESCRIPTION ORDERS. Prescription orders may be transmitted to pharmacies from prescriber's offices and health care facilities using facsimile transmission devices subject to the following requirements:

(1) The order contains the date, time, and telephone number and location of the transmitting device.

(2) Transmission of orders for Schedule II drugs are not allowed.

(3) The transmitted order shall be filed in the same manner as any other hard copy prescription. However, the pharmacist is responsible for assuring that the quality of the order is sufficient to be legible for at least two years pursuant to the records retention requirements of WAC 246-869-100.

(4) Refill authorizations for prescriptions may be transmitted using a facsimile device.

(5) The pharmacist is responsible for assuring that each facsimile prescription is valid and shall verify authenticity with the prescriber whenever there is a question.

(6) No agreement between a prescriber and a pharmacy shall require that prescription orders be transmitted by facsimile machine from the prescriber to only that pharmacy.

WSR 92-03-096
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
 [Filed January 16, 1992, 3:00 p.m.]

Original Notice.

Title of Rule: Identification of legend drugs for purposes of chapter 69.41 RCW, Ephedrine prescription restrictions and theophylline prescription restrictions.

Purpose: Rule identifies those drugs which require a prescription and should also be classified as legend drugs.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: The rule change updates the reference the board uses to determine which drugs require a prescription and should be classified as a legend drug. This rule also designates certain dosage formulations of theophylline and ephedrine as legend drugs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. H. Williams, 1300 Quince Street S.E., Box 47863, Olympia, 98504-7863, 753-6834.

Name of Proponent: Pharmacy Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule determines that drugs which have been determined by the FDA to require a prescription under federal law should also be classified as legend drugs under state law due to their toxicity or other potentiality for harmful effect. This rule identifies legend drugs as those drugs that have been identified as legend drugs under federal law and are listed in the 1990-91 edition of the American Druggist Blue Book and restricts certain dosage units of ephedrine and theophylline as legend drugs.

Proposal Changes the Following Existing Rules: WAC 246-833-020 updates the edition of the American Druggist Blue Book to the 1990-91 edition, lists the corrected Board of Pharmacy address and updates the fee for the blue book; WAC 246-883-030 revises the listing of ephedrine containing drug products that may be sold without a prescription; and WAC 246-883-050 identifies theophylline as a legend drug. Allows products containing 130 mg or less per 5 ml of liquid forms and where the product contains other recognized therapeutic ingredients may be sold without a prescription.

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

Hearing Location: Holiday Inn - Renton, 800 Rainier Avenue South, Renton, WA 98057, on March 19, 1992, at 10:00.

Submit Written Comments to: D. H. Williams, 1300 Quince Street S.E., P.O. Box 47863, Olympia, WA 98504-7863, by March 12, 1992.

Date of Intended Adoption: March 19, 1992.

January 6, 1992
 Donald H. Williams
 Executive Director

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-883-020 IDENTIFICATION OF LEGEND DRUGS FOR PURPOSES OF CHAPTER 69.41 RCW. (1) In accordance with chapter 69.41 RCW, the board of pharmacy hereby finds that those drugs which have been determined by the food and drug administration, pursuant to the Federal Food, Drug and Cosmetic Act, to require a prescription under federal law should also be classified as legend drugs under state law for the reasons that their toxicity or other potentiality for harmful effect, the methods of their use and the collateral safeguards necessary to their use, indicate that they are not safe for use except under the supervision of a practitioner.

(2) The board of pharmacy hereby specifically identifies as legend drugs, for purposes of chapter 69.41 RCW, those drugs which have been designated as legend drugs under federal law and are listed as such in the ((+985-86)) 1990-91 edition of the American Druggist Blue Book. Copies of the list of legend drugs as contained in the American Druggist Blue Book shall be available for public inspection at the headquarters office of the State Board of Pharmacy, ((319 East 7th Avenue)) 1300 Quince Street S.E., Olympia, Washington 98504. Copies of this list shall be available from the board of pharmacy at the above address upon request made and upon payment of a fee in the amount of ((\$20)) fifty-five dollars per copy.

(3) There may be changes in the marketing status of drugs after the publication of the above reference. Upon application of a manufacturer or distributor, the board may grant authority for the over the counter distribution of certain drugs which had been designated as legend drugs in this reference. Such determinations will be made after public hearing and will be published as an amendment to this chapter.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-883-030 EPHEDRINE PRESCRIPTION RESTRICTIONS. (1) The board of pharmacy, pursuant to RCW 69.41-.075, hereby identifies ephedrine, or any of its salts in a solid or ((aqueous)) liquid form normally intended for oral administration(;) in any quantity, as a legend drug subject to the restrictions of RCW 69.41.030.

(2) ((The following products containing ephedrine or its salts are exempted from the provisions of this regulation:)) Drug products containing not more than 25 mg of ephedrine per solid dosage unit or 25 mg per 5 ml of liquid forms, in combination with other recognized therapeutic ingredients may be sold without a prescription.

- 1. AMORDRINE tablet ————— 25 mg (as racemic hydrochloride) (Searle)
- 2. BRONITIN tablet ————— 24 mg ephedrine (Whitehall)
- 3. BRONKAD tablet ————— 24 mg (as sulfate) (Brcon)
- 4. BRONKOTABS tablet ————— 24 mg (as sulfate) (Brcon)
- 5. CALCIDRINE SYRUP ————— 4.2 mg/5cc HCl (Abbott)
- 6. HISTADYL EC ————— ephedrine hydrochloride, 30 mg/30 ml (Lilly)
- 7. HISTIVITE-D ————— ephedrine sulfate, 30 mg/30 ml (Vitarine)
- 8. NYQUIL ————— ephedrine sulfate, 8 mg/30 ml (Vicks)
- 9. PRIMATINE M tablet ————— 24 mg (as hydrochloride) (Whitehall)

- 10. ~~QUELIDRINE (Abbott) ephedrine hydrochloride, 5 mg/5 ml~~
- 11. ~~QUIET-NITE (Rexall) ephedrine sulfate, 10 mg/30 ml~~
- 12. ~~VERAQUAD tablet - 24 mg tablet, 12 mg/5 ml suspension (Knoll) (as hydrochloride))~~

NEW SECTION

WAC 246-883-050 THEOPHYLLINE PRESCRIPTION RESTRICTIONS. The board of pharmacy, pursuant to RCW 69.41.075, hereby identifies theophylline, or any of its salts in a solid or liquid form normally intended for oral administration in any quantity, as a legend drug subject to the restrictions of RCW 69.41.030. Provided, products containing 130 mg or less of theophylline per solid dosage unit or 130 mg or less per 5 ml of liquid forms, and where the product contains other recognized therapeutic ingredients, may be sold or distributed without a prescription. Products with theophylline as the only active ingredient are identified as legend drugs.

**WSR 92-03-097
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Chiropractic Disciplinary Board)
[Memorandum—January 15, 1992]**

The following future meeting dates have been scheduled for the Washington State Chiropractic Disciplinary Board for the year 1992:

- February 20, 1992
- March 19, 1992
- April 16, 1992
- May 21, 1992
- August 19-20, 1992
- September 17, 1992
- October 15, 1992
- November 19, 1992

**WSR 92-03-098
PERMANENT RULES
PERSONNEL BOARD**

[Order 398—Filed January 17, 1992, 9:09 a.m., effective March 1, 1992]

Date of Adoption: January 9, 1992.

Purpose: This rule identifies the family/household members for whose care the employee may use paid sick leave.

Citation of Existing Rules Affected by this Order: Amending WAC 356-18-060 Paid sick leave—Use.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 91-24-082 on December 4, 1991.

Effective Date of Rule: March 1, 1992.

January 15, 1992
Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 314, filed 2/24/89, effective 4/1/89)

WAC 356-18-060 PAID SICK LEAVE—USE.

(1) Personal illness: Accumulated sick leave shall be granted when an employee is required to be absent from work for any of the following reasons:

(a) Illness or injury of the employee or for preventative health care.

(b) Exposure of the employee to contagious disease when attendance at work would jeopardize the health of others.

(c) Disability of the employee due to pregnancy or childbirth.

(2) Illness of children: Accumulated sick leave shall be granted when an employee is required to be absent from work to provide care to a child under the age of eighteen with a health condition requiring treatment or supervision. For the purpose of this subsection, "children" shall be limited to the son or daughter of the employee or the employee's spouse.

(3) Illness of relatives or household members: Up to five days of accumulated sick leave shall be granted for each occurrence or as extended by the agency when an employee is required to be absent from work to provide care to members of the employee's household or relatives of the employee or the employee's spouse who experience an illness or injury. For purposes of this subsection, "relatives" shall be limited to:

(a) Spouse.

(b) Son or daughter, eighteen years of age or over, grandchild, or foster child.

(c) Grandparent or parent.

(4) Preventative health care of relatives or household members: Up to one day of sick leave shall be granted for each occurrence or as extended by the agency when an employee is required to be absent to provide care or transportation for a relative of the employee or the employee's spouse or for a member of the employee's household obtaining preventative health care. For the purposes of this subsection "relatives" shall be limited to:

(a) Spouse.

(b) Son, daughter, grandchild, or foster child.

(c) Grandparent or parent.

(5) For purposes of the provisions of subsections (3), (4), and (6)(a) of this section:

Members of household means "persons who reside in same home, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune."

(6) Bereavement: Accumulated sick leave shall be granted up to three days for each occurrence or as extended by the agency for reasons of travel when an employee is required to be absent from work for any of the following reasons:

(a) Death of members of the employee's household or relatives of the employee or the employee's spouse.

(b) For purposes of the provisions of subsection (6)(a) of this section, "relatives" shall be limited to:

- (i) Spouse.
 (ii) Son, daughter, grandchild, foster child, son-in-law, or daughter-in-law.
 (iii) Grandparent, parent, brother, sister, niece, nephew, aunt, uncle, first cousin, brother-in-law, or sister-in-law.

(7) Inclement weather: Up to three days of accumulated sick leave shall be granted when the employee is unable to report for scheduled work because of severe inclement weather. (Such use of sick leave shall be limited to three days in any calendar year and shall be used only as specified in WAC 356-18-115.)

(8) ~~((In addition to the reasons listed above, unforeseen child care requirements for the employee's son, daughter, stepchild, or a child in the custody of and residing in the home of the employee.))~~ Unforeseen family care requirements: ((f)) Such use of sick leave shall normally be limited to a maximum of one day per incident, and to three days in any calendar year, unless extended by the appointing authority, and shall be used only as specified in WAC 356-18-116.((f))

(9) When a condition listed under subsection (1)(a) or (c) of this section arises while the employee is on vacation leave, the employee shall be granted accrued sick leave as provided above for the condition (in lieu of the approved vacation leave) provided that the employee requests such sick leave within fourteen days after return to work. Such conversion rights shall not extend to vacation leave taken prior to an employee's separation as provided in WAC 356-18-100(2).

WSR 92-03-099.
PERMANENT RULES
PERSONNEL BOARD

[Order 399—Filed January 17, 1992, 9:11 a.m., effective March 1, 1992]

Date of Adoption: January 9, 1992.

Purpose: Definition of manager.

Citation of Existing Rules Affected by this Order:
 New section WAC 356-05-214 Manager.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 91-24-059 on December 2, 1991.

Effective Date of Rule: March 1, 1992.

January 10, 1992
 Dee W. Henderson
 Secretary

NEW SECTION

WAC 356-05-214 MANAGER. Any employee designated as a manager by the agency head and/or who is responsible and accountable for program results and effective utilization of fiscal, physical, and human resources in state government.

WSR 92-03-100
PERMANENT RULES
PERSONNEL BOARD

[Order 400—Filed January 17, 1992, 9:12 a.m., effective March 1, 1992]

Date of Adoption: January 9, 1992.

Purpose: This rule establishes the process and criteria for recommending positions to the Personnel Board for inclusion in the career executive program.

Citation of Existing Rules Affected by this Order:
 Amending WAC 356-47-040 Career executive program—Position nomination—Approval.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 91-24-058 on December 2, 1991.

Effective Date of Rule: March 1, 1992.

January 10, 1992
 Dee W. Henderson
 Secretary

AMENDATORY SECTION (Amending Order 250, filed 5/30/86, effective 7/1/86)

WAC 356-47-040 CAREER EXECUTIVE PROGRAM—POSITION NOMINATION—APPROVAL—PROCEDURES. (1) The personnel board shall approve appropriate management positions for inclusion in the career executive program. For purposes of this chapter, such positions are deemed management by virtue of being assigned responsibility for (a) supervising other supervisors or professional personnel; and/or, (b) planning, organizing, leading, and/or making policy for major program operations of one or more agencies or divisions or subdivisions of an agency. Such positions are usually assigned at salary range 50 or above (January 1, 1985, compensation plan, or equivalent ranges in subsequent plans).

(2) Agency directors may nominate classified and exempt positions meeting the requirements of subsection (1) of this section for inclusion in the program. Position nominations shall be filed with the director of personnel, or designee, in accordance with procedures published by the department of personnel. Nominations shall be published on the 20-day notice for consideration at regular personnel board meetings. The 20-day notice shall include the following information:

- (a) Requesting agency
- (b) Class title and position number of the position proposed for inclusion
- (c) Description of the major duties and responsibilities of the position.

(3) Positions included in the program which are subsequently reallocated may remain in the program where the director determines that the assigned responsibilities continue to meet subsection (1).

WSR 92-03-101
PERMANENT RULES
PERSONNEL BOARD

[Order 401—Filed January 17, 1992, 9:32 a.m., effective March 1, 1992]

Date of Adoption: January 9, 1992.

Purpose: This rule establishes a policy for authorization of leave for child care needs.

Citation of Existing Rules Affected by this Order: Amending WAC 356-18-116 Leave due to unforeseen child care requirements.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 91-23-104 on November 20, 1991.

Effective Date of Rule: March 1, 1992.

January 10, 1992
 Dee W. Henderson
 Secretary

AMENDATORY SECTION (Amending Order 314, filed 2/24/89, effective 4/1/89)

WAC 356-18-116 LEAVE DUE TO UNFORESEEN (~~CHILD~~) FAMILY CARE REQUIREMENTS. (1) Absence due to an employee's inability to report for or continue scheduled work due to unforeseen (~~child~~) family care requirements shall be authorized in any of the leave categories listed below at the employee's desire. No advance approval shall be required; however, the employee shall notify the agency at the beginning of the absence.

~~((1))~~ (a) Compensatory or exchange time.

~~((2))~~ (b) Vacation leave.

~~((3))~~ (c) Accrued sick leave (in accordance with WAC 356-18-060(8)).

~~((4))~~ (d) Leave without pay.

The provisions of this subsection shall only apply to care of the spouse, or to the employee's/spouse's son, daughter, stepchild, grandchild, foster child, child in the custody of and residing in the home of the employee, parent or grandparent.

(2) Absence due to an employee's inability to report for or continue scheduled work may be authorized in any of the leave categories listed above due to unforeseen care requirements of family members of the employee or the employee's spouse. For purposes of this subsection, "family" shall be limited to:

(a) Brother, sister, niece, nephew, aunt, uncle, first cousin.

(b) Persons who reside in the same home who have reciprocal and natural and/or moral duties to and do provide support for one another.

WSR 92-03-102
PERMANENT RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY
 [Filed January 17, 1992, 2:00 p.m.]

Date of Adoption: January 9, 1992.

Purpose: Section 1.07 is amended to include definitions from Sections 6.08 and 13.02, and to removed unused definitions. Sections 9.25 and 12.05 are repealed to remove schedules of compliance dates that have expired.

Citation of Existing Rules Affected by this Order: Repealing PSAPCA Regulation I, Sections 9.25, 12.05, and 13.02; and amending PSAPCA Regulation I, Section 1.07.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 91-23-095 on November 20, 1991.

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

January 16, 1992
 Gerald Scott Pade
 Air Pollution Engineer

AMENDATORY SECTION

SECTION 1.07 GENERAL DEFINITIONS

When used in Regulation I, II, or III of the Puget Sound Air Pollution Control Agency:

(a) ACTUAL EMISSIONS as of a specified date means the average rate in weight per unit time at which the source actually emitted pollutants during the 2-year period preceding the specified date, and which is representative of normal source operations. To account for unusual circumstances such as strikes, the Control Officer may approve or require the use of another time period which is more representative of normal operations than is the immediately preceding 2-year period.

(b) ADEQUATE SOURCE OF HEAT means the ability to maintain 70°F at a point 3 feet above the floor in all normally inhabited areas of a dwelling.

~~((g))~~ (c) ~~((AUTHORITY and/or))~~ AGENCY means the Puget Sound Air Pollution Control Agency.

~~((a))~~ (d) AGRICULTURAL BURNING means outdoor fires consisting of natural vegetation resulting from the growing of crops, the raising of fowl, animals or bees as a gainful occupation and burned on the lands on which the material originated.

~~((b))~~ AGRICULTURAL OPERATION means the growing of crops, the raising of fowl, animals or bees as a gainful occupation:))

~~((c))~~ (e) AIR CONTAMINANT means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odor substance, or any combination thereof.

~~((d))~~ (f) AIR POLLUTION is the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(g) AIR POLLUTION EPISODE means a period when a forecast, alert, warning, or emergency air pollution stage

is declared by the Department of Ecology pursuant to RCW 70.94.715.

~~((yy))~~ (h) AIR QUALITY STANDARD means an established concentration, exposure time, and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(i) ALLOWABLE EMISSIONS means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to a federally enforceable permit which limits the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) Any applicable New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency;

(2) The applicable emission standard under Article 9 of Regulation I or under Regulation II;

(3) Any applicable State Implementation Plan emission limit, including those with a future compliance date; or

(4) The emission rate specified as a condition in an approved Notice of Construction, Order, or operating permit, including those with a future compliance date.

~~((t))~~ (j) ALTERATION means any addition to or enlargement or replacement of, or any major modification or change of the design, capacity, process or arrangement, or any increase in the connected loading of equipment or control apparatus which will significantly affect the kind or amount of air contaminant emitted.

~~((f))~~ (k) AMBIENT AIR means that portion of the atmosphere, external to buildings, to which the general public has access.

~~((h))~~ (l) BEST AVAILABLE CONTROL TECHNOLOGY (BACT) means an emission limitation based on the maximum degree of reduction, which the Agency, on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable for such source through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each pollutant.

~~((i))~~ (m) BOARD means the Board of Directors of the Puget Sound Air Pollution Control Agency.

~~((j))~~ (n) COMBUSTIBLE REFUSE means solid or liquid combustible waste material.

~~((k))~~ COMMERCIAL LAND CLEARING PROJECT means open burning conducted as a part of any commercial or business operation, including land clearing when such land clearing is for the purpose of changing the use of the cleared land, but not including agricultural open burning.)

~~((h))~~ (o) CONTROL APPARATUS means any device which prevents or controls the emission of any air contaminant.

~~((m))~~ (p) CONTROL OFFICER means the Air Pollution Control Officer of the Puget Sound Air Pollution Control Agency.

~~((n))~~ (q) CURTAILMENT means reduction or cessation of any operation for the purpose of reducing emissions.

~~((o))~~ (r) EMISSION means a release into the outdoor atmosphere of air contaminants.

(s) EMISSION REDUCTION CREDIT means a commodity that represents a quantity of potential offsets.

~~((z))~~ (t) EMISSION STANDARD means a limitation on the release of a contaminant or multiple contaminants into the ambient air.

~~((p))~~ (u) EQUIPMENT means any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the atmosphere.

~~((q))~~ (v) EQUIPMENT USED IN A MANUFACTURING PROCESS means equipment as defined in ~~((Subsection 1.07(p)))~~ this section in which some air contaminant emitted is caused by a manufacturing process.

~~((r))~~ EXCESS AIR means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.)

~~((s))~~ (w) FACILITY means the sum total of all of the pollutant emitting activities located on one or more contiguous or adjacent properties and which is owned or operated by the same person.

~~((t))~~ FIRE CHIEF means a county fire marshal, city fire chief, chief of each county fire protection district, or his authorized representative, or authorized forestry officials from the Washington State Department of Natural Resources.)

(x) FIRST STAGE OF IMPAIRED AIR QUALITY means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 75 micrograms per cubic meter measured on a 24-hour average or when carbon monoxide is at an ambient level of 8 parts of contaminant per million parts of air by volume measured on an 8-hour average.

~~((r))~~ (y) FUEL BURNING EQUIPMENT means equipment as defined in ~~((Subsection 1.07(p)))~~ this section which produces hot air, hot water, steam or other heated fluids by external combustion of fuel.

~~((b))~~ (z) FUGITIVE DUST means particulate matter or any visible air contaminant other than uncombined water that is not collected by a capture system and emitted from a stack, but is released to the atmosphere at the point of generation.

(aa) FUGITIVE EMISSIONS means emissions which do not pass and which could not reasonably pass through a stack, chimney or other functionally equivalent opening.

~~((v))~~ (bb) GASOLINE STATION means any site dispensing gasoline into fuel tanks of motor vehicles, marine installations, or aircraft from stationary storage tanks.

~~((g))~~ IMPAIRED AIR QUALITY means a condition declared by the Department of Ecology or the Agency whenever meteorological conditions are conducive to an accumulation of air contamination concurrent with:

(1) Total suspended particulate at an ambient level of 125 micrograms per cubic meter measured on a 24-hour average; or

(2) PM10 at an ambient level of 90 micrograms per cubic meter measured on a 24-hour average; or

(3) Carbon monoxide at an ambient level of 8 parts of contaminant per million parts of air by volume (ppm) measured on an 8-hour average.)

~~((w))~~ (cc) INCINERATOR means a furnace for the destruction of waste.

~~((x))~~ (dd) INSTALLATION means the placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, and includes all preparatory work at such premises.

~~((y))~~ ~~LAND CLEARING BURNING means outdoor fires consisting of natural vegetation resulting from land clearing projects and burned on the lands on which the material originated.:~~

(ee) LOWEST ACHIEVABLE EMISSION RATE means that rate of emissions which reflects either the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

(ff) MAJOR MODIFICATION means any physical change in or change in the method of operation of a major source that would result in the emissions of any pollutant for which the area is designated nonattainment by more than any of the following:

Pollutant	Tons/Year
Sulfur Dioxide	40.0
Carbon Monoxide	100.0
Nitrogen Oxides	40.0
Volatile Organic Compounds	40.0
Lead	0.6
PM ₁₀	15.0

For the purpose of this section, volatile organic compounds and nitrogen oxides are the pollutants for which an area is designated nonattainment for ozone.

(gg) MAJOR SOURCE means a source with actual or allowable emissions of 100 tons per year or more of a specified air contaminant. A major source for VOC or NOx shall be considered major for ozone.

~~((z))~~ (hh) MARINE INSTALLATION means equipment as defined in ~~((Subsection 1.07(p)))~~ this section installed on a vessel or on any device which floats in the water.

~~((aa))~~ (ii) MOTOR VEHICLE means any operating vehicle or one capable of being operated which has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

~~((bb))~~ (jj) MULTIPLE CHAMBER INCINERATOR means any incinerator consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(kk) NONATTAINMENT AREA means a geographic area designated by the United States Environmental Protection Agency which violates a primary or secondary national ambient air quality standard.

(ll) OFFSET means a surplus, permanent, quantifiable and federally enforceable reduction in emissions of a

pollutant, beyond an established baseline, used to compensate an increase in emissions of the same criteria pollutant.

~~((cc))~~ (mm) OUTDOOR FIRE means the combustion of material in the open or in a container with no provision for control of such combustion or the control of the emissions of the combustion products.

~~((dd))~~ (nn) OWNER means the person who owns, leases, supervises or operates the equipment or control apparatus.

~~((ee))~~ (oo) PARTICULATE MATTER means any material, except water in an uncombined form, that is, has been, or is likely to become airborne and exists as a liquid or a solid at standard conditions.

~~((ff))~~ (pp) PERSON means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

~~((gg))~~ (qq) PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

~~((hh))~~ ~~PORTABLE EQUIPMENT means equipment as defined in Subsection 1.07(p) designed to be transported from place to place for temporary operation.:~~

~~((ii))~~ ~~POWER BOILER means fuel burning equipment used to produce steam or vapor at a pressure exceeding 103.5 kPa (15 lbs. per square inch) gauge.:~~

~~((jj))~~ (rr) PPM means parts per million parts by volume.

~~((kk))~~ (ss) PRIMARY AIR MASS STATION or PAMS means a type of station designed to measure contamination in the air mass and representing a relatively broad area. The sampling shall be representative of the general area concerned and not be contaminated by any special source. The probe inlet shall be a minimum of 4.6m (15 feet) and a maximum of 45.7m (150 feet) above ground level. Actual elevation should vary to prevent adverse exposure conditions caused by surrounding buildings and terrain. The probe inlet shall be placed approximately 1.5m (5 feet) above the supporting rooftop.

~~((ll))~~ (tt) PRIMARY GROUND LEVEL MONITORING STATION or PGLMS means a station designed to provide information on contaminant concentrations near the ground and provide data valid for the immediate area only. The probe inlet shall be 1.8 to 4.6m (6 to 15 feet) above ground level with a desired optimum height of 3.0m (10 feet). The probe inlet shall not be less than 0.6m (2 feet) from any building or wall. The sampling site shall be representative of the immediate area and not be contaminated by any unique source.

~~((mm))~~ (uu) PROCESS WEIGHT means total weight of the materials consumed or charged in any specific process including solid fuels charged, but excluding liquid and gaseous fuels, and combustion air.

~~((nn))~~ (vv) PROCESS WEIGHT PER HOUR means process weight divided by number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(ww) REASONABLE FURTHER PROGRESS means annual incremental reductions in emissions of the applicable air pollutant to provide for attainment of the applicable national ambient air quality standard by the date required under the approved State Implementation Plan.

~~((nm)) (xx) REFUSE BURNING EQUIPMENT means equipment as defined in ((Subsection 1.07(p))) this section employed to burn combustible refuse.~~

~~((oo)) (yy) REGULATION means any regulation or any subsequently adopted additions or amendments thereto of the Puget Sound Air Pollution Control Agency.~~

~~((pp) RESIDENTIAL BURNING means outdoor fires consisting of natural vegetation resulting from the maintenance of lands immediately adjacent and in close proximity to a human dwelling and burned on the lands on which the material originated:))~~

(zz) SEASONED WOOD means wood of any species that has been sufficiently dried so as to contain 20% or less moisture by weight.

(aaa) SECOND STAGE OF IMPAIRED AIR QUALITY means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 105 micrograms per cubic meter measured on a 24-hour average.

(bbb) SECONDARY EMISSIONS means emissions which would occur as a result of the construction or operation of a new major source or major modification, but do not come from the major source or major modification itself, and are specific, well defined, quantifiable, and impact the same general area as the source which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would be constructed or would increase its emissions as a result of the construction or operation of the new source.

~~((qq) SMALL OUTDOOR FIRE means a fire in a pile no more than 1.2m (4 feet) in diameter and 0.9m (3 feet) in height:))~~

~~((ddd)) (ccc) SOLID FUEL BURNING DEVICE (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes ((woodstoves, coal stoves, cook stoves, and fireplaces, or)) any ((similar)) device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than 1 million Btu per hour.~~

~~((rr)) (ddd) SOURCE means any building, structure, equipment, control apparatus, storage pile or facility which emits or may emit any air contaminant into the atmosphere.~~

~~((ss)) (eee) SPECIAL STATION or SS means any station that does not meet the criteria or purpose of a Primary Air Mass Station or a Primary Ground Level Monitoring Station.~~

~~((aaa) SPECIFIC EMISSIONS UNIT means any equipment, device, source, or any other specific process or activity that produces and emits to the outside air, or that may produce and emit to the outside air, any contaminant regulated by state law, federal law, or by Regulation I or Regulation H:))~~

~~((tt)) (fff) STANDARD CONDITIONS means 20°C and 1013 mb (68°F and 29.92 in. Hg).~~

~~((uu) STANDARD CUBIC FOOT OF GAS means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard conditions:))~~

~~((vv) STATE ACT means the "Washington Clean Air Act":))~~

(ggg) TOTAL ALLOWABLE EMISSIONS means allowable emissions including all fugitive and secondary emissions and any emission increases pursuant to Section 6.08 (c)(4).

~~((ww) TRAVEL ASPHALT PLANT means any asphalt plant specifically designed by a manufacturer as a travel asphalt plant and customarily used in the industry to locate near the job site:))~~

(hhh) TREATED WOOD means wood of any species that has been chemically impregnated, painted or similarly modified.

~~((ff)) (iii) URBANIZED AREA means those portions of King, Pierce, Kitsap and Snohomish Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.~~

~~((xx)) (jji) VOLATILE ORGANIC COMPOUND or VOC means any organic compound that participates in atmospheric photochemical reactions. This excludes all compounds determined to have negligible photochemical reactivity by the US EPA and listed in 40 CFR Part 51.165.~~

~~((ccc) WOODSTOVE means a solid fuel burning device including any fireplace insert, woodstove, wood burning heater, wood stick boiler, coal-fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than 1 million Btu per hour. The term woodstove does not include any wood burning stove with an oven as an integral part of the device and designed exclusively for cooking:))~~

REPEALER

SECTION 9.25 SCHEDULE OF COMPLIANCE DATES

REPEALER

SECTION 12.05 EFFECTIVE DATE

REPEALER

SECTION 13.02 DEFINITIONS

WSR 92-03-103

NOTICE OF PUBLIC MEETINGS UNIVERSITY OF WASHINGTON (Medical Center Facilities Commission)

[Memorandum—January 16, 1992]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington Medical Center Facilities Committee.

UWMC Board Facilities Committee meetings were scheduled on an incorrect cycle and are revised for 1992 as follows:

ERASE FROM CALENDAR	NEW DATES
April 17	March 20
July 17	May 15
October 16	July 17
	September 18
	November 20

All meetings are held from 12 noon-2:00 p.m. and lunch is provided. Agendas will be mailed out one week in advance of the meeting. If you have any questions regarding this revised schedule, please don't hesitate to contact Sharon Altman at 548-6364.

WSR 92-03-104
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed January 17, 1992, 2:33 p.m.]

Original Notice.

Title of Rule: Schedule of fees and charges for services provided under chapter 17.24 RCW.

Purpose: The proposal establishes in rule billing policies and procedures, and hourly and overtime rates for service.

Statutory Authority for Adoption: Chapter 17.24 RCW.

Statute Being Implemented: Chapter 17.24 RCW.

Summary: The proposal establishes in rule billing policies and procedures, hourly and overtime rates for requested service, laboratory and plant pathology laboratory diagnostic fees, post entry inspection fees, and miscellaneous fees and charges.

Reasons Supporting Proposal: These fees for service are provided for by statute, this proposal puts the fees into rule so the department can begin collection for services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William E. Brookreson, 6120 Capitol Boulevard, Tumwater, WA, 586-5306.

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 proposal establishes in rule billing policies and procedures, and a fee schedule for services provided under chapter 17.24 RCW. The fees collected will allow the Department of Agriculture to provide continued service to industry.

Proposal does not change existing rules.

Small Business Economic Impact Statement: [No Information Supplied By Agency]

Hearing Location: Agricultural Statistics Conference Room, 6128 Capitol Boulevard, Tumwater, WA 98502, on February 25, 1992, at 10:00 a.m.

Submit Written Comments to: William E. Brookreson, P.O. Box 42560, Olympia, WA 98504-2560, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 17, 1992

William E. Brookreson
Assistant Director

NEW SECTION

WAC 16-470-900 SCHEDULE OF FEES AND CHARGES—BILLING POLICIES AND PROCEDURES. (1) All billable services provided under chapter 17.24 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing. Accounts not paid in full within thirty days of billing shall be considered delinquent.

(2) All delinquent accounts shall be assessed a late charge equal to one percent per month, or portion of a month, on the unpaid balance.

(3) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system shall be twenty dollars. All billable services of less than twenty dollars shall be due and payable on the date that service is rendered.

(4) No person with an account ninety days or more in arrears shall receive service except on the basis of payment in full at the time service is rendered. Such accounts shall not be restored to monthly billing status until all past due amounts are paid-in-full. Such accounts may be subject to legal action for collection.

(5) Accounts that become ninety days or more in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

NEW SECTION

WAC 16-470-905 SCHEDULE OF FEES AND CHARGES—ESTABLISHING HOURLY RATES. (1) Requested services shall be provided at an hourly rate and an overtime rate except as provided in WAC 16-470-905(5). The overtime rate shall apply for service provided before 8:00 a.m. or after 5:00 p.m. during the work day and for all services provided on Saturday, Sunday, or on a holiday listed in subsection (2) of this section.

(2) Holidays shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) The minimum hourly charge assessed shall be one hour. Additional charges shall be in one-half hour increments prospectively.

(4) Persons requesting service with less than twenty-four hours notice on a weekend or holiday, or before 8:00 a.m. or after 5:00 p.m., may be subject to a call back charge of two hours at the overtime rate in addition to all other charges if the department is actually required to pay call back to the employee(s) providing the requested service.

(5) For larger projects, the department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated hourly rate.

NEW SECTION

WAC 16-470-910 SCHEDULE OF FEES AND CHARGES—APPLICABLE FEES AND CHARGES. (1) Hourly rate . . . \$25.00

(2) Overtime rate \$32.00

(3) Laboratory diagnostic services, except as provided in subsection (4) of this section, shall be charged at the applicable hourly rate plus materials.

(4) Plant pathology laboratory diagnostic fees shall be as follows:

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+samples
virus	\$75.00 ea	\$55.00 ea	\$42.00 ea	\$16.00 ea	\$ 2.50 ea
bacteria	35.00 ea	32.00 ea	30.00 ea	29.00 ea	29.00 ea
fungus	35.00 ea	30.00 ea	28.00 ea	29.00 ea	26.00 ea
nematode	26.00 ea	24.00 ea	22.00 ea	22.00 ea	20.00 ea

Note: To receive volume rates, samples must be submitted as a unit and identification request must be for one specific virus, bacterium, fungus, or nematode.

NEW SECTION

WAC 16-470-915 SCHEDULE OF FEES AND CHARGES—FEES FOR POST ENTRY INSPECTION SERVICES. (1) Site inspection and/or permit review and approval \$50.00

(2) Subsequent inspections of post entry plant materials shall be provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

(4) Fees for post entry inspection services shall be effective May 1, 1992.

NEW SECTION

WAC 16-470-920 SCHEDULE OF FEES AND CHARGES—MISCELLANEOUS FEES. (1) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the hourly rate may be assessed for requested inspections or post entry inspections that are not a part of a regular work schedule. Such charges may be prorated among applicants if more than one applicant is provided service during a work day or trip when per diem is applicable.

(2) Postage and other miscellaneous costs shall be charged back at the actual cost.

(3) Certificates of inspection, phytosanitary certificates, and other official documents shall be provided subject to the charges and conditions established in WAC 16-401-025.

(4) Fee for special handling service (i.e., Federal Express, Air Parcel Post, or Air Freight) \$3.50

(5) Fee for facsimile transmission of documents, per document \$3.50

WSR 92-03-105

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed January 17, 1992, 2:36 p.m.]

Original Notice.

Title of Rule: Wetland and aquatic weed quarantine.

Purpose: To stop the spread of and to protect Washington waters and wetlands from new infestations of nonnative, aggressive, perennial weeds.

Statutory Authority for Adoption: Chapters 17.10 and 17.24 RCW.

Statute Being Implemented: Chapters 17.10 and 17.24 RCW.

Summary: The proposal establishes a quarantine against specific wetland and aquatic weeds, prohibits the transportation or sale of the plants or plant parts, provides exemptions for scientific or educational purposes, and list disposition of regulated articles and penalties for violation of the quarantine.

Reasons Supporting Proposal: The commercial, aesthetic, and recreational value of Washington waters and wetlands; as well as bird and mammal habitats; and shellfish industry are threatened by wetland and aquatic weeds.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William E. Brookreson, 6120 Capitol Boulevard, Tumwater, WA, 586-5306.

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 proposal establishes a quarantine against

nonnative, aggressive, perennial weeds which threaten Washington's waters and wetlands. It is anticipated that this quarantine will prevent destruction of bird and mammal habitats, shellfish industry, and commercial aesthetic and recreational values.

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 Statistics Conference Room, 6128 Capitol Boulevard, Tumwater, WA 98502, on February 25, 1992, at 9:00 a.m.

Submit Written Comments to: William E. Brookreson, P.O. Box 42560, Olympia, WA 98504-2560, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 17, 1992

William E. Brookreson

Assistant Director

WETLAND AND AQUATIC WEED QUARANTINE

NEW SECTION

WAC 16-752-500 ESTABLISHING WETLAND AND AQUATIC WEED QUARANTINE. Washington waters and wetlands are threatened by nonnative, aggressive, perennial weeds that destroy the commercial, aesthetic, and recreational value of these areas. Parrot's Feather (or parrotfeather or waterfeather), Brazilian elodea (or egeria), eurasian watermilfoil, and hydrilla, when established, will clog irrigation systems and waterways and seriously impact recreational use of the waterways. Salt meadow cordgrass, common cordgrass, and smooth cordgrass are noxious weeds that have invaded a small part of the salt water estuarine areas on the Washington coast displacing native species, threatening bird and mammal habitats and the shellfish industry. The director of agriculture, pursuant to the powers provided in chapters 17.10 and 17.24 RCW, finds that the regulation and exclusion of these plants and plant parts are necessary to preserve Washington waters and wetlands, both fresh water and estuarine, from new or additional infestation. These requirements and restrictions, contained in WAC 16-752-500 through 16-752-525, are in addition to the requirements contained in WAC 232-12-271, "Criteria for planting aquatic plants and releasing wildlife," administered by the Washington state department of wildlife.

NEW SECTION

WAC 16-752-505 WETLAND AND AQUATIC WEED QUARANTINE—REGULATED ARTICLES. All plants and plant parts of the following are regulated articles under this chapter: Eurasian watermilfoil (*Myriophyllum spicatum*); hydrilla (*Hydrilla verticillata*); salt meadow cordgrass (*Spartina patens*); common cordgrass (*spartina anglica*); smooth cordgrass (*Spartina alterniflora*); Parrot's Feather, parrotfeather or waterfeather (*Myriophyllum aquaticum* also known as *M. brasiliense* or *M. proserpinacoides*); and Brazilian elodea or egeria (*Egeria densa* or *Elodea densa*).

NEW SECTION

WAC 16-752-510 WETLAND AND AQUATIC WEED QUARANTINE—PROHIBITED ACTS. It is prohibited to transport, buy, sell, offer for sale, or to distribute plants or plant parts of the regulated plants, listed in WAC 16-752-505, into or within the state of Washington. It is further prohibited to intentionally transplant wild plants and/or plant parts of these species within the state of Washington.

NEW SECTION

WAC 16-752-515 WETLAND AND AQUATIC WEED QUARANTINE—EXEMPTIONS. The prohibition on transporting plants or plant parts in WAC 16-752-510 shall not apply to plants or plant parts collected for herbariums, research in control methods, creation of pressed specimens for educational or identification purposes and other scientific activities: PROVIDED, That all activities requiring

live plants, except pressed specimens, are conducted under permit from the director and are conducted in such a way that no infestation is created. No permit is required to transport plants or plant parts, as a part of a noxious weed control activity, to a sanitary landfill, to be burned, or otherwise for disposition: PROVIDED, That such activities are conducted under the supervision of an official weed control agency or other public agency with management responsibilities for the control efforts and are conducted in such a manner that seed dispersal or dispersal of propagative materials to uninfested areas are prevented. Live plants for educational or training purposes shall not require a permit provided that specimens are disposed of in such a manner as to prevent infestation.

NEW SECTION

WAC 16-752-520 WETLAND AND AQUATIC WEED QUARANTINE—DISPOSITION OF REGULATED ARTICLES. Any plants or plant parts transported, bought, sold, offered for sale, or planted in violation of this order shall be subject to destruction or shipment back out-of-state if the director determines that such shipment may be done without danger of infestation. Any action shall be at the expense of the owner or the owner's agent and without compensation.

NEW SECTION

WAC 16-752-525 WETLAND AND AQUATIC WEED QUARANTINE—PENALTIES. Any person who violates the terms of this quarantine, as provided in WAC 16-752-500 through 16-752-520, or who aids and abets in such violation, shall be subject to criminal and/or civil penalties provided by law.

**WSR 92-03-106
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed January 17, 1992, 2:39 p.m.]**

Original Notice.

Title of Rule: Rules relating to noxious weed seed and plant quarantine.

Purpose: To protect Washington agriculture and natural resources from nonnative, aggressive species of noxious weeds.

Statutory Authority for Adoption: Chapters 17.10 and 17.24 RCW.

Statute Being Implemented: Chapters 17.10 and 17.24 RCW.

Summary: The proposal establishes a quarantine against specific noxious weeds and weed seeds, provides for permits and exceptions, and lists disposition of regulated articles and penalties.

Reasons Supporting Proposal: The proposed quarantine will reduce the number of noxious weed infestations, and thereby reduce the amount of public and private expenditure for weed control mandated in chapter 17.24 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William E. Brookreson, 6120 Capitol Boulevard, Tumwater, WA, 586-5306.

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 proposal establishes the noxious weed seed and plant quarantine, which is designed to lessen the

threat of infestation of nonnative, aggressive noxious weed species. The quarantine regulates specific noxious weed plants, plant parts and seed within the state of Washington. It is anticipated that new infestations of the regulated articles will be limited, and that both public and private expenditures for control of these weeds will decrease.

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 Statistics Conference Room, 6128 Capitol Boulevard, Tumwater, WA 98502, on February 25, 1992, at 11:00 a.m.

Submit Written Comments to: William E. Brookreson, P.O. Box 42560, Olympia, WA 98504-2560, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 15, 1992
William E. Brookreson
Assistant Director

NOXIOUS WEED SEED AND PLANT QUARANTINE

NEW SECTION

WAC 16-752-600 ESTABLISHING THE NOXIOUS WEED SEED AND PLANT QUARANTINE. Washington agriculture and natural resources are threatened by nonnative, aggressive species of noxious weeds. A number of these noxious weeds are transported and sold within the state of Washington both as nursery plants and as seeds in packets of flower seeds or "wildflower mixes." Subsequent "escape" of these ornamentals has been a documented source of a number of infestations and has resulted in large public and private expenditures by landowners and land managers, weed boards, and weed districts and the department of agriculture to achieve the control mandated in chapter 17.10 RCW. The director of agriculture, pursuant to the powers provided in chapters 17.10 and 17.24 RCW, finds that regulation of the sale of these seed packets and plants is necessary to protect Washington agriculture and natural resources and prevent public and private costs of control.

Note: For rules prescribing the limits of prohibited and restricted noxious weed seeds as contaminants in certified seed, see WAC 16-300-010 through 16-300-025.

NEW SECTION

WAC 16-752-610 NOXIOUS WEED SEED AND PLANT QUARANTINE—REGULATED ARTICLES. All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are regulated under the terms of this noxious weed quarantine:

Scientific Name	Common Names
Amorpha fruticosa	indigobush, lead plant
Anchusa officinalis	common bugloss, alkanet, anchusa
Anthriscus sylvestris	wild chervil
Carduus acanthoides	plumeless thistle
Carduus nutans	musk thistle, nodding thistle
Centaurea diffusa	diffuse knapweed
Centaurea jacea	brown knapweed, rayed knapweed, brown centaury horse-knobs, hardheads
Centaurea maculosa	spotted knapweed
Centaurea macrocephala	bighead knapweed
Centaurea nigra	black knapweed
Centaurea nigrescens	Vochin knapweed
Chaenorrhinum minus	dwarf snapdragon
Chrysanthemum leucanthemum	oxeye daisy, white daisy, whiteweed, field daisy, marguerite, poorland flower
Cytisus scoparius	Scotch broom

Scientific Name	Common Names
Daucus carota	wild carrot, Queen Anne's lace
Echium vulgare	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
Heracleum mantegazzianum	giant hogweed, giant cow parsnip
Hibiscus trionum	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly
Hieracium aurantiacum	orange hawkweed, orange paintbrush, red daisy, flameweed, devil's weed, grim-the-collier
Hieracium pratense	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil
Hypericum perforatum	common St. Johnswort, goatweed, St. Johnswort
Isatis tinctoria	dyers' woad
Kochia scoparia	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed
Linaria genistifolia spp. dalmatica	Dalmatian toadflax
Lepidium latifolium	perennial pepperweed
Mirabilis nyctaginea	wild four o'clock, umbrella-wort
Onopordum acanthium	Scotch thistle
Proboscidea louisianica	unicorn-plant
Salvia aethiopsis	Mediterranean sage
Silybum marianum	milk thistle
Torilis arvensis	hedgearsley
Ulex europaeus	gorse, furze
Zygophyllum fabago	Syrian bean-caper

NEW SECTION

WAC 16-752-620 NOXIOUS WEED SEED AND PLANT QUARANTINE—PROHIBITED ACTS. It is prohibited to transport, buy, sell, offer for sale, or to distribute plants or plant parts of the regulated species listed in WAC 16-752-610 into or within the state of Washington or to sell, offer for sale, or distribute seed packets of the seed, flower seed blends, or wildflower mixes of these regulated species into or within the state of Washington.

NEW SECTION

WAC 16-752-630 NOXIOUS WEED SEED AND PLANT QUARANTINE—EXCEPTIONS. The prohibition on transporting of plants and plant parts shall not apply to plant or plant parts collected for herbariums, research in control methods, creation of pressed specimens, or for educational or identification purposes and other scientific activities: PROVIDED, That all activities requiring live plants are conducted in such a manner as to prevent infestation. In addition, plants or plant parts may be transported, as a part of a noxious weed control activity, to a sanitary landfill, to be burned, or otherwise for disposition under the supervision of a noxious weed control agency.

NEW SECTION

WAC 16-752-640 NOXIOUS WEED SEED AND PLANT QUARANTINE—PERMITS. The director may allow the movement of materials, otherwise prohibited, by special permit. Such permit shall specify the terms and conditions under which movement is allowed.

NEW SECTION

WAC 16-752-650 NOXIOUS WEED SEED AND PLANT QUARANTINE—DISPOSITION OF REGULATED ARTICLES. Any plants, plant parts, or seed packets transported, bought, sold, or offered for sale in violation of this noxious weed quarantine shall be subject to destruction or shipment out-of-state or other disposition in a manner prescribed by the director to prevent infestation. Any action shall be at the expense of the owner or the owner's agent and without compensation.

NEW SECTION

WAC 16-752-660 NOXIOUS WEED SEED AND PLANT QUARANTINE—PENALTIES. Any person who violates the terms of the noxious weed quarantine, as provided in WAC 16-752-600 through 16-752-650, or who aids or abets in such violation, shall be subject to the civil and/or criminal penalties provided in chapter 17.24 RCW.

WSR 92-03-107
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Examining Board of Psychology)
 [Order 238B—Filed January 17, 1992, 2:58 p.m.]

Date of Adoption: January 16, 1992.

Purpose: To adopt a new rule that covers the acquisition and retention of health care information obtained under the new Health Care Information Act and the release of said information.

Statutory Authority for Adoption: RCW 18.83.050.

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 Health Care Information Act has just recently been adopted. This emergency rule is necessary to protect the confidentiality of documents and establish rules governing acquisition and retention of records obtained under the new Health Care Information Act.

Effective Date of Rule: Immediately.

December 20, 1991

Dave Gossett

Chair

NEW SECTION

WAC 246-924-991 ACQUISITION AND RETENTION OF HEALTH CARE INFORMATION. This section sets forth the process by which the Examining Board of Psychology obtains and retains health care information under RCW 70.02.050.

(1) Acquisition of health care information

(a) The Board shall request health care information in writing.

(b) Health care providers shall provide the requested information pursuant to RCW 70.02.050.

(2) The Board shall maintain health care information obtained under this section as long as necessary to perform Board functions.

(3) The Board shall secure the records and protect confidentiality.

(a) The Board's program manager and program administrator shall act as custodians of the records and shall provide access to the information only as necessary to perform Board functions.

(b) The custodians shall monitor the location and security of the information.

NEW SECTION

WAC 246-924-992 **RELEASE OF HEALTH CARE INFORMATION** (1) The Board's program manager and program administrator shall act as custodians of all health care information obtained by the Board, shall monitor the location and security of the information, and shall provide access to the information only as necessary to perform Board functions.

(2) No health care information containing patient identifying data shall be made available for public inspection and copying.

WSR 92-03-108
EMERGENCY RULES
BOARD OF
PILOTAGE COMMISSIONERS
 [Filed January 17, 1992, 3:37 p.m.]

Date of Adoption: January 16, 1992.

Purpose: To amend the rule for license renewals for pilots who retire under a medical disability retirement plan.

Citation of Existing Rules Affected by this Order: Amending WAC 296-116-110.

Statutory Authority for Adoption: RCW 88.16.035.

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 codify the board's position related to a disabled pilot who is retiring.

Effective Date of Rule: Immediately.

January 17, 1992
 Marjorie T. Smitch
 Assistant Attorney General

AMENDATORY SECTION (Amending Order 79-6, Resolution No. 79-6, filed 3/4/80)

WAC 296-116-110 **DETAILS AND REQUIREMENTS OF RENEWAL APPLICATION.** (1) All applications for renewal of licenses shall be submitted in writing to the board at least thirty days prior to the expiration date of the license, and be accompanied by a certified check payable to the state treasurer in the amount of the annual license fee. All applicants for renewal of licenses shall be required to display their currently applicable United States government license with radar endorsement issued by the United States Coast Guard.

(2) A pilot, who retires under his/her medical disability retirement plan, may apply for renewal of their pilot's license within five (5) years from the date of their last pilotage assignment, provided they are capable of passing a physical examination without any restrictions as to pilotage duties. The Board may, at its discretion, waive all or part of the pilotage examination. The board shall require the pilot to complete a familiarization

training program prescribed by the board after a full review of all relevant factors. The board may also prescribe license limitations such as those contained in WAC 296-116-082.

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 92-03-109
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed January 21, 1992, 12:44 p.m.]

Date of Adoption: January 15, 1992.

Purpose: To prohibit labels which may be appealing to children.

Citation of Existing Rules Affected by this Order: Amending WAC 314-20-020.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 91-24-087 on December 4, 1991.

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

January 21, 1992

Paula O'Connor
 Chairman

AMENDATORY SECTION (Amending WSR 91-08-022, filed 3/27/91, effective 4/27/91)

WAC 314-20-020 **BEER LABELS—CERTIFICATE OF LABEL APPROVAL REQUIRED—LABELS TO BE SUBMITTED.** (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on a form(~~(f,s)~~) prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco(~~(f,t)~~), and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires re-issuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) No label shall be used that is misleading.

(5) Every producer, importer, or wholesaler of beer shall, upon request of the board or its authorized representative, furnish(~~(f,t)~~) without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

(6) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when,

in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

WSR 92-03-110
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed January 21, 1992, 12:47 p.m.]

Date of Adoption: January 15, 1992.

Purpose: To prohibit labels which may be appealing to children.

Citation of Existing Rules Affected by this Order: Amending WAC 314-24-040.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 91-24-086 on December 4, 1991.

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

January 21, 1992

Paula O'Connor
 Chairman

AMENDATORY SECTION (Amending Order 274, Resolution No. 283, filed 12/28/88)

WAC 314-24-040 WINE LABELS—CERTIFICATE OF LABEL APPROVAL REQUIRED—LABELS TO BE SUBMITTED. No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have obtained from the board a certificate of label approval for such wine.

(1) A request for certificate of label approval must be submitted to the board on forms prescribed by the board, together with the following:

(a) Two labels of the brand and type for which approval is requested for wines under seven percent alcohol by volume; and

(b) One copy of the federal certificate of label approval for such wine which has been issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(2) Any change in label or product which requires re-issuance of federal approval under the provisions of 27 CFR Part 4, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) Every producer, importer, bottler, or wholesaler of wine shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the quality standards set by the board in WAC 314-24-060 and conforms with commercial standards.

(4) No label shall be used that is misleading.

(5) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

WSR 92-03-111
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 21, 1992, 1:52 p.m.]

Original Notice.

Title of Rule: WAC 388-99-030 Allocation of excess income—Spendedown.

Purpose: Amended effective December 3, 1990, to Omnibus Budget Reconciliation Act 4118(h). Changes permit medical expense payments by government programs which apply toward client's medically needy spenddown liability and assures that medical and remedial care expenses allowed toward spenddown liability are provided by a practitioner recognized under state law.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: Ensure field staff correctly determine allowable medically needy spenddown liability.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Hornby, Medical Assistance Administration, 753-7462.

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

Rule is necessary because of federal law, OBRA 4118(h).

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992

Leslie F. James, Director
 Administrative Services
 by Rosemary Carr

AMENDATORY SECTION (Amending Order 2929, filed 1/31/90)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense shall be a current liability:

(i) Of the applicant or financially responsible relative in the same household; or

(ii) Subject to payment during or after the base period, by a public program (~~of the state, county, or city other than Medicaid~~) as defined in subsection (2).

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by a third-party ~~((liability))~~ resource.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.

(d) The department shall consider toward spenddown a medical expense incurred and paid ~~((for))~~ during the base period:

(i) By the applicant ~~((during the base period))~~; or
 (ii) Subject to payment by a public program ~~((of the state, county, or city other than Medicaid, and))~~ as defined in subsection (2).

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) For the purposes of this section, a public program is one administered and funded, except for deductibles and co-insurance amounts, by a state, county, city, or territory. Funding for a public program shall be:

(a) From a source other than federally matched or funded; and
(b) Appropriated by a state, county, city, or territory; or
(c) Transferred from a state, county, city, or territory to the administering agency.

(3) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the ~~((applicant is eligible))~~ applicant's eligibility.

~~((3))~~ (4) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely ~~((spenddown))~~ spent down. For base periods beginning on or after February 1, 1990, the department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, co-insurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program and provided by a practitioner recognized under state law;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which a public program ~~((of the state, county, or city other than Medicaid))~~ as defined by subsection (2), has paid;

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the limited casualty program, but remaining an applicant's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The applicant may use such expenses to reduce excess countable income on a subsequent application, provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(5) The applicant is liable for any expenses incurred before the ~~((date the applicant is eligible))~~ first day of eligibility.

WSR 92-03-112
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 21, 1992, 1:53 p.m.]

Original Notice.

Title of Rule: WAC 388-81-047 Recovery from estates.

Purpose: To assure consistency with state law on how the estate is determined at time of death. Changes definition "value of estate at the time of death" when recovery from estates is being considered.

Other Identifying Information: The value of the estate shall be the total estate value less any liabilities outstanding at the time of death.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 43.20B.140.

Summary: The value of the estate shall be the total estate value less any liabilities outstanding at the time of death.

Reasons Supporting Proposal: To redefine value of the estate at the time of death.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance Administration, 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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992

Leslie F. James, Director
 Administrative Services
 by Rosemary Carr

AMENDATORY SECTION (Amending Order 2585, filed 1/19/88)

WAC 388-81-047 RECOVERY FROM ESTATES. (1) The department shall recover the cost of medical care provided to a recipient, who was sixty-five years old or older, upon the recipient's death, except:

- (a) Where there is a surviving spouse; or
- (b) Where there is a surviving child who is:
 - (i) ~~((Under))~~ Twenty~~((one))~~ years of age~~((;))~~ and under; or
 - (ii) Blind or disabled as defined in chapter 388-92 WAC; or
 - (c) Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include:
 - (i) The first fifty thousand dollars of the estate value at the time of death~~((;))~~; and
 - (ii) Sixty-five percent of the remainder.

(2) The department shall assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the recipient just prior to death.

(a) The lien shall be filed with the county auditor of the county in which the property is located((-)); and

(b) The lien shall be deemed effective as of the date of the recipient's death((-); and

and

(c) Recovery shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined in subsection (1)(b) of this section, is discovered or contacts the department prior to recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the ~~((valuation listed in current property tax records))~~ total estate value less any liabilities on any real property outstanding at the time of death.

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 92-03-113
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed January 21, 1992, 1:55 p.m.]

Original Notice.

Title of Rule: WAC 388-24-250 Consolidated emergency assistance program—Conditions of eligibility.

Purpose: Amendment clarifies that women with no other child can receive CEAP and that the list of WAC reasons allowing a family to demonstrate an inability to plan for an emergency is an exclusive list. Amendment allows a family under sanction from another public assistance program to receive CEAP.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: The amendment states pregnant women can receive CEAP, states that reasons given that demonstrates a family's inability to plan for an emergency, if the family had income, are exclusive, and condition states that a family under sanction can receive CEAP.

Reasons Supporting Proposal: Amendment clarifies who can receive CEAP, explains conditions for family's inability to plan for an emergency are exclusive for families with income, and explains conditions under which a family under sanction can receive CEAP.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3121, filed 12/28/90, effective 1/1/91)

WAC 388-24-250. CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CONDITIONS OF ELIGIBILITY. The department shall grant assistance under the consolidated emergency assistance program (CEAP) to families with dependent children or pregnant women meeting all of the following eligibility conditions:

(1) Have net monthly income less than fifty percent of the need standard for AFDC households with shelter costs or, if income is above the fifty percent cutoff, demonstrate that they could not have planned to avoid the emergency. The household ~~((can))~~ shall demonstrate an inability to plan if funds ordinarily available were expended for:

- (a) Medical bills;
- (b) Emergent child care to avoid abuse;
- (c) Dental care to alleviate pain; or
- (d) Costs incurred in obtaining employment.

(2) Are in financial need((-);

(3) Are experiencing one or more of the following emergent needs:

- (a) Food;
- (b) Shelter;
- (c) Clothing;
- (d) Minor medical;
- (e) Utilities;
- (f) Household maintenance;
- (g) Necessary clothing or transportation costs to accept or maintain a job; or

(h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

(4) Are taking all steps necessary to make themselves eligible for, or are not under sanction for failure to comply with, the eligibility requirements of AFDC, SSI, GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, and food stamps for those CEAP applicants requesting emergent food assistance. If the crisis is not a result of the sanction and the family could not have prevented the need for emergency assistance by compliance with eligibility requirements, the family may receive assistance if otherwise eligible;

(5) Are residents of Washington state. A resident is a person living in the state voluntarily with the intention of making and maintaining a home in the state and not for a temporary purpose or are:

(a) If not a resident, detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or

(b) Migrants.

(6) Have not transferred property contrary to the requirements given in WAC 388-28-457 through 388-28-465.

(7) Have not refused a bona fide job offer or voluntarily terminated employment without good cause within thirty days before application or after application.

(a) Households refusing a bona fide offer of employment or voluntary ~~((termination))~~ terminating employment without good cause within thirty days before application or after application shall be ineligible for thirty days or until the person accepts employment, whichever is less.

(b) The period of ineligibility shall begin on the date of refusal or termination of employment.

(c) The following conditions when verified shall constitute good cause for refusal or termination of employment:

(i) Physical, mental, or emotional inability of the ~~((individual))~~ person to satisfactorily perform the work required;

(ii) Inability of the ((individual)) person to get to and from the job without undue cost or hardship to the ((individual-)) person, e.g., travel time in excess of one hour, one way, is considered undue hardship((?));

(iii) The nature of the work would be hazardous to the ((individu- at)) person;

(iv) The wages do not meet any applicable minimum wage require- ments and are not customary for such work in the community;

(v) The job is available because of a labor dispute; or

(vi) Child care is not available to the household.

(8) Have applied for unemployment compensation if potentially eli- gible((-)); and

(9) Are not aliens granted lawful temporary resident status under sections 245A and 210A of the Immigration and Nationality Act. Dis- qualification due to this provision applies for a period of five years from the date the temporary residence status was granted.

**WSR 92-03-114
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed January 21, 1992, 1:56 p.m.]

Original Notice.

Title of Rule: WAC 388-24-252 Consolidated emer- gency assistance program—Persons included in payment of grant.

Purpose: Places the provisions stated previously in WAC 388-24-265 in a new section. Renames the sec- tion more appropriately as it describes who can receive a CEAP payment and states that SSI recipients cannot receive CEAP.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Adds a new section previously addressed in WAC 388-24-265. Renames the section more appropri- ately as it describes who can receive a CEAP payment and states that SSI recipients cannot receive CEAP (consolidated emergency assistance program).

Reasons Supporting Proposal: To clearly state to whom CEAP payments can be made and conditions of eligibility.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 Ef- fects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is re- quired for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

NEW SECTION

WAC 388-24-252 CONSOLIDATED EMERGENCY ASSIST- ANCE PROGRAM—PERSONS INCLUDED IN PAYMENT OF GRANT. (1) The department shall authorize CEAP for the following persons provided they are otherwise eligible:

(a) A pregnant woman in any stage of a verified pregnancy;

(b) The child or children seventeen years of age or younger who is:

(i) Living with a parent or other relative as specified under WAC 388-24-125 (1) and (2); or

(ii) Not living with such relative but has within the six months prior to the month in which assistance is requested.

(c) The parent or parents with whom the child lives. The parental relationship shall be established according to the Uniform Parentage Act; or

(d) One needy caretaker relative with whom the child lives, if a parent does not reside in the family home.

(2) Persons receiving supplemental security income (SSI) shall not be included in the authorization of a CEAP grant.

**WSR 92-03-115
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed January 21, 1992, 1:57 p.m.]

Original Notice.

Title of Rule: WAC 388-24-253 Exempt income and resources for CEAP.

Purpose: Eliminates reference to payments made un- der the community services administration's emergency energy program as this act was eliminated by 1981 Om- nibus Reconciliation Act. Adds that payments are ex- empt up to \$2,000 per year per individual for Indian tribal judgment funds distributed per capita basis and funds from Alaska Native Claims Settlement Act.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: See Purpose above. Adds as exempt certain payments made to Puyallup Tribe members and to settle agent orange liability claims.

Reasons Supporting Proposal: Eliminates one inap- propriate listing of an exempt resource for consolidated emergency assistance program. Adds exempt items to be included as an income or resource for CEAP.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 Ef- fects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is re- quired for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2503, filed 6/17/87)

WAC 388-24-253 EXEMPT INCOME AND RESOURCES FOR CEAP. The department shall disregard:

(1) A home((-)); WAC 388-28-420 shall apply in determining whether real property is used as a home;

(2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;

(3) Used and useful household furnishings;

(4) Used and useful personal effects;

(5) Tools and equipment used and useful in the person's occupation;

(6) Livestock, the products of which are consumed by the applicant((s)) and ((his or her)) the applicant's dependents;

(7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646;

(8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(9) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(10) ~~((Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act;~~

~~((H))~~ Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

~~((12) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and~~

~~((13))~~ (11) The income and resources of a Supplemental Security Income recipient;

(12) Energy assistance payments;

(13) Grants, loans, or work study to a student under Title IV-A of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution, P.L. 100-50;

(14) Indian tribal judgment funds distributed per capita under P.L. 93-134, P.L. 94-114, P.L. 97-408, P.L. 97-458, P.L. 98-64, limited to two thousand dollars per person;

(15) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 92-203 and P.L. 100-241;

(16) Payments from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age;

(17) Payments made from the Agent Orange Settlement Fund established to settle agent orange liability claims under P.L. 101-201.

WSR 92-03-116
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 21, 1992, 1:58 p.m.]

Original Notice.

Title of Rule: WAC 388-24-254 Determining income for CEAP.

Purpose: Clarify that the income and family members' circumstances must be estimated and considered in determining eligibility for consolidated emergency assistance program, and to include public assistance payments as income to the family.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: The department will estimate family member's expected income and circumstances for the month. The department will consider all public assistance payments plus additional requirements as income.

Reasons Supporting Proposal: Clarify that family members' resources for income must be established to determine consolidated emergency assistance program eligibility. All public assistance payments and additional requirements will be considered as income.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3121, filed 12/28/90)

WAC 388-24-254 DETERMINING INCOME FOR CEAP. (1) The department shall estimate the expected income and circumstances of all family members for the calendar month in which eligibility is established. The ~~((estimate))~~ department shall ~~((be based))~~ base the income estimate on reasonable expectation and knowledge of anticipated total non-exempt income for the household, including all public assistance payments plus additional requirements.

(2) The department shall allow the following deductions from income:

(a) Ninety dollars from earned income for work expenses;

(b) The actual amount paid for child care from earned income up to the maximums in WAC 388-28-570; and

(c) The current month's verified expenditures for:

(i) Medical bills;

(ii) Emergent child care to avoid abuse;

(iii) Dental care to alleviate pain; or

(iv) Costs incurred in obtaining employment.

WSR 92-03-117
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 21, 1992, 1:59 p.m.]

Original Notice.

Title of Rule: WAC 388-24-255 Consolidated emergency assistance program (CEAP)—Financial need and benefit amounts.

Purpose: Use income and resources of family members to determine eligibility and payment amount of the consolidated emergency assistance program. To consider public assistance payments plus authorized additional requirements as income and deduct from the need amount. Reorganizes the Washington Administrative Code in a more organized flow.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Adds the inclusion of all family member's income and resources or the determination of eligibility and grant amount. Adds all public assistance payments plus additional requirements are income to be deducted from need. CEAP will not be denied to a child based on a nonresponsible relative caretaker's income and resources.

Reasons Supporting Proposal: Income and resources of family members used to determine CEAP eligibility. Public assistance grants plus additional requirements are income deducted from need. Relative caretaker's income and resources will not be considered for CEAP eligibility.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
 Leslie F. James, Director
 Administrative Services
 by Rosemary Carr

AMENDATORY SECTION (Amending Order 2503, filed 6/17/87)

WAC 388-24-255 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—FINANCIAL NEED AND BENEFIT AMOUNTS. (1) The department shall consider all income, cash,

marketable securities, and personal and real property of all family members not specifically exempted in WAC 388-24-253.

(2) ~~(The department shall deduct income, cash on hand (if not already counted as income), and the value of other nonexempt resources at the time of grant authorization from the amount required to meet the emergent need subject to payment maximums.~~

(3) The department shall place a value on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.

(3) The department shall deduct income (including public assistance grants and authorized additional requirements), cash on hand (if not already counted as income), and the value of other nonexempt resources at the time of grant authorization from the amount required to meet the emergent need subject to payment maximums.

(4) The department shall deny CEAP if the amount of income, cash on hand, and nonexempt resources of all family members are the same as or are greater than the applicant's needs for the certification period.

(5) The department shall not deny CEAP to an eligible child based on the income and resources of a relative caretaker who is not:

(a) The child's parent; and

(b) Legally obligated to support the child; and

(c) Required to be included in the assistance unit as specified under WAC 388-24-265.

WSR 92-03-118
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 21, 1992, 2:00 p.m.]

Original Notice.

Title of Rule: WAC 388-24-265 Consolidated emergency assistance program (CEAP)—Assistance units.

Purpose: To clearly define the assistance unit composition for consolidated emergency assistance program. To clearly state who must be, who cannot be, and who may be included in the assistance unit.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Defines the assistance unit composition for CEAP—states who must be included, may be, and who cannot be in the assistance units.

Reasons Supporting Proposal: Section amended to define the assistance unit composition for consolidated emergency assistance program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health

Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2503, filed 6/17/87)

WAC 388-24-265 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—ASSISTANCE UNITS. (1) ~~(The department shall authorize CEAP for the following people provided they are otherwise eligible:~~

- (a) ~~A pregnant woman in any stage of a verified pregnancy, and~~
 (b) ~~The child or children under eighteen years of age who:~~
 (i) ~~Is living with a parent or other relative as specified in WAC 388-24-125 (1)(a); or~~
 (ii) ~~Has lived with such relative within the six months prior to the month in which assistance is requested;~~
 (c) ~~The parent or parents with whom the child lives. The parental relationship shall be established according to the Uniform Parentage Act, or~~
 (d) ~~One needy caretaker with whom the child lives.~~
 (2) ~~Individuals receiving supplemental security income (SSI), general assistance or refugee assistance shall not be included in the assistance unit.)~~ Except as specified under subsection (3) of this section, the department shall include, in a single assistance unit, the following persons living together:
 (a) A pregnant woman in any stage of pregnancy who has no other child; or
 (b) The child(ren), including all full, half, stepchildren, or adopted brothers and sisters of such a child(ren); and
 (c) The parent(s), adoptive parent(s), or stepparent(s) with whom the child(ren) lives; and
 (d) A minor parent's parent(s) who is the caretaker relative of:
 (i) The minor parent; or
 (ii) The minor parent's full or half brother or sister.
 (e) Only the minor parent's child if the minor parent is not eligible due to the income and resources of the minor parent's parent(s).
 (2) Except as specified under subsection (3) of this section, the department may include in the assistance unit, at the option of the family, 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.
 (3) 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 as specified under WAC 388-24-250.

WSR 92-03-119

**PERMANENT RULES
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3316—Filed January 21, 1992, 2:01 p.m.]

Date of Adoption: January 21, 1992.

Purpose: The food and nutrition service authorized the department to increase the food stamp allowance effective for December 1991 benefits. Rescind the exclusion for wages received from the 1990 federal census project.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-470 Income—Exclusions.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 91-24-038 on November 27, 1991.

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

January 21, 1992
Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3141, filed 2/21/91)

WAC 388-49-470 INCOME—EXCLUSIONS.

- (1) The department shall exclude the following income:
 (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source;
 (b) Income specifically excluded by any federal statute from consideration as income in the food stamp program;
 (c) The earned income of children who are:
 (i) Members of the household;
 (ii) Seventeen years of age or under; and
 (iii) Attending school at least half time.
 (d) Infrequent or irregular income received during a three-month period that:
 (i) Cannot be reasonably anticipated as available; and
 (ii) Shall not exceed thirty dollars for all household members.
 (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;
 (f) Nonrecurring lump sum payments;
 (g) The cost of producing self-employment income;
 (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:
 (i) Tuition;
 (ii) Fees, including equipment and material;
 (iii) Books;
 (iv) Supplies;
 (v) Transportation; and
 (vi) Miscellaneous personal expenses, including dependent care, determined by the institution.
 (i) Other federal financial aid designated by the school for:
 (i) Tuition; and
 (ii) Mandatory fees.
 (j) Nonfederal financial aid designated by the school for:
 (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and
 (ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and dependent care.
 (k) Reimbursements for past or future expenses to the extent the reimbursements do not:
 (i) Exceed the actual expense; and
 (ii) Represent a gain or benefit to the household.
 (l) Any gain or benefit not in money;
 (m) Vendor payments as defined in WAC 388-49-020;
 (n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;

(o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;

(p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

Number in Grant Assistance Unit	Energy Exclusion
1	\$ ((36)) 55
2	((47)) 71
3	((56)) 86
4	((67)) 102
5	((77)) 117
6	((87)) 133
7	((101)) 154
8 or more	((111)) 170

(q) Support payments specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

(r) Support payments not required by the support court order or other legally binding written support or alimony agreement paid directly to a third party rather than to the household;

(s) Payments from the individual and family grant program;

(t) Public assistance payments:

- (i) Over and above the regular warrant amount;
- (ii) Not normally a part of the regular warrant; and
- (iii) Paid directly to a third party on behalf of the household.

(u) From Jobs Training Partnership Act programs:

- (i) Allowances; and
- (ii) Earnings from on-the-job training by household members under parental control and eighteen years of age and younger.

(v) Cash donations based on need:

- (i) Received directly by the household;
- (ii) From one or more private, nonprofit, charitable organizations; and
- (iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

(w) Earned income credit((; and

~~(x) Federal census bureau wages earned;~~

~~(i) During the 1990 Federal Census Demonstration Project; and~~

~~(ii) By a temporary census worker eligible for this exclusion)).~~

(2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or

work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members; and

(b) Exclude the child's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the department shall exclude:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household; or

(b) If the portions are not readily identified as:

(i) An even pro rata share; or

(ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

WSR 92-03-120
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3320—Filed January 21, 1992, 2:04 p.m.]

Date of Adoption: January 21, 1992.

Purpose: Changes chiropractic services as required by the governor's budget reduction. Reduces podiatric services coverage as required by the governor's budget reduction.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-019 Chiropractic services; and 388-86-09601 Podiatric services.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-24-036 on November 27, 1991.

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

January 21, 1992

Leslie F. James, Director

Administrative Services

by Rosemary Carr

AMENDATORY SECTION (Amending Order 3056, filed 8/21/90, effective 9/21/90)

WAC 388-86-019 CHIROPRACTIC SERVICES.

(1) The department shall pay for chiropractic services for a recipient when the recipient is:

(a) Twenty years of age and under; and

(b) Referred by a screening provider under the early and periodic screening, diagnosis, and treatment program.

(2) The department shall authorize payment for services of a chiropractor:

(a) When the chiropractor is licensed by the state of Washington to perform services within the scope of the chiropractor's license; and

(b) The services are medically necessary.

~~((2))~~ (3) Chiropractic services shall be subject to the following limitations:

(a) Treatment shall be restricted to adjustment by hand of subluxation of the spine;

(b) X-rays shall be:

(i) A single area film when the treatment area can be isolated;

(ii) A maximum of one x-ray per area, per calendar year; and

(iii) Limited to an anterior-posterior, and lateral view of the following spinal areas:

(A) Cervical;

(B) Thoracic (dorsal); and

(C) Lumbar or lumbo-sacral.

(c) The department shall pay for a maximum of twelve chiropractic visits within a ~~((twelve-month period))~~ calendar year;

(d) The maximum number of visits include the initial new patient visit(;

~~(3) The department shall pay for chiropractic services for recipients under:~~

~~(a) The categorically needy, general assistance unemployable and ADATSA programs; and~~

~~(b) The medically needy program only when the recipient is:~~

~~(i) Twenty years of age and under; and~~

~~(ii) Referred by a screening provider under the early and periodic screening, diagnosis, and treatment program); and~~

~~(e) Additional visits require approval before the service is received.~~

AMENDATORY SECTION (Amending Order 2649, filed 7/8/88)

WAC 388-86-09601 PODIATRIC SERVICES.

(1) The department shall pay for podiatric services for a recipient when the recipient is:

(a) Twenty years of age and under; and

(b) Referred by a screening provider under the early and periodic screening, diagnosis, and treatment program.

(2) The department shall provide medically necessary podiatric services to include:

(a) Evaluation, diagnosis, and treatment of skin disease, infections, inflammation, ulcers, and symptomatic conditions such as bursitis, osteoarthritis and tendonitis;

(b) Reductions of fractures and dislocations, and treatment of sprains and strains;

(c) Surgery for structural and pathological ailments such as bunions, exostosis, hammertoes, neuromas, and ingrown toenails;

(d) Initial diagnostic services in connection with conditions whose subsequent treatment would be excluded as routine palliative care; and

(e) One visit every six months may be permitted for debridement and cutting of mycotic toenails.

~~((2))~~ (3) Elective surgery requiring hospitalization shall require prior approval ((through the central authorization unit)) by the medical assistance administration. Where less expensive, more conservative treatment is available, surgery will not be approved.

~~((3))~~ (4) The department shall exclude the following services:

(a) Routine foot care that includes medically unnecessary removal of corns, warts, or calluses, trimming of nails and other hygienic and preventive care except as specified in subsection (4) of this section;

(b) Treatment of flat foot;

(c) Treatment undertaken to correct a subluxated structure of the foot as an isolated entity;

(d) Supportive devices for the feet, such as orthopedic shoes; and

(e) Procedures regarded as experimental.

~~((4))~~ (5) Where a ((person)) recipient has a severe systemic condition that would result in circulatory embarrassment or desensitization in the legs or feet, the department may provide more frequent foot care when:

(a) The performance of such procedures by unskilled person might pose a hazard;

(b) The severity of the condition has been established by clinical or physical findings; and

(c) Such care has received prior approval of the medical director or designee.

WSR 92-03-121

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3323—Filed January 21, 1992, 2:06 p.m., effective January 22, 1992, 12:01 a.m.]

Date of Adoption: January 21, 1992.

Purpose: Amended to assure consistency with state law on how the estate is determined at time of death. Changes definition "value of estate at the time of death" when recovery from estates is being considered.

Citation of Existing Rules Affected by this Order: Amending WAC 388-81-047 Recovery from estates.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 43.20B.140.

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 redefine value of the estate at the time of death.

Effective Date of Rule: January 22, 1992, 12:01 a.m.

January 21, 1992

Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2585, filed 1/19/88)

WAC 388-81-047 RECOVERY FROM ESTATES. (1) The department shall recover the cost of medical care provided to a recipient, who was sixty-five years old or older, upon the recipient's death, except:

(a) Where there is a surviving spouse; or

(b) Where there is a surviving child who is:

(i) ~~((Under))~~ Twenty~~((=one))~~ years of age~~((:))~~ and under, or

(ii) Blind or disabled as defined in chapter 388-92 WAC, or

(c) Where there are surviving children, other than defined in (b) of this subsection, recovery shall not include:

(i) The first fifty thousand dollars of the estate value at the time of death~~((:))~~; and

(ii) Sixty-five percent of the remainder.

(2) The department shall assert and enforce a claim against the estate of the deceased recipient for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the recipient just prior to death.

(a) The lien shall be filed with the county auditor of the county in which the property is located~~((:))~~; and

(b) The lien shall be deemed effective as of the date of the recipient's death~~((:))~~; and

and

(c) Recovery shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined in subsection (1)(b) of this section, is discovered or contacts the department prior to recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the ((valuation listed in current property tax records)) total estate value less any liabilities on any real property outstanding at the time of death.

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 92-03-122
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3322—Filed January 21, 1992, 2:07 p.m., effective January 22, 1992, 12:01 a.m.]

Date of Adoption: January 21, 1992.

Purpose: Amended effective December 3, 1990, to Omnibus Budget Reconciliation Act 4118(h). Changes permit medical expense payments by governments programs which apply toward client's medically needy spenddown liability and assures that medical and remedial care expenses allowed toward spenddown liability are provided by a practitioner recognized under state law.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-030 Allocation of excess income—Spenddown.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: OBRA Section 4118(h).

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: Ensure field staff correctly determine allowable medically needy spenddown liability.

Effective Date of Rule: January 22, 1992, 12:01 a.m.

January 21, 1992

Leslie F. James, Director
Administrative Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 2929, filed 1/31/90)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense shall be a current liability:

(i) Of the applicant or financially responsible relative in the same household; or

(ii) Subject to payment during or after the base period, by a public program ~~((of the state, county, or city other than Medicaid))~~ as defined in subsection (2).

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by a third-party ~~((liability))~~ resource.

(i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.

(d) The department shall consider toward spenddown a medical expense incurred and paid ~~((for))~~ during the base period:

(i) By the applicant ~~((during the base period))~~; or

(ii) Subject to payment by a public program ~~((of the state, county, or city other than Medicaid, and))~~ as defined in subsection (2).

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) For the purposes of this section, a public program is one administered and funded, except for deductibles and co-insurance amounts, by a state, county, city, or territory. Funding for a public program shall be:

(a) From a source other than federally matched or funded; and

(b) Appropriated by a state, county, city, or territory; or

(c) Transferred from a state, county, city, or territory to the administering agency.

(3) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the ~~((applicant is eligible))~~ applicant's eligibility.

~~((3))~~ (4) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely ~~((spentdown))~~ spent down. For base periods beginning on or after February 1, 1990, the department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program and provided by a practitioner recognized under state law;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which a public program ~~((of the state, county, or city other than Medicaid))~~ as defined by subsection (2), has paid;

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the limited casualty program, but remaining an applicant's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The applicant may use such expenses to reduce excess countable income on a subsequent application, provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(5) The applicant is liable for any expenses incurred before the ~~((date the applicant is eligible))~~ first day of eligibility.

WSR 92-03-123

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF AGRICULTURE (Egg Commission)

[Memorandum—January 16, 1992]

Below is the schedule for the Washington Egg Commission regular meetings to be held in 1992:

Date: February 10, 1992

Time: 10:00 a.m.

Place: Evans/Kraft
190 Queen Anne North
Seattle, WA 98109

Purpose: Board meeting

Summer meeting – Date and place to be determined

Date: September 16, 1992

Time: 10:00 a.m.

Place: Westwater Inn
2300 Evergreen Park Drive
Olympia, WA 98502

Purpose: Nominations meeting and annual meeting

WSR 92-03-124

PROPOSED RULES DEPARTMENT OF HEALTH

[Filed January 21, 1992, 3:11 p.m.]

Original Notice.

Title of Rule: Licensing periods and fees.

Purpose: Amends pharmacy related license fees to support the 1991-93 biennium program budget and eliminates the sixty day grace period to renew licenses without penalty.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

Summary: Amends pharmacy related license fees and eliminates the sixty day grace period to renew licenses without penalty.

Reasons Supporting Proposal: Fee changes are necessary to implement the 1991-93 budget.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald Williams, 1300 Quince Street S.E., Olympia, WA 98504, 753-6834.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will change license fees to generate revenue to fund the 1991-93 program budget and eliminate the sixty day grace period to renew licenses without penalty.

Proposal Changes the Following Existing Rules: The proposal amends licensing fees and eliminates the grace period to renew licenses without penalty.

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

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on February 26, 1992, at 1:30 p.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street S.E., Olympia, WA 98504, by February 12, 1992.

Date of Intended Adoption: March 4, 1992.

January 20, 1992
 Kristine M. Gebbie
 Secretary

AMENDATORY SECTION (Amending Order 194, filed 9/10/91, effective 10/11/91)

WAC 246-907-020 LICENSING PERIODS. (1) The following are established by the board of pharmacy as the licensing periods for each license specified:

- (a) Pharmacist licenses will expire on February 1 of each year.
 - (b) Pharmacy location, controlled substance registration (pharmacy), pharmacy assistant utilization, and shopkeeper differential hours licenses will expire on June 1 of each year.
 - (c) All other licenses, permits, or registrations will expire on October 1 of each year.
- (2) Any license, permit, or registration that is not renewed on or before the expiration date established herein shall expire and shall no longer be valid to practice or conduct the activity for which it is issued. Any license, permit, or registration that has not been renewed (~~within sixty days of~~) by the expiration date shall be renewed only upon payment of the renewal fee and penalty fee as specified in WAC 360-18-020.

AMENDATORY SECTION (Amending Order 194, filed 9/10/91, effective 10/11/91)

WAC 246-907-030 FEES. The following fees shall be charged by the board of pharmacy:

(a) PHARMACY LOCATION	
Original pharmacy fee	((285.00))
	<u>\$275.00</u>
Original pharmacy assistant utilization fee	50.00
Renewal pharmacy fee	200.00
Renewal pharmacy assistant utilization fee	((75.00))
	<u>60.00</u>
Penalty pharmacy fee	275.00
(b) VENDOR	
Original fee	60.00
Renewal fee	60.00
Penalty fee	60.00
(c) PHARMACIST	
Exam fee (full exam)	((275.00))
	<u>200.00</u>
Reexamination fee (jurisprudence portion)	40.00
Original license fee	((125.00))
	<u>100.00</u>
Renewal fee, active and inactive license	((15.00))
	<u>105.00</u>
Penalty fee	((15.00))
	<u>105.00</u>
Reciprocity fee	250.00
Certification of license status to other states	20.00
Retired license	20.00
(d) SHOPKEEPER	
(i) SHOPKEEPER - sixteen or more drugs	
Original fee	25.00
Renewal fee	25.00
Penalty fee	((10.00))
	<u>12.50</u>

(ii) SHOPKEEPER - with differential hours	
Original fee	25.00
Renewal fee	25.00
Penalty fee	10.00
(e) DRUG MANUFACTURER	
Original fee	450.00
Renewal fee	450.00
Penalty fee	450.00
(f) DRUG WHOLESALER - full line	
Original fee	450.00
Renewal fee	450.00
Penalty fee	450.00
(g) DRUG WHOLESALER - OTC only	
Original fee	250.00
Renewal fee	250.00
Penalty fee	250.00
(h) DRUG WHOLESALER - export	
Original fee	450.00
Renewal fee	450.00
Penalty	450.00
(i) PHARMACY ASSISTANT - Level "A"	
Original fee	40.00
Renewal fee	30.00
Penalty fee	30.00
(j) PHARMACY INTERN	
Original registration fee	15.00
Renewal registration fee	15.00
(k) CONTROLLED SUBSTANCES ACT (CSA) REGISTRATIONS	
Dispensing registration fee (i.e. pharmacies)	65.00
Dispensing renewal fee (i.e. pharmacies)	((50.00))
	<u>50.00</u>
Distributors registration fee (i.e. wholesalers)	90.00
Distributors renewal fee (i.e. wholesalers)	90.00
Manufacturers registration fee	90.00
Manufacturers renewal fee	90.00
Physician assistant registration fee	15.00
Physician assistant renewal fee	10.00
ARNP with prescriptive authorization registration fee	20.00
ARNP with prescriptive authorization renewal fee	20.00
Sodium pentobarbital for animal euthanization registration fee	30.00
Sodium pentobarbital for animal euthanization renewal fee	30.00
Other CSA registrations	30.00
(l) LEGEND DRUG SAMPLE - distributor registration fees	
Original fee	((285.00))
	<u>275.00</u>
Renewal fee	200.00
Penalty fee	200.00
(m) POISON MANUFACTURER/SELLER - license fees	
Original fee	30.00
Renewal fee	30.00
(n) Facility inspection fee	150.00
(o) PRECURSOR CONTROL PERMIT	
Original fee	50.00
Renewal fee	50.00
(p) LICENSE REISSUE	
Reissue fee	15.00

AMENDATORY SECTION (Amending Order 194, filed 9/10/91, effective 10/11/91)

WAC 246-863-080 RETIRED PHARMACIST LICENSE. (1) Any pharmacist who has been licensed in the state for twenty-five

consecutive years, who wishes to retire from the practice of pharmacy, may apply to the board of pharmacy for a retired pharmacist license. The fee for the original retired pharmacist license shall be ~~((twenty dollars))~~ determined by the secretary of the department.

(2) The holder of a retired pharmacist license shall not be authorized to practice pharmacy and need not comply with the continuing education requirements of chapter ~~((360-11))~~ 246-861 WAC.

(3) A retired pharmacist license shall be granted to any qualified applicant and shall entitle such person to receive mailings from the board of pharmacy: PROVIDED, That lawbook updates shall not be mailed without charge.

(4) In order to reactivate a retired pharmacist license, the holder must comply with the provision of WAC ~~((360-12-130))~~ 246-863-090.

(5) The ~~((annual renewal fee for))~~ holder of a retired pharmacist license shall ~~((be twenty-five dollars))~~ pay an annual renewal fee as specified by the secretary of the department.

WSR 92-03-125
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 21, 1992, 3:14 p.m.]

Original Notice.

Title of Rule: WAC 246-933-980 Renewal of licenses, 246-933-990 Fees, 246-935-125 Renewal of registrations, and 246-935-990 Fees.

Purpose: To establish procedures for the renewal of veterinary licenses and animal technicians registration, and change licensure and registration fees.

Statutory Authority for Adoption: RCW 43.70.040.

Statute Being Implemented: RCW 43.70.040.

Summary: These rules prescribe procedures for renewal of licenses and registrations, establishes fee categories for newly approved license categories, and changes the late renewal penalties.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jackson D. Melton, 1300 S.E. Quince Street, (206) 586-6350.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 246-933-980, establishes procedures for the renewal and reinstatement of veterinary licenses. The rule provides discretion to the board to require a licensee to retake the licensing examination. This requirement is a quality control measure; WAC 246-933-990, will establish fees for newly approved licensure categories; WAC 246-935-125, is a new rule that will establish renewal of animal technician registrations on the birthdate of the registrant. This change will improve the workload efficiency of the renewal process by spreading the workload throughout the work year; and WAC 246-935-990, will reduce the late renewal penalty for animal technicians from \$60.00 to \$20.00.

Proposal Changes the Following Existing Rules: WAC 246-933-980, 246-933-990 and 246-935-990, amend existing rules to reflect changes recommended by the VBOG.

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

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington 98504, on February 26, 1992, at 1:00 p.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street S.E., P.O. Box 47902, Olympia, WA 98504-7902, by February 24, 1992.

Date of Intended Adoption: March 4, 1992.

January 20, 1992
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-933-980 RENEWAL OF LICENSES. ~~((+))~~ Effective with the renewal period beginning July 1, 1977, the annual license renewal date for veterinarians will be changed to coincide with the licensee's birthdate. Conversion to this staggered renewal system will be accomplished as follows:

(a) Current licensees, as of June 30, 1977. Licensed veterinarians desiring to renew their license will be required to pay a fee of fifteen dollars plus one-twelfth of that amount for each month, or fraction thereof, in order to extend their license to expire on their birth anniversary date next following June 30, 1978.

(b) On and after July 1, 1977, all new or initial veterinarian licenses issued will expire on the applicant's next birth anniversary date.

(2) After this conversion to a staggered renewal system, licensees may annually renew their license from birth anniversary date to the next birth anniversary date. However, licensees who fail to pay the license renewal fee on or before the license expiration date will be subject to the late payment penalty fee as set forth in WAC 308-152-010.) (1) A veterinarian's license shall be renewed annually on the veterinarian's birth anniversary date. A veterinarian shall apply for renewal by submitting to the department:

(a) The renewal fee specified in WAC 246-933-990; and
(b) Evidence of the completion of continuing education if required by WAC 246-933-420.

(2) Failure to renew annually shall invalidate the license.

(a) A veterinarian may reinstate a license that has been expired less than three years by submitting to the department:

(i) A renewal application provided by the department;
(ii) The current renewal fee, a renewal fee for each year in which the license was expired, and the late renewal fee as specified in WAC 246-933-990; and
(iii) Evidence of compliance with the continuing education requirements of WAC 246-933-420.

(b) A veterinarian may request the reinstatement of a license that has been expired three or more years by submitting to the department:

(i) A reinstatement application for licensure, including an explanation for the license lapse and a chronology of the applicant's professional activities since the last renewal; and
(ii) The items specified in (a) (ii) and (iii) of this subsection. The board may require an applicant who has been out of active practice for a period of three or more years to pass the licensing examination to practice veterinary medicine.

AMENDATORY SECTION (Amending Order 122, filed 12/27/90, effective 1/31/91)

WAC 246-933-990 FEES. The following fees shall be charged by the professional licensing services division of the department of health:

Title of Fee	Fee
Veterinarian:	
National board examination (NBE) (initial/retake)	\$150.00
Clinical competency test (CCT) (initial/retake)	130.00
State examination (initial exam/ initial license)	225.00
State examination (retake)	150.00
<u>Specialty licensure (initial exam/initial license)</u>	<u>250.00</u>
Impaired veterinarian assessment	25.00
Temporary permit	100.00

Title of Fee	Fee
State or specialty license renewal	115.00
Retired active and renewal	60.00
Impaired veterinarian assessment	25.00
Late renewal penalty (state and specialty license)	((140.00))
Late renewal penalty (retired active license)	20.00
Duplicate license	15.00
Certification	25.00

NEW SECTION

WAC 246-935-125 RENEWAL OF REGISTRATIONS. Effective with the renewal period beginning July 1, 1992, the annual registration renewal date for animal technicians will be changed to coincide with the registrant's birthdate. A registrant's annual renewal fee shall be prorated during the transition period while renewal dates are changed to coincide with the registrant's birthdate. After this conversion to a staggered renewal system, registrants may renew their registration at the annual fee rate for one year from birth anniversary date to birth anniversary date. However, registrants who fail to pay the registration renewal fee on or before the registration expiration date will be subject to the late payment penalty fee as set forth in WAC 246-935-990.

AMENDATORY SECTION (Amending Order 122, filed 12/27/90, effective 1/31/91)

WAC 246-935-990 FEES. The following fees shall be charged by the professional licensing services division of the department of health:

Title of Fee	Fee
Animal technician:	
National examination (initial/retake)	\$ 95.00
State examination (initial/retake)	100.00
Initial ((license)) registration	60.00
Renewal	60.00
Late renewal penalty	((60.00))
	20.00
Duplicate ((license)) registration	15.00
Certification	25.00

WSR 92-03-126
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Order 236—Filed January 21, 1992, 3:16 p.m.]

Date of Adoption: January 21, 1992.

Purpose: To establish application procedures for expanded functions education program approval for accredited dental hygiene programs that include the expanded functions in their accredited curriculum.

Statutory Authority for Adoption: RCW 18.29.130(6).

Other Authority: RCW 18.29.021 (1)(a).

Pursuant to notice filed as WSR 91-24-095 on December 4, 1991.

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

January 20, 1992
 Kristine M. Gebbie
 Secretary

NEW SECTION

WAC 246-815-115 EXCEPTION APPLICATION PROCEDURES FOR APPROVAL OF DENTAL HYGIENE EXPANDED FUNCTIONS EDUCATION PROGRAMS. (1) This section applies only to dental hygiene programs:

(a) Currently accredited by the American Dental Association Commission on Dental Accreditation; and

(b) With accredited program curriculum that includes the administration of local anesthetic, administration of nitrous oxide analgesia and restorative dentistry.

(2) A program representative may apply for approval of a dental hygiene expanded function(s) education program by submitting to the department:

(a) An application on forms available from the department of health, professional licensing services, dental hygiene program, Olympia, Washington.

(b) The current and the proposed expanded function course outlines and syllabuses, and:

(i) An identification of the differences between the current and proposed courses;

(ii) Documentation of the differences between the current and proposed courses.

(3) The program representative shall not submit a self study guide or an application fee.

(4) The department may, at the Secretary's discretion, conduct a site visit and evaluation.

(5) The representative of an approved expanded function education program shall:

(a) Report all modifications of the approved program to the department in writing; and

(b) Apply for evaluation every four years, sixty days prior to the month and day of the initial approval date. Provided, that the program has not been evaluated due to modifications within the year previous to the required evaluation date.

WSR 92-03-127
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 91-44—Filed January 21, 1992, 4:29 p.m.]

Original Notice.

Title of Rule: Chapter 173-303 WAC, Dangerous waste regulations amendment.

Purpose: WAC 173-303-145 Spills and discharge, is being amended in response to a petition by the federal Department of Energy.

Statutory Authority for Adoption: Chapters 70.105 and 70.105D RCW.

Statute Being Implemented: Chapters 70.105 and 70.105D RCW.

Summary: The proposed action amends WAC 173-303-145 to clarify and establish threshold requirements for reporting spills and nonpermitted discharges.

Reasons Supporting Proposal: The existing rule is more restrictive than is required to assure compliance and protect human health and the environment.

Name of Agency Personnel Responsible for Drafting: Ty Thomas, Mailstop PV-11, Olympia, (206) 438-7595;

Implementation and Enforcement: Tom Eaton, Mailstop PV-11, Olympia, (206) 459-6316.

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: WAC 173-303-145 Spills and discharges, of the state dangerous waste regulations, chapter 173-303 WAC was petitioned by the federal Department of Energy. In response to their petition it was determined the existing rule was more restrictive than was necessary. The proposed new rule is intended to be a more reasonable and understandable approach to spill reporting yet protective of human health and the environment.

Proposal Changes the Following Existing Rules: The proposed rule establishes threshold amounts for spill reporting, describes the spill log, defines containment, and outlines when, how, and to whom the report is submitted.

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

Summary of Rule Changes: WAC 173-303-145 of the dangerous waste rule is being revised to reduce reporting requirements for spills. This amendment is offered as a mitigation of economic impacts under the Regulatory Fairness Act, RCW 19.85.050.

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. The impact the 1990 reporting requirement was more significant than expected. This amendment will significantly reduce impacts while maintaining adequate reporting. Since the effect of this rule is to reduce costs no small business economic impact statement is required.

Hearing Location: Attorney General's Conference Room, Rowsix, 4424 Sixth Avenue, Lacey, WA, on March 5, 1992, at 7:00 p.m.

Submit Written Comments to: Ty Thomas, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, by March 13, 1992.

Date of Intended Adoption: May 19, 1992.

January 21, 1992
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-145 SPILLS AND DISCHARGES. (1) Purpose and applicability. This section sets forth the requirements for any person responsible for a spill or discharge of dangerous waste or hazardous substance, except when such release is otherwise permitted under state or federal law. ~~((For the purposes of complying with this section, a transporter who spills or discharges dangerous waste or hazardous substances during transportation will be considered the responsible person.))~~ This section shall apply when any dangerous waste or hazardous substance is intentionally or accidentally spilled or discharged (unless otherwise permitted) ~~((, regardless of the quantity of dangerous waste or hazardous substance.))~~ Hazardous constituents released when a product is being used for its intended purpose (e.g., paint fumes) are

not subject to the reporting requirements of this section. For purposes of this section, the "person responsible" for a spill or discharge includes the following:

(a) For spills or discharges of dangerous waste or hazardous substance that occur during transportation, the transporter;

(b) For spills or discharges of dangerous waste or hazardous substance that occur other than during transportation:

(i) Any person who spills or discharges dangerous waste or hazardous substance; and

(ii) Any person who operates property on which a dangerous waste or hazardous substance spill or discharge occurs.

(c) For the purpose of this section, a spill log shall be maintained by all persons subject to this section. The spill log must include at a minimum: The date and time of the spill; the location and cause of the spill; the type and quantity of material spilled; a brief description of any response actions taken or planned; the date the spill clean up was completed; the name and title of the person entering the report; and any other significant factors. Entries to the spill log shall be made within twenty-four hours of the occurrence and subsequent information entered when it becomes available. The spill log shall be maintained on site, and must be kept for at least five years following the date of the last entry. For TSD facilities the spill log shall be part of the operating record.

(2) Notification. Any person ((who is)) responsible for a ((nonpermitted)) spill or nonpermitted discharge shall ((immediately)) notify the individuals and authorities as described ((for)) in the following situations:

(a) ((For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, notify the appropriate regional office of the department of ecology;

(b) For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, in western Washington notify the local air pollution control authority, or in eastern Washington notify the appropriate regional office of the department of ecology.

(c) Notify the appropriate regional office of the department of ecology in the following circumstances:

(i) For spills or discharges occurring outside of secondary containment meeting the requirements of this chapter, regardless of quantity; and

(ii) For spills or discharges occurring and contained in secondary containment meeting the requirements of this chapter, if the quantity of dangerous waste or hazardous substance meets or exceeds ten gallons:

(d) In lieu of notification under (c) of this subsection, for spills or discharges below ten gallons occurring and contained in secondary containment meeting the requirements of this chapter, a brief account must immediately be entered into the operating record, for a TSD facility, or into the inspection log or separate spill log, for a generator. This account must include: The time and date of the spill; the location and cause of the spill; the type and quantity of material spilled; and a brief description of any response actions taken or planned.)) For spills or discharges of dangerous waste or hazardous substances to the environment:

(i) In quantities greater than one hundred pounds or the reportable quantity (RQ), whichever is less, or which pose a threat to human health or the environment, the person responsible shall take appropriate immediate action to protect human health and the environment as set forth in subsection (3) of this section. This shall be followed by immediate notification by telephone to all local authorities in accordance with the local emergency plan. For the purpose of this section, any spill or discharge to surface water, regardless of quantity, is considered to pose a threat to human health and the environment. Notification to authorities shall include the appropriate regional office of the department and for spills or discharges that result in emissions to the air, the local air pollution control authority. Reportable quantities of hazardous substances are listed in 40 C.F.R. Part 355.40 (which includes by reference, the RQs listed in 40 C.F.R. 302 under CERCLA). In addition, an entry into the spill log is required. Reporting of releases from tank systems shall be as set forth in WAC 173-303-640 (7)(d).

(ii) In quantities less than one hundred pounds or the RQ, whichever quantity is less, an entry shall be made into the spill log.

(iii) For spills of hazardous mixtures, the constituent with the most restrictive RQ shall be used for notification purposes. If the quantity is greater than one hundred pounds or the RQ, whichever is less, or if it poses a threat to human health or the environment, then the person responsible shall take appropriate immediate action to protect human health and the environment as set forth in subsection (3) of this section. This shall be followed by immediate notification by telephone of the appropriate regional office of the department and an entry made in the spill log. For quantities less than one hundred pounds or the RQ, whichever quantity is less, and which do not pose a threat to human health or the environment, an entry shall be made in the spill log.

(b) For small recurring spills or discharges (e.g., drips or drops from a leaking valve or flange) to the environment make an entry into the spill log, and if the spills or discharges cumulatively exceed within a thirty-day period one hundred pounds or the RQ, whichever is less, the person responsible shall notify by telephone, the appropriate regional office of the department within twenty-four hours of exceeding the cumulative amount.

(c) For spills or discharges to "containment":

(i) In quantities greater than four hundred fifty pounds (approximately fifty-five gallons), the person responsible shall, within twenty-four hours of the occurrence, notify by telephone or facsimile all local authorities in accordance with the local emergency plan. Notification to authorities shall include the appropriate regional office of the department, and for spills or discharges that result in emissions to the air, the local air pollution control authority when appropriate. In addition, an entry shall be made to the spill log. Reporting of releases from tank systems shall be as set forth in WAC 173-303-640 (7)(d).

For the purpose of this section, "containment" is defined as, "containment sufficiently impervious to prevent the spilled or discharged material from reaching the environment during the time it takes for the spill or discharge to be cleaned up."

(ii) For spills or discharges to containment in quantities less than four hundred fifty pounds, but greater than one hundred pounds, an entry shall be made in the spill log.

(3) Mitigation and control. The person responsible for a ((nonpermitted)) spill or nonpermitted discharge shall take appropriate immediate action to protect human health and the environment (e.g., diking to prevent contamination of state waters, shutting of open valves).

(a) In addition, ((the department may require)) the person responsible for a spill or discharge ((to)) shall:

(i) Clean up all released dangerous wastes or hazardous substances, or ((to)) take such actions as may be required or approved by federal, state, or local officials acting within the scope of their official responsibilities. This may include complete or partial removal of released dangerous wastes or hazardous substances as may be justified by the nature of the released dangerous wastes or hazardous substances, the human and environmental circumstances of the incident, and protection required by the Water Pollution Control Act, chapter 90.48 RCW; and

(ii) Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge in accordance with this chapter 173-303 WAC. The department may require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any materials resulting from clean-up((; and)).

(((((b))) (b) If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the department.

(((((b))) (c) Where immediate removal or temporary storage of spilled or discharged dangerous wastes or hazardous substances is necessary to protect human health or the environment, the department may direct that removal be accomplished without a manifest, by transporters who do not have EPA/state identification numbers.

(4) Nothing in WAC 173-303-145 shall eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations.

Title of Rule: WAC 173-19-2515 City of Mercer Island 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: The amendment revises the shoreline master program for the city of Mercer Island.

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, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 459-6789; Implementation and Enforcement: D. Rodney Mack, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (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: The proposed amendment revises the Mercer Island shoreline master program's policies and regulations to reduce crowding of docks and encourage joint use of waterfront structures. The amendments clarify the requirement for use of a variance in modifying setbacks and include minor housekeeping amendments establishing building heights that reflect current city ordinance requirements.

Proposal Changes the Following Existing Rules: Amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 6, Laws of 1982, the Regulatory Fairness Act, states that regulations which have an economic impact on more than 20 percent of all industries, or more than 10 percent of any one industry shall have a small business economic impact statement prepared and filed with the code reviser.

The amendment proposed by the city of Mercer Island does not meet the criteria which determines that a small business economic impact statement is necessary.

Hearing Location: City Council Chambers, 9611 S.E. 36th Street, Mercer Island, WA 98040-3732, on February 25, 1992, 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 3, 1992.

Date of Intended Adoption: April 21, 1992.

January 16, 1992

Fred Olson

Deputy Director

WSR 92-03-128

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 92-01—Filed January 21, 1992, 4:33 p.m.]

Original Notice.

AMENDATORY SECTION (Amending Order DE 88-49, filed 1/6/89)

WAC 173-19-2515 MERCER ISLAND, CITY OF. City of Mercer Island master program approved September 24, 1974. Revision approved May 14, 1981. Revision approved June 18, 1985. (~~Revision approved September 16, 1987~~) Revision approved September 16, 1987. Revision approved January 3, 1989. Revision approved April 21, 1991.

WSR 92-03-129

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 92-02—Filed January 21, 1992, 4:36 p.m.]

Original Notice.

Title of Rule: WAC 173-19-2602 City of Port Orchard 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: The amendment revises the shoreline master program for the city of Port Orchard.

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: Peter Skowland, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 438-7430; Implementation and Enforcement: D. Rodney Mack, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (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: A comprehensive update of the city's shoreline master program adding new definitions, policies and regulations for shoreline use and modification activities; new provisions addressing administrative procedures for shoreline permits and enforcement; and new environment designation maps for the city, including predesignation of environments for certain areas anticipated for future annexation to the city.

Proposal Changes the Following Existing Rules: Amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 6, Laws of 1982, the Regulatory Fairness Act, states that regulations which have an economic impact on more than 20 percent of all industries, or more than 10 percent of any one industry shall have a small business economic impact statement prepared and filed with the code reviser.

The amendment proposed by the city of Port Orchard does not meet the criteria which determines that a small business economic impact statement is necessary.

Hearing Location: City Council Chambers, 216 Prospect Street, Port Orchard, WA, on February 26, 1992, 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 4, 1992.

Date of Intended Adoption: April 21, 1992.

January 16, 1992

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-2602 PORT ORCHARD, CITY OF. City of Port Orchard master program approved March 10, 1977. Revision approved April 21, 1991.

WSR 92-03-130

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 92-03—Filed January 21, 1992, 4:41 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: The 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: Peter Skowland, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 438-7430; Implementation and Enforcement: D. Rodney Mack, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (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: An amendment to the city of Tumwater shoreline master program establishing the Deschutes River special area management plan (SAMP) for the Tumwater Valley. The SAMP is applicable to the entire length of the Deschutes River and Capital Lake within the city of Tumwater. It replaces existing environment designations and supplements the existing shoreline master program

by providing additional use regulations and standards for shoreline development along the Deschutes River corridor.

Proposal Changes the Following Existing Rules: Amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program.

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

Chapter 6, Laws of 1982, the Regulatory Fairness Act, states that regulations which have an economic impact on more than 20 percent of all industries, or more than 10 percent of any one industry shall have a small business economic impact statement prepared and filed with the code reviser.

The amendment proposed by the city of Tumwater does not meet the criteria which determines that a small business economic impact statement is necessary.

Hearing Location: City Council Chambers, 555 Israel Road S.W., Tumwater, WA 98502, on February 27, 1992, 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 5, 1992.

Date of Intended Adoption: April 21, 1992.

January 16, 1992

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order 91-10, filed 4/16/91, effective 5/15/91)

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 October 2, 1990. Revision approved April 17, 1991. Revision approved April 21, 1991.

WSR 92-03-131

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 91-45—Filed January 21, 1992, 4:49 p.m.]

Date of Adoption: January 21, 1992.

Purpose: To bring the department into compliance with RCW 90.48.465 by allowing full program cost recovery of operating the water quality wastewater permit program.

Citation of Existing Rules Affected by this Order: Amending chapter 173-224 WAC, Wastewater discharge permit fees.

Statutory Authority for Adoption: Chapter 90.48 RCW.

Pursuant to notice filed as WSR 91-19-083 on September 17, 1991.

Changes Other than Editing from Proposed to Adopted Version: Add/clarify definitions, clarify conditions intent within WAC 173-224-040.

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

January 21, 1992

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-015 PURPOSE. The purpose of this chapter is to establish a fee system for state waste discharge and NPDES permits issued by the department pursuant to RCW 90.48.160, 90.48.162, or 90.48.260. ~~((Initiative 97))~~ RCW 90.48.465 authorizes the department to base fees on factors related to the complexity of permit issuance and compliance and to charge fees to fully recover, but not exceed the costs of the permit program based on expenses incurred in the issuance and comprehensive administration of state waste discharge and NPDES permits. ~~((This regulation is a step towards developing a comprehensive permit program. The department will further document the program needs and costs, and reexamine the fees established within this chapter, and as appropriate, will propose changes to the fee schedule to fully recover the 1992-93 biennium program costs.))~~ Fee amounts contained in this chapter represent the department's true estimate of fee eligible permit program costs and reflect the department's commitment to fully recover all eligible expenses. The department shall continue to examine the feasibility of adopting, when applicable, alternative permit fee systems. Any alternative fee system, such as variable permit fees, shall ensure continued full recovery of eligible program costs and may be based on pollutant loading and toxicity and may be designed to encourage recycling and reduction of the quantity of pollutants.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-020 APPLICABILITY. This chapter applies to all persons holding or applying for a state waste discharge or NPDES permit issued by the department pursuant to RCW 90.48.160, 90.48.162 or 90.48.260, including persons holding permits that remain in effect under WAC 173-216-040, 173-220-180(5), or RCW 90.48.200. This chapter does not apply when a wastewater discharge permit is written for a state conducted remedial action under the Model Toxics Control Act. That is, ecology will not charge itself for wastewater discharge permits written for sites where the agency is conducting a cleanup.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-030 DEFINITIONS. ~~((+))~~ "Administrative expenses" means those costs associated with issuing and administering permits under RCW 90.48.160, 90.48.162, and 90.48.260. ~~((Fees for hazardous waste clean up sites may be adjusted retrospectively~~

based on cost accounting for such sites as provided for under the provisions of Initiative 97.

((2)) "Aggregate production" means the mining of sand, gravel, or rock and/or the production of concrete and/or asphalt.

((3)) "Aluminum and magnesium reduction mills" means the electrolytic reduction of alumina or magnesium salts to produce aluminum or magnesium metal.

((4)) "Animal unit" means one slaughter or feeder steer, 0.7 mature dairy cow, 25 swine or as more fully defined in Appendix B of 40 CFR 122.

((5)) "Annual permit fee" means the fee charged by the department ((of ecology)) for annual expenses associated with activities specified in ((Initiative 97)) RCW 90.48.465. This annual fee is based on the state's fiscal year (July 1 - June 30).

((6)) "bbls/d" means barrels per day of feedstock for petroleum refineries.

((7)) "bins/yr" means total standard bins used during the last complete calendar year by a facility in the crop preparing industry. The bins measure approximately 47.5 inches x 47.4 inches x 29.5 inches and hold approximately 870 pounds of fruit.

((8)) "Combined food processing waste treatment facility" means a facility which treats wastewater from more than one separately permitted food processor and receives no waste from industrial sources other than food processing and no domestic wastewater.

((9)) "Combined industrial waste treatment" means a facility which treats wastewater from more than one industry in any of the following categories: Inorganic chemicals, metal finishing, ore concentration, organic chemicals, or photofinishers.

((10)) "Combined sewer overflow (CSO)" means the event during which excess combined sewage flow caused by inflow is discharged from a combined sewer, rather than conveyed to the sewage treatment plant because either the capacity of the treatment plant or the combined sewer is exceeded.

((11)) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3) as presently enacted and any subsequent modifications thereto.

((12)) "Contaminants of concern" means a chemical for which an effluent limit is established (this does not include pH flow, temperature, or other "nonchemical parameters"). Petroleum constituents will be considered as one contaminant of concern even if more than one effluent limit is established (e.g., Total Petroleum Hydrocarbons and BTEX).

"Crane" means a machine used for the hoisting and lifting of ship hulls.

"Crop preparing" means the preparation of fruit for wholesale or retail sale by washing and/or other processes in which the skin of the fruit is not broken and in which the interior part of the fruit does not come in direct contact with the wastewater.

((13)) "cu. yds/yr" means the total production from an aggregate production facility in cubic yards during the most recent completed calendar year.

((14)) "Department" means the department of ecology.

((15)) "Director" means the director of the department of ecology.

((16)) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration or surface waters as may be present.

((17)) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim or dispose of domestic wastewater together with such industrial waste as may be present.

((18)) "EPA" means the United States Environmental Protection Agency.

((19)) "Fin fish rearing and hatching" means the raising of fin fish for fisheries enhancement or sale, by means of hatcheries, net pens, or other confined fish facilities.

((20)) "Flavor extraction" means the recovery of flavors or essential oils from vegetable products.

((21)) "Food processing" means the preparation of food for human or animal consumption or the preparation of animal byproducts, but exclusive of crop preparing. This category includes but is not limited to fruit and vegetable processing, meat and poultry products processing, dairy products processing, seafood processing, beer and wine production, rendering and animal feed production. Food processing wastewater treatment plants which treat wastes from only one separately permitted food processor shall be treated as one facility for billing purposes.

((22)) "GPD" means maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit.

((23)) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services received from all classes of customers;

Included in these user charges are user charges and fees based on wastewater constituents' strengths and characteristics including high-strength surcharges and charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, and flow, etc.

Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc.

Gross revenue includes all amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

Gross revenue excludes:

((a)) Amounts derived by municipalities directly from taxes levied for the support or maintenance of sewer services.

((b)) Late charges, penalties for nontimely payment by customers, interest on late payments, and all other penalties and fines.

((c)) Permit fees and compliance monitoring fees for wastewater discharge permits issued by municipalities with local pretreatment programs. Permit fees which are charged to cover the cost of providing sewer service are not excluded from gross revenue.

~~((d))~~ Receipts by a municipality of special assessments or installments thereof and interests and penalties thereon, and charges in lieu of assessments.

~~((e))~~ Connection charges.

~~((f))~~ Revenues from sales of by-products such as sludge, processed wastewater, etc.

~~((24))~~ "Hazardous waste clean up sites" means ~~((hazardous waste sites which have a waste discharge permit but at which the department has not commenced cost recovery under section 4 of Initiative 97))~~ any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

~~((25))~~ "Industrial facility" means any facility not included in definition of municipal/domestic facility.

~~((26))~~ "MGD" means permitted flow expressed in million gallons per day.

~~((27))~~ "Manufacturing" means the making of goods and articles by hand or especially, by machinery into a manufactured product.

"Metal finishing" means the preparation of metal surfaces by means of electroplating, electroless plating, anodizing, coating (chromating, phosphating and coloring), chemical etching and milling, and printed circuit board manufacture.

~~((28))~~ "Municipal/domestic facility" means a publicly-owned facility treating domestic wastewater together with such industrial wastes as may be present, or a privately-owned facility treating solely domestic wastewater.

~~((29))~~ "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. Sec. 1288. State government agencies are not included in this definition.

~~((30))~~ "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product, and which does not contain chemicals added by the permittee. The noncontact cooling water fee category applies to those facilities which discharge only noncontact cooling water and which have no other wastewater discharges required to be permitted under RCW 90.48.160, 90.48.162, and 90.48.260.

~~((31))~~ "Nonferrous metals forming" means the manufacturing of semifinished products from pure metal or metal alloys other than iron or steel or of metals not otherwise classified in WAC 173-224-040(1).

~~((32))~~ "NPDES permit" means a National Pollutant Discharge Elimination System permit issued by the department pursuant to Section 402 of the federal Clean Water Act and RCW 90.48.260.

~~((33))~~ "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatever.

~~((34))~~ "Permitted flow" means:

(a) ~~For municipal/domestic facilities, the monthly average flow limitation contained in the permit;~~

(b) ~~For industrial facilities, the daily maximum flow limitation contained in the permit;~~

(c) ~~For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection))~~ the maximum daily flow for industrial dischargers identified within their wastewater discharge permit. If the daily maximum flow is not identified, the monthly average flow limitation will be used.

~~((35))~~ "Post FY 93 annual permit fee" means the annual permit fee assessed for FY 94 and beyond if the legislature does not amend the FY 92/93 biennium water quality program budget allocation.

"Residential equivalent" means a single-family residence or a unit of sewer service that yields an amount of gross revenue equal to the annual user charge for a single-family residence. In cases where the permit holder does not maintain data on gross revenue, user charges, and/or the number of single-family residences that it serves, "residential equivalent" means an influent flow of two hundred fifty gallons per day.

~~((36))~~ "Sewer service" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point, or points, for disposal or for transfer to treatment for disposal, and activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities.

~~((37))~~ "State waste discharge permit" means a permit required under chapter 173-216 WAC.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-040 PERMIT FEE SCHEDULE.

(1) Application fee. In addition to the annual fee, first time applicants (except those applying for coverage under a general permit) will pay a one time application fee of twenty-five percent of the annual permit fee, or \$250.00, whichever is greater.

(2) Industrial facility categories.

~~((2) Municipal/domestic categories:))~~

	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
INDUSTRIAL FACILITY CATEGORIES			
Aluminum Alloys	(\$ 5,000.00) \$8,250.00	\$11,350.00	\$9,750.00
Aluminum and Magnesium Reduction Mills	(30,000.00) 49,500.00	68,100.00	57,500.00

INDUSTRIAL FACILITY CATEGORIES	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
Aluminum Forming	((15,000.00)) 24,750.00	34,050.00	29,250.00
Aggregate Production			
a. Mineral Mining (Sand, Gravel and Rock)			
1. Mining only	((500.00)) 825.00	1,135.00	975.00
2. Mining with classification (screening and/or crushing)	((1,000.00)) 1,650.00	2,270.00	1,950.00
3. Mining with classification and washing	((1,500.00)) 2,475.00	3,405.00	2,925.00
b. Concrete and/or Asphalt Production			
1. < 20,000 cu. yds/yr.	((300.00)) 459.00	681.00	585.00
2. 20,000 - < 60,000 cu. yds/yr.	((500.00)) 825.00	1,135.00	975.00
3. 60,000 - < 100,000 cu. yds/yr.	((750.00)) 1,237.50	1,702.50	1,462.50
4. 100,000 - < 150,000 cu. yds/yr.	((1,000.00)) 1,650.00	2,270.00	1,950.00
5. 150,000 - < 200,000 cu. yds/yr.	((1,500.00)) 2,475.00	3,405.00	2,925.00
6. 200,000 - < 250,000 cu. yds/yr.	((2,000.00)) 3,300.00	4,540.00	3,900.00
7. 250,000 cu. yds/yr. and greater	((2,500.00)) 4,125.00	5,675.00	4,875.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mineral mining and the concrete and/or asphalt production subcategories.			
Aquaculture			
a. Finfish hatching and rearing	2,475.00	3,405.00	2,925.00
b. Shellfish hatching and oyster shucking operations	100.00	100.00	100.00
Boat Yards			
a. With stormwater only discharge	250.00	250.00	250.00
b. All others	500.00	500.00	500.00
Coal Mining and Preparation			
a. < 200,000 tons per year	((2,000.00)) 3,300.00	4,540.00	3,900.00
b. 200,000 - < 500,000 tons per year	((4,500.00)) 7,425.00	10,215.00	8,775.00
c. 500,000 - < 1,000,000 tons per year	((8,000.00)) 13,200.00	18,160.00	15,600.00
d. 1,000,000 tons per year and greater	((15,000.00)) 24,750.00	34,050.00	29,250.00
Combined Industrial Waste Treatment			
a. < 10,000 gpd	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. 10,000 - < 50,000 gpd	((2,500.00)) 4,125.00	5,675.00	4,875.00
c. 50,000 - < 100,000 gpd	((5,000.00)) 8,250.00	11,350.00	9,750.00
d. 100,000 - < 500,000 gpd	((10,000.00)) 16,500.00	22,700.00	19,500.00
e. 500,000 gpd and greater	((15,000.00)) 24,750.00	34,050.00	29,250.00
Combined Food Processing Waste Treatment Facilities	((5,000.00)) 8,250.00	11,350.00	9,750.00
Combined Sewer Overflow System			
a. < 50 acres	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. 50 - < 100 acres	((2,000.00)) 4,125.00	5,675.00	4,875.00
c. 100 - < 500 acres	((3,000.00)) 4,950.00	6,810.00	5,850.00
d. 500 acres and greater	((4,000.00)) 6,600.00	9,080.00	7,800.00
Commercial Laundry	250.00	250.00	250.00

INDUSTRIAL FACILITY CATEGORIES	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
Concentrated Animal Feeding Operation			
a. < ((+00)) 200 Animal Units	((+00.00)) 100.00	100.00	100.00
b. ((+00 - < 500)) 200 - < 400 Animal Units	((200.00)) 250.00	250.00	250.00
c. ((500 - < 1,000)) 400 - < 600 Animal Units	((500.00)) 500.00	500.00	500.00
d. ((+1,000)) 600 - < 800 Animal Units ((and greater))	((+1,000.00)) 750.00	750.00	750.00
e. 800 Animal Units and greater	1,000.00	1,000.00	1,000.00
Crop Preparing			
((a. 1,000 - < 5,000 bins/yr.	200.00		
b. 5,000 - < 10,000 bins/yr.	400.00		
c. 10,000 - < 25,000 bins/yr.	800.00		
d. 25,000 - < 50,000 bins/yr.	1,600.00		
e. 50,000 - < 100,000 bins/yr.	3,000.00		
f. 100,000 - < 150,000 bins/yr.	5,000.00		
g. 150,000 bins/yr. and greater	6,000.00))		
a. 0 - < 1,000 bins/yr.	165.00	227.00	195.00
b. 1,000 - < 5,000 bins/yr.	330.00	454.00	390.00
c. 5,000 - < 10,000 bins/yr.	660.00	908.00	780.00
d. 10,000 - < 15,000 bins/yr.	1,320.00	1,816.00	1,560.00
e. 15,000 - < 20,000 bins/yr.	2,186.25	3,007.75	2,583.75
f. 20,000 - < 25,000 bins/yr.	3,052.50	4,199.50	3,607.50
g. 25,000 - < 50,000 bins/yr.	3,877.50	5,334.50	4,825.50
h. 50,000 - < 75,000 bins/yr.	4,537.50	6,425.50	5,362.50
i. 75,000 - < 100,000 bins/yr.	5,280.00	7,264.00	6,240.00
j. 100,000 - < 125,000 bins/yr.	6,600.00	9,080.00	7,800.00
k. 125,000 - < 150,000 bins/yr.	8,250.00	11,350.00	9,750.00
l. 150,000 bins/yr. and greater	9,900.00	13,620.00	11,700.00
Facilities Not Otherwise Classified			
a. < 1,000 gpd	((500.00)) 825.00	1,135.00	975.00
b. 1,000 - < 10,000 gpd	((+1,000.00)) 1,650.00	2,270.00	1,950.00
c. 10,000 - < 50,000 gpd	((2,000.00)) 4,125.00	5,675.00	4,875.00
d. 50,000 - < 100,000 gpd	((4,000.00)) 6,600.00	9,080.00	7,800.00
e. 100,000 - < 500,000 gpd	((8,000.00)) 13,200.00	18,160.00	15,600.00
f. 500,000 - < 1,000,000 gpd	((+10,000.00)) 16,500.00	22,700.00	19,500.00
g. 1,000,000 gpd and greater	((+15,000.00)) 24,750.00	34,050.00	29,250.00
((Fin Fish Rearing & Hatching	1,500.00))		
Flavor Extraction			
a. Steam Distillation	((250.00)) 100.00	100.00	100.00
((b. Solvent Extraction	1,000.00))		
Food Processing			
((a. < 1,000 gpd	500.00		
b. 1,000 - < 10,000 gpd	1,000.00		
c. 10,000 - < 50,000 gpd	1,500.00		
d. 50,000 - < 100,000 gpd	2,000.00		
e. 100,000 - < 500,000 gpd	5,000.00		
f. 500,000 - < 1,000,000 gpd	10,000.00		
g. 1,000,000 gpd and greater	15,000.00))		
a. < 1,000 gpd	825.00	1,135.00	975.00
b. 1,000 - < 10,000 gpd	2,103.75	2,894.25	2,486.25
c. 10,000 - < 50,000 gpd	3,753.75	5,164.25	4,436.25
d. 50,000 - < 100,000 gpd	5,898.75	8,115.25	6,971.25
e. 100,000 - < 250,000 gpd	8,250.00	11,350.00	9,750.00
f. 250,000 - < 500,000 gpd	10,848.75	14,925.25	12,821.25
g. 500,000 - < 750,000 gpd	13,612.50	18,722.50	16,087.50
h. 750,000 - < 1,000,000 gpd	16,500.00	22,700.00	19,500.00

INDUSTRIAL FACILITY CATEGORIES	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
i. 1,000,000 - < 2,500,000 gpd	20,212.50	27,807.50	23,887.50
j. 2,500,000 - < 5,000,000 gpd	22,687.50	31,212.50	26,812.50
k. 5,000,000 gpd and greater	24,750.00	34,050.00	29,250.00
Fuel and Chemical Storage			
a. < 100,000 bbls	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. 100,000 - < 500,000 bbls	((2,500.00)) 4,125.00	5,675.00	4,875.00
c. 500,000 bbls and greater	((5,000.00)) 8,250.00	11,350.00	9,750.00
Hazardous Waste Clean Up Sites	((20,000.00))		
(See definition under WAC 173-224-030(24-))			
a. Leaking Underground Storage Tanks (LUST)			
1. Those sites covered under a general/model permit	2,500.00	2,500.00	2,500.00
2. Those sites not covered under a general/model permit	5,000.00	5,000.00	5,000.00
b. Non-LUST Sites			
1. 1 or 2 Contaminants of concern	5,000.00	5,000.00	5,000.00
2. >2 Contaminants of concern	10,000.00	10,000.00	10,000.00
Ink Formulation and Printing			
a. Commercial Print Shops	1,500.00	1,500.00	1,500.00
b. Newspapers	2,500.00	2,500.00	2,500.00
c. Box Plants	4,000.00	4,000.00	4,000.00
d. Ink Formulation	5,000.00	5,000.00	5,000.00
Inorganic Chemicals Manufacturing			
a. Lime Products	((2,500.00)) 4,125.00	5,675.00	4,875.00
b. Fertilizer	4,950.00	6,810.00	5,850.00
c. Peroxide	((4,000.00)) 6,600.00	9,080.00	7,800.00
d. Alkaline Earth Salts	((5,000.00)) 8,250.00	11,350.00	9,750.00
e. Metal Salts	((7,000.00)) 11,550.00	15,890.00	13,650.00
f. Acid Manufacturing	((10,000.00)) 16,500.00	22,700.00	19,500.00
g. Chlor-alkali	((20,000.00)) 33,000.00	45,400.00	39,000.00
Iron and Steel			
a. Foundries	((5,000.00)) 8,250.00	11,350.00	9,750.00
b. Mills	((10,000.00)) 16,500.00	22,700.00	19,500.00
Metal Finishing			
a. < 1,000 gpd	((600.00)) 990.00	1,362.00	1,170.00
b. 1,000 - < 10,000 gpd	((1,000.00)) 1,650.00	2,270.00	1,950.00
c. 10,000 - < 50,000 gpd	((2,500.00)) 4,125.00	5,675.00	4,875.00
d. 50,000 - < 100,000 gpd	((5,000.00)) 8,250.00	11,350.00	9,750.00
e. 100,000 - < 500,000 gpd	((10,000.00)) 16,500.00	22,700.00	19,500.00
f. 500,000 gpd and greater	((15,000.00)) 24,750.00	34,050.00	29,250.00
Noncontact Cooling Water			
a. < 1,000 gpd	((100.00)) 412.50	567.50	487.50
b. 1,000 - < 10,000 gpd	((500.00)) 825.00	1,135.00	975.00
c. 10,000 - < 50,000 gpd	((1,000.00)) 1,237.50	1,702.50	1,462.50
d. 50,000 - < 100,000 gpd	((2,000.00)) 2,887.50	3,972.50	3,412.50
((c. 100,000 - < 1,000,000 gpd	4,000.00		
f. 1,000,000 - < 10,000,000 gpd	6,000.00		
g. 10,000,000 gpd and greater	8,000.00))		
e. 100,000 - < 500,000 gpd	4,950.00	6,810.00	5,850.00
f. 500,000 - < 1,000,000 gpd	7,012.50	9,647.50	8,287.50

INDUSTRIAL FACILITY CATEGORIES	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
g. 1,000,000 - < 2,500,000 gpd	9,075.00	12,485.00	10,725.00
h. 2,500,000 - < 5,000,000 gpd	11,137.50	15,332.50	13,162.50
i. 5,000,000 gpd and greater	13,200.00	18,160.00	15,600.00
Nonferrous Metals Forming	((5,000.00)) 8,250.00	11,350.00	9,750.00
Ore Mining			
a. Ore mining	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. Ore mining with physical concentration processes	((2,000.00)) 3,300.00	4,540.00	3,900.00
c. Ore mining with physical and chemical concentration processes	((8,000.00)) 13,200.00	18,160.00	15,600.00
Organic Chemicals Manufacturing			
a. Fertilizer	((5,000.00)) 8,250.00	11,350.00	9,750.00
b. Aliphatic	((10,000.00)) 16,500.00	22,700.00	19,500.00
c. Aromatic	((15,000.00)) 24,750.00	34,050.00	29,250.00
Petroleum Refining			
a. < 10,000 bbls/d	((10,000.00)) 16,500.00	22,700.00	19,500.00
b. 10,000 - < 50,000 bbls/d	((20,000.00)) 33,000.00	45,400.00	39,000.00
c. 50,000 bbls/d and greater	((40,000.00)) 66,000.00	90,800.00	78,000.00
Photofinishers			
a. < 1,000 gpd	((400.00)) 660.00	908.00	780.00
b. 1,000 gpd and greater	((1,000.00)) 1,650.00	2,270.00	1,950.00
Power and/or Steam Plants			
a. Steam Generation - Nonelectric	((2,000.00)) 3,300.00	4,540.00	3,900.00
b. Hydroelectric	((2,000.00)) 3,300.00	4,540.00	3,900.00
c. Nonfossil Fuel	((3,000.00)) 4,950.00	6,810.00	5,850.00
d. Fossil Fuel	((8,000.00)) 13,200.00	18,160.00	15,600.00
Pulp, Paper and Paper Board			
a. Fiber Recyclers	((5,000.00)) 8,250.00	11,350.00	9,750.00
b. Paper Mills	((10,000.00)) 16,500.00	22,700.00	19,500.00
c. Groundwood Pulp Mills			
1. < 300 tons per day	((15,000.00)) 24,750.00	34,050.00	29,250.00
2. 300 tons per day and greater	((30,000.00)) 49,500.00	68,100.00	58,500.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	((40,000.00)) 66,000.00	90,800.00	78,000.00
e. Chemical Pulp Mills w/Chlorine Bleaching	((45,000.00)) 74,250.00	102,150.00	87,750.00
Radioactive Effluents and Discharges (RED)			
a. <3 waste streams	18,875.00	18,875.00	18,875.00
b. 3 - <8 waste streams	32,759.00	32,759.00	32,759.00
c. 8 waste streams and greater	53,956.00	53,956.00	53,956.00

INDUSTRIAL FACILITY CATEGORIES	FY 92 ANNUAL PERMIT FEE	FY 93 ANNUAL PERMIT FEE	Post FY 93 ANNUAL PERMIT FEE
Shipyards			
((1,000)) a. Per crane, travel lift, small boat lift	1,650.00	2,270.00	1,950.00
((1,000)) b. Per drydock under 250 ft in length	1,650.00	2,270.00	1,950.00
((1,000)) c. Per graving dock	1,650.00	2,270.00	1,950.00
((1,500)) d. Per marine way	2,475.00	3,405.00	2,925.00
((1,500)) e. Per ((synchrolift)) scrolift	2,475.00	3,405.00	2,925.00
((2,000)) f. Per drydock over 250 ft in length	3,300.00	4,540.00	3,900.00
The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.			
Solid Waste Sites			
a. Nonputrescible	((2,000.00)) 3,300.00	4,540.00	3,900.00
b. < 50 acres	((4,000.00)) 6,600.00	9,080.00	7,800.00
c. 50 - < 100 acres	((8,000.00)) 13,200.00	18,160.00	15,600.00
d. 100 - < 250 acres	((10,000.00)) 16,500.00	22,700.00	19,500.00
e. 250 acres and greater	((15,000.00)) 24,750.00	34,050.00	29,250.00
Storm Water Only (Unless specifically categorized elsewhere.)			
Individual Industrial Permits			
a. < 50 acres	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. 50 - < 100 acres	((2,000.00)) 3,300.00	4,540.00	3,900.00
c. 100 - < 500 acres	((3,000.00)) 4,950.00	6,810.00	5,850.00
d. 500 acres and greater	((4,000.00)) 6,600.00	9,080.00	7,800.00
Textile Mills	((20,000.00)) 33,000.00	45,400.00	39,000.00
Timber Products			
a. Log Storage	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. Veneer	((2,000.00)) 3,300.00	4,540.00	3,900.00
c. Sawmills	((4,000.00)) 6,600.00	9,080.00	7,800.00
d. Hardwood, Plywood	((7,000.00)) 11,550.00	15,890.00	13,650.00
e. Wood Preserving	((10,000.00)) 16,500.00	22,700.00	19,500.00
Vehicle Maintenance((-Warehouse)) and Freight Transfer			
a. < 0.5 acre	((1,000.00)) 1,650.00	2,270.00	1,950.00
b. 0.5 - < 1.0 acre	((2,000.00)) 3,300.00	4,540.00	3,900.00
c. 1.0 acre and greater	((3,000.00)) 4,940.00	6,810.00	5,850.00
Water Plants			
a. Potable water treatment	((1,250.00)) 2,062.50	2,837.50	2,437.50
b. Irrigation water treatment	((750.00)) 1,237.50	1,702.50	1,462.50

(a) Facilities other than those in the aggregate production, crop preparing, or shipyard categories which operate within several fee categories or subcategories ((will)) shall be charged for that category or subcategory ((with the highest fee)) which represents the most permitting complexity to the department.

(b) Facilities covered by general permits ((with)) shall be charged a permit fee equaling 70% of the fee category in which they would otherwise belong.

(c) ((Industries with permitted discharges of 800 gpd or less will pay an annual fee of \$150.00.

(d) The annual permit fee for a water treatment plant that primarily serves residential customers ((may)) shall not exceed three dollars per residential equivalent.

The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

~~((f))~~ (d) To verify information relevant to the determination of fees, the department may require industrial and commercial permittees to submit ~~((a-form))~~ information certifying annual production or unit processes. When required, the ~~((form-must))~~ information shall be completed and returned to the department within thirty days after it is mailed to the permittee by the department. Failure to provide this information could result in permit termination.

(i) Information submitted shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized general partner;

(C) In the case of a general partnership, by an authorized partner; or

(D) In the case of a sole proprietorship, by the proprietor.

(ii) The department may verify information submitted and, if it determines that false or inaccurate statements have been made, it may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

~~((f))~~ (e) Fees for crop preparers discharging only noncontact cooling water ~~((only))~~ shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water categories.

(f) Where no clear industrial facility category exists for placement of a permittee, the department may elect to place the permittee in a category with dischargers or permittees that contain or use similar properties or processes and/or a category which contains similar permitting complexities to the department.

(g) Hazardous waste clean up sites ~~((for which the department has commenced cost recovery under section 4 of Initiative 97 shall have permit fees deemed to have been charged through the cost recovery action.~~

~~(3) The form shall bear a certification of correctness and be signed:~~

~~(a) In the case of a corporation, by an authorized corporate officer;~~

~~(b) In the case of a limited partnership, by an authorized general partner;~~

~~(c) In the case of a general partnership, by an authorized partner;~~

~~(d) In the case of a sole proprietorship, by the proprietor.~~

~~(4) The department may verify the information contained in the form and, if it determines that the permit holder has made false or inaccurate statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations) requiring a wastewater discharge permit only because of clean up activity shall have their permit fees incorporated into charges for cost recovery under chapter 70.105D RCW rather than paid under the terms of chapter 173-~~

224 WAC. All facilities that are required to have a wastewater discharge permit regardless of a clean up activity occurring on site shall pay permit fees under chapter 173-224 WAC rather than through cost recovery under chapter 70.105D RCW.

(h) Any permit holder who has not been in operation within a consecutive eighteen-month period can have their permit fee reduced to twenty-five percent of the fee which they would be otherwise assessed. This nonoperating mode must be verified by the appropriate ecology staff. Once operations resume, the permit fee shall be returned to the full amount.

(3) MUNICIPAL/DOMESTIC FACILITIES

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

~~((i) If the number of residential equivalents that contribute to the domestic wastewater facility is less than 40,000, the fee is sixty cents times the number of residential equivalents;~~

~~(ii) If the number of residential equivalents that contribute to the domestic wastewater facility is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;~~

~~(iii) If the number of residential equivalents that contribute to the domestic wastewater facility is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;~~

~~(iv) If the number of residential equivalents that contribute to the domestic wastewater facility is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;~~

~~(v) If the number of residential equivalents that contribute to the domestic wastewater facility is 500,000 or greater, the fee is thirty cents times the number of residential equivalents:))~~

Residential Equivalents (RE)	FY 92 Annual Permit Fee	FY 93 Annual Permit Fee	Post FY 93 Annual Permit Fee
< 250,000	\$.98 per RE	\$ 1.42 per RE	\$ 1.20 per RE
> 250,000	\$.59 per RE	\$.85 per RE	\$.72 per RE

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities and which treats each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made(;-)) is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility

are made((;)) is determined as ((follows:)) in (a) of this subsection.

~~((i) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is less than 40,000, the fee is sixty cents times the number of residential equivalents;~~

~~((ii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;~~

~~((iii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;~~

~~((iv) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;~~

~~((v) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.))~~

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

Permitted Flows	FY 92 Annual Permit Fee	FY 93 Annual Permit Fee	Post FY 93 Annual Permit Fee
.1 MGD and Greater	\$(2,500.00) 4,125.00	5,675.00	4,875.50
.05 MGD to < .1 MGD	((1,000.00)) 1,650.00	2,270.00	1,950.00
.0008 MGD to < .05 MGD	((500.00)) 825.00	1,135.00	975.00
< .0008 MGD	((150.00)) 247.50	340.50	292.50

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if the facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(v) If the facility received a permit fee reduction in accordance with WAC 173-223-090(3) for its fiscal year 1989 permit fee, the facility may use the residential equivalent count that was made in determining that fee reduction as the number of residential equivalents for calculating its fiscal year 1990 and 1991 permit fees.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Failure to return the form could result in permit termination. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor;

(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

~~((iv) Residential equivalent counts calculated for the purpose of determining fees under chapter 173-223 WAC for the March 1 through June 30, 1989, period will be used to determine permit fees for fiscal years 1990 and 1991.))~~

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-050 PERMIT FEE PAYMENTS.

(1) Permit fee computation. Computation of permit fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48.200, computation shall begin on the sixty-first day after the department receives an application. In the case of NPDES permit holders who submit a new, updated permit application containing information which could change their assigned permit fee, computation and permit fee category reassignment begins upon acceptance of the application by the department. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge permit fees based on the permit fee schedule contained in WAC 173-224-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Permit fees must be received by the department thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis. In cases where a new permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Wastewater Discharge Permit Fee Program, P. O. Box 5128, Lacey, Washington 98503-~~(5128))~~ 0210.

(4) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

(5) Penalty due on delinquent accounts. The department may charge permit holders a penalty on fee charges that have not been paid by the due date indicated on the billing statement at the rates of:

(a) Ten percent of the assessed fee for the first thirty days late;

(b) Fifteen percent of the assessed fee for between thirty-one days late and sixty days late;

(c) Twenty-five percent of the assessed fee for between sixty-one days late and ninety days late.

Failure to pay fees and penalties after ninety days may result in termination of the permit or the exercise of such other legal or equitable remedies that ecology is authorized to carry out, including but not limited to the assessment of additional penalties. Civil penalties issued by the department may be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-090 SMALL ((DISCHARGER)) BUSINESS FEE REDUCTION. A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have fifty or fewer employees; and

(d) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the processes regulated by the waste discharge permit.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

(d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to the greater of: (a) Fifty percent of the permit fee; or (b) two hundred fifty dollars.

(5) If due to special economic circumstances a fee reduction allowed under subsection (4) of this section would nevertheless still impose an extreme economic hardship on a small business, the small business may so indicate in its application for fee reduction and request a further fee reduction. The small business must provide sufficient evidence to support its claim of extreme hardship. The factors which the department may consider in determining whether the applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales, the size of its labor force, the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers, and its average annual profits. In no case will a permit fee be reduced below one percent of the average annual gross sales of the goods or services produced using the process regulated by the waste discharge permit. The average annual gross sales is calculated using the previous three calendar years' gross sales.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-100 ADMINISTRATIVE APPEALS TO THE DEPARTMENT. Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the department no later than ((the)) each fiscal year's first billing due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of ((Initiative 97)) RCW 90.48.465, and specific actions that he/she is requesting that are consistent with those requirements. The department shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of ((Initiative 97)) RCW 90.48.465. Any person feeling aggrieved by the administrative appeals decision made by the department regarding their permit fee may obtain review thereof by filing an appeal with the Pollution Control Hearings Board, Mailstop PY-21, Olympia, Washington 98504-8921, within thirty days of receipt of the department's decision. In addition, a copy of the appeal must be served on the Department of Ecology, Attention: Water Quality Program, Mailstop PV-11, Olympia, Washington 98504-8711, within thirty days of receipt. These procedures are consistent with the provisions of chapter 43.21B RCW and the rules and regulations adopted thereunder.

AMENDATORY SECTION (Amending Order 89-8 and 89-8A, filed 5/31/89 and 3/13/90, effective 4/13/90)

WAC 173-224-120 PAST DUE PAYMENTS. Any person who, by the effective date of this section, has not paid the fees and other amounts due under

chapter(~~(s 173-222 and)~~) 173-223 WAC shall continue to be obligated to pay such fees and amounts.

WSR 92-03-132
PERMANENT RULES
DEPARTMENT OF ECOLOGY
 [Order 91-50—Filed January 21, 1992, 4:52 p.m.]

Date of Adoption: January 21, 1992.

Purpose: Adoption of revised shoreline master program into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-1701 City of Bridgeport.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to notice filed as WSR 91-17-081 on August 21, 1991.

Effective Date of Rule: Thirty-one days after filing.
 January 21, 1992
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-1701 BRIDGEPORT, TOWN OF. Town of Bridgeport master program approved February 20, 1975. Revision approved January 21, 1992.

WSR 92-03-133
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed January 22, 1992, 9:20 a.m.]

Original Notice.

Title of Rule: An inspection and reporting criteria for wood destroying organisms in chapter 16-228 WAC.

Purpose: To establish inspection and reporting criteria as required by HB 1156 which was passed by the 1991 legislature.

Statutory Authority for Adoption: Chapter 15.58 RCW.

Statute Being Implemented: RCW 15.58.150.

Summary: The department is proposing rules to govern the conduct of a structural inspection.

Reasons Supporting Proposal: Implement HB 1156.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cliff Weed, P.O. Box 42589, Olympia, WA, (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: These rules will give the department the capability of taking action when fraudulent or negligent inspections are conducted.

Proposal Changes the Following Existing Rules: Definitions for "complete wood destroying organism inspection," "limited wood destroying organism inspection," "wood destroying organism," and "wood destroying organism inspection["] were included in the definition section of chapter 16-228 WAC.

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

Hearing Location: LaQuinta Inn, 1425 East 27th, Tacoma, WA, on February 27, 1992, at 1:00 p.m.; and at the Red Lion Yakima Valley, 1507 North First Street, Yakima, WA, on March 3, 1992, at 1:00 p.m.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, Hearing Record, P.O. Box 42589, Olympia, WA 98504-2589, by March 3, 1992.

Date of Intended Adoption: March 17, 1992.

January 22, 1992
 Art G. Losey
 Assistant Director

AMENDATORY SECTION (Amending Order 2022, filed 11/30/89, effective 12/31/89)

WAC 16-228-010 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Agricultural commodity" means any plant, or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

(3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

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

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

(6) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(7) "Complete wood destroying organism inspection" means (a) an inspection of a structure for the purpose of determining (i) evidence of infestation(s), and (ii) damage, and (iii) conducive conditions; or (b) any wood destroying organism inspection which is conducted as the result of a telephone solicitation by an inspection firm or pest control business, even if the inspection would otherwise fall within the definition of a limited wood destroying organism inspection.

(8) "Conducive conditions" means those conditions which may lead to or enhance an infestation of wood destroying organisms.

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

((#)) (10) "Department" means the Washington state department of agriculture.

((9)) (11) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to field strength for adequate coverage (such as water).

((10)) (12) "Director" means the director of the department or a duly authorized representative.

((11)) (13) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

((12)) (14) "EPA" means the United States Environmental Protection Agency.

((13)) (15) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

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

((15)) (17) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

((16)) (18) "Floor level" is considered to be the floor upon which people normally walk—not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

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

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

((19)) (21) "Highly toxic pesticide" for the purpose of this chapter, means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity Category I due to oral inhalation or dermal toxicity.

((20)) (22) "Limited wood destroying organism inspection" means the inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms.

(23) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

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

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

((23)) (26) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

((24)) (27) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

(28) "Wood destroying organisms" means those organisms including, but not limited to, subterranean termites, dampwood termites, carpenter ants, wood boring beetles of the family anobiidae (death-watch beetle), and wood decay fungus (rot). Wood destroying organisms shall not include such organisms which occurred prior to the manufacturing or processing of the lumber, e.g., pocket rot.

(29) "Wood destroying organism inspection" means the service of inspecting a building for the presence of wood destroying organism pests destructive to its structural components, and/or their damage, and/or conducive conditions. For purposes of these rules a wood destroying organism inspection shall be either a "complete wood destroying organism inspection" or a "limited wood destroying organism inspection."

AMENDATORY SECTION (Amending Order 2022, filed 11/30/89, effective 12/31/89)

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

(a) Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide;

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

(d) Operated a faulty or unsafe apparatus;

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

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

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

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

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

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

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

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

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

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

(p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

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

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

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

(t) Made an inspection, statement, or report in violation of WAC 16-228-400 through 16-228-430.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking additional regulatory action against the violator.

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

NEW SECTION

WAC 16-228-400 INSPECTION AND REPORTING CRITERIA FOR COMPLETE WOOD DESTROYING ORGANISM INSPECTIONS. All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing complete wood destroying organism inspections.

(1) The inspector shall make a thorough inspection of accessible areas of the subject structure which are not excluded. The inspection shall be conducted by making a careful visual examination, and/or probing with inspection instruments.

(2) Substructural crawl areas shall be inspected when accessible.

(3) Upon completion of an inspection, a wood destroying organism report shall be issued to the person paying for and/or otherwise requesting the inspection. Such report shall include the following: PROVIDED, That all diagrammatic representations may be omitted from the report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (3)(k) of this section.

(a) Date of inspection;

(b) Name of seller/owner and purchaser (when applicable);

(c) Street address of structure inspected. When there is more than one structure that may be used as a dwelling at a given street address it shall be clearly indicated which structure was inspected;

(d) Name of structural inspector and department pesticide license number;

(e) Substructural crawl areas which are not accessible due to inadequate clearance, or foundation walls/partitions, etc., which block access, shall be clearly indicated on the complete wood destroying organism inspection report including any diagram which is a part of that report. It shall be stated on the report that such areas may be vulnerable to attack by wood destroying organisms, and should be made accessible for inspection if feasible. In the event that it is neither feasible or necessary to make access into such areas, a statement indicating the reason(s) shall be included on the report;

(f) With the exception of areas within the living quarters of an occupied structure, all areas which are excluded from the inspection shall be clearly indicated on any complete wood destroying organism inspection report;

(g) Evidence of infestation of wood destroying organisms which shall include:

(i) Common name of the wood destroying organism(s). Termites shall be described as either dampwoods or subterranean. Wood boring beetles shall be described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";

(ii) Statement describing specific evidence of infestation(s) observed;

(iii) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure i.e., form boards, cellulose debris, roots, stumps, landscaping wood/lumber, etc., the report shall so state;

(iv) Diagrammatic representation of areas infested sufficient to identify the approximate location of areas infested;

(h) Optional method of control. When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions;

(i) Damage caused by wood destroying organisms:

(i) A statement describing any damage which was observed in accessible areas of the structure which were not excluded from the inspection.

(ii) A diagrammatic representation indicating such areas of damage;

(j) Conducive conditions for an infestation of wood destroying organisms. Written statements and diagrammatic representation of the following shall be provided:

(i) Inadequate clearance: Where there is less than eighteen inches clear space between the bottom of floor joists and the unimproved ground area in any crawl space or portion thereof.

(ii) Earth-wood contact: Where wood of the structure is in direct contact with the soil. This does not include wood that has been treated for direct soil contact.

(iii) Cellulose debris: Where wood by-product material can be raked or is larger than can be raked, or where any stumps, roots, form boards, etc., are on the ground of a crawl space.

(iv) Excess moisture: Where there is standing water or evidence of seasonal standing water in crawl space or basement. Plumbing and other moisture leaks.

(v) Inadequate ventilation: Where there is detectable excessive moisture content in the wood of a substructure, and/or an active infestation of wood destroying organisms which can be attributed to the lack of sufficient ventilation in the substructure;

(k) A record of the complete wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of seven years. Such record shall be made available to the department upon request.

NEW SECTION

WAC 16-228-410 INSPECTION AND REPORT PREREQUISITE TO WOOD DESTROYING ORGANISM TREATMENT. All persons licensed to conduct wood destroying organism inspections shall conduct either a limited or complete wood destroying organism inspection prior to treatment.

(1) A limited or complete wood destroying organism inspection shall be conducted and a report issued to the person paying for and/or otherwise requesting the inspection prior to the contracting of any treatment for wood destroying organisms, except when the treatment is for preventative purposes only. In situations when treatment is for preventative purposes, the person requesting treatment shall provide the following preauthorization:

I have requested that perform a preventative treatment for control of on the structure located at I acknowledge that this preventative treatment may be performed without inspection.

.....
Signed (property owner or custodian)

(2) A limited or complete wood destroying organism inspection report or treatment preauthorization form shall accompany or be included within any proposal/estimate for treatment of wood destroying organisms.

(3) When no evidence of infestation is observed, and any proposed treatment is for preventative purposes only, a limited or complete wood destroying organism inspection report shall include:

(a) A statement describing that no evidence of infestation was observed, and the treatment proposed is for preventative purposes only. Such statement shall stand out by having larger print than the main body of the report, or by being highlighted or underlined.

(b) The initials of the person, or representative thereof, that requested the inspection shall be inscribed directly under or adjacent to the statement as described in (a) of this subsection. Such initials shall be obtained prior to the commencement of any preventative treatment.

(4) Treatment performed for wood destroying organisms under an existing warranty shall not require the preparation of a limited or complete wood destroying organism inspection report.

NEW SECTION

WAC 16-228-420 LIMITED WOOD DESTROYING ORGANISM INSPECTIONS. A limited wood destroying organism inspection shall not be construed as a complete wood destroying organism inspection. In no case shall a limited wood destroying organism inspection report be submitted in lieu of a complete wood destroying organism inspection report to a lending institution, title company, real estate office or agent, or other person, when a complete wood destroying organism inspection has been requested for the purpose of verifying that a structure is free of visible evidence of wood destroying organisms, their damage, or conducive conditions.

NEW SECTION

WAC 16-228-430 REPORTING CRITERIA FOR LIMITED WOOD DESTROYING ORGANISM INSPECTIONS. All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing a limited wood destroying organism inspection.

(1) A limited wood destroying organism inspection report shall include the following: PROVIDED, That all diagrammatic representations may be omitted from the report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (2) of this section:

- (a) Date of inspection;
- (b) Name of person or agency requesting the inspection, proposal, or estimate;
- (c) Address of structure inspected;
- (d) Name of structural inspector and WSDA license number;
- (e) A statement describing specific evidence of infestation(s) observed;

(f) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure, i.e., form boards, cellulose debris, roots, stumps, landscaping wood/lumber, etc., the report shall so state;

(g) Common name of wood destroying organisms. Termites shall be described as either dampwoods or subterraneans. Wood boring beetles shall be described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";

(h) A diagrammatic representation of area of infestation sufficient to identify the appropriate location of areas infested: PROVIDED, That a diagram shall not be necessary when the homeowner/caretaker presents an insect and/or wood sample to the inspector, and this is the only evidence of infestation(s) observed;

(i) Optional method of control: When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions.

(2) A record of the limited wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of one year. Such records shall be made available to the department upon request.

WSR 92-03-134**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed January 22, 1992, 9:23 a.m.]

Original Notice.

Title of Rule: Application of pesticides in Benton County and portions of Franklin and Walla Walla counties in chapters 16-230 and 16-231 WAC.

Purpose: Additional restrictions on the use of restricted use pesticides in the area under order in the tri-cities area.

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Statute Being Implemented: Chapters 15.58 and 17.21 RCW.

Summary: See Explanation of Rule below.

Reasons Supporting Proposal: During the 1991 spray season herbicide drift on grapes was experienced in the area under order.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cliff Weed, P.O. Box 42589, Olympia, WA, (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: The proposed rules will create specific nozzling and pressure requirements for ground and aerial apparatus; will prohibit the use or application of all restricted use pesticides when the mean sustained wind velocity is over ten miles per hours in the entire area under order; will create specific morning and evening cut-off times; will create another area 3 buffer zone in southwest Horse Heaven Hills; will limit the use of low volatile ester formulations of 2,4-D to certain dates and areas under order; and will create additional weather requirements concerning all restricted use herbicides in the entire area under order. Additional restrictions on the application of pesticides are being proposed due to herbicide damage on grapes experienced during the 1991 spray season.

Proposal Changes the Following Existing Rules: Rules relating to restricted use herbicides in Benton County in chapter 16-231 WAC are repealed and combined with these proposed rules in chapter 16-230 WAC. (Also see above.)

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

Hearing Location: Red Lion Inn, 2525 North 20th, Pasco, WA, on February 25, 1992, at 7:00 p.m.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, Hearing Record, P.O. Box 42589, Olympia, WA 98504-2589, by February 25, 1992.

Date of Intended Adoption: March 5, 1992.

January 22, 1992

Art G. Losey
Assistant Director

AMENDATORY SECTION (Amending Order 2014, filed 7/31/89, effective 8/31/89)

WAC 16-230-810 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE PESTICIDES. For the purposes of WAC 16-230-800 through (~~WAC 16-230-865~~) 16-230-870, the following pesticides are declared to be restricted use pesticides:

- (1) Restricted use herbicides:
 - (a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort)
 - (b) Desiccants and defoliant (such as Paraquat, Diquat, Endothal)
 - (c) Glyphosate (such as Roundup, Landmaster)
 - (d) Phenoxy type herbicides (such as 2,4-D, MCPA)
 - (e) dicamba (such as Banvel)
 - (f) Bromoxynil (such as Brominal, Buctril, ME4 Brominal)
- (2) Restricted use insecticides:
 - (a) All Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations;
 - (b) Additionally, all insecticides, except granular and pellet formulations, are declared to be restricted use in Area 1 as described in WAC 16-230-835.

NEW SECTION

WAC 16-230-813 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—OIL TYPE CARRIERS. On and after April 5 through October 31, oil type carriers are prohibited for brush control: PROVIDED, That oil type carriers may be used in invert systems the entire year.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-825 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—PERMITS. The following conditions will apply to all permits issued under the authority of WAC 16-230-800 through (~~(+6-230-865)~~) 16-230-870.

(1) Application for a permit may be made to the Washington State Department of Agriculture, Compliance Branch, 2015 S. 1st Street, Yakima, Washington 98903. Applications may also be taken in person or by phone.

(2) The department may make on-site monitoring of the application a condition of any permit. A representative of the department may condition, deny, or revoke a permit at any time, if the representative determines that the situation at the application site creates an unreasonable risk of drift. In determining whether the situation at the application site creates an unreasonable risk of drift, the representative may consider all relevant factors such as temperature, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

(3) No permit shall be issued to apply any pesticide unless that permit is consistent with existing department laws and rules.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-835 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 1. (1) Area 1 description (North Horse Heaven Hills). An area including all lands lying within a boundary line beginning at the northwest corner of Section 19, T8N, R24E; thence east four miles along section lines to the southwest corner of Section 14, T8N, R24E; thence north one mile along the section line to the northwest corner of Section 14, T8N, R24E; thence east two miles along section lines to the southwest corner of Section 7, T8N, R25E; thence north one mile along the section line to the northwest corner of Section 7, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 5, T8N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 5 to the northeast corner of Section 5, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 34, T9N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 34 to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southwest corner of Section 30, T9N, R26E; thence north one mile along the section line to the northwest corner of Section 30, T9N, R26E; thence east one mile along the section line to the southwest corner of Section 20, T9N, R26E; thence northeast approximately one and four-tenths of a mile diagonally across Section 20 to the northeast corner of Section 20, T9N, R26E; thence east two miles along section lines to the northwest corner of Section 23, T9N, R26E; thence southeast approximately one and four-tenths of a mile diagonally across Section 23 to the southeast corner of Section 23, T9N, R26E; thence north approximately one mile along the section line to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence south approximately five and one-half miles along the Columbia River to the south section line of Section 5, T6N, R31E; thence west approximately eight miles along section lines to the southwest corner of Section 1, T6N, R29E; thence north two miles along section lines to the southwest corner of Section 25, T7N, R29E; thence west thirteen miles along section lines to the southeast corner of Section 27, T7N, R27E; thence north one mile along the section line to the northeast corner of Section 27, T7N, R27E; thence west one mile along the section line to the northwest corner of Section 27, T7N, R27E; thence north two miles along section lines to the northeast corner of Section 16, T7N, R27E; thence west one mile along the section line to the southeast corner of Section 8, T7N, R27E; thence north one mile along the section line to the northeast corner of Section 8, T7N, R27E; thence west approximately twenty miles along section lines to the Benton-Yakima County line at the southwest corner of Section 6, T7N, R24E; thence north four miles along the county line to the point of beginning.

(2) Area 1 restrictions.

(a) Application by air of restricted use pesticides as defined in WAC 16-230-810 is prohibited: PROVIDED, That the department may issue written permits for application of insecticides not containing the signal words danger/poison on the label.

(b) The use or application of low volatile ester formulations of restricted use herbicides shall be prohibited on and after April 5 through October 31 of each year: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5 through October 31 of each year, except as provided in WAC 16-230-862, all applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise the following morning.

AMENDATORY SECTION (Amending Order 2014, filed 7/31/89, effective 8/31/89)

WAC 16-230-840 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 2. (1) Area 2 description. Tri-Cities, Benton City area. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence south approximately five miles along section lines to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence south approximately one-half mile along the Columbia River to the south section line of Section 8, T7N, R31E; thence east approximately three miles across the Columbia River to the intersection with U.S. Highway 12 at the south section line of Section 10, T7N, R31E; thence northwesterly along Highway 12 to its intersection with Interstate 182; thence westerly along Interstate 182 to the west shoreline of the Columbia River; thence northerly approximately six and one-half miles along the Columbia River to the United States Department of Energy Hanford Site south boundary line; thence west approximately one mile and south approximately two and one-half miles along the south boundary line to the southeast corner of Section 27, T10N, R28E; thence west seven miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(2) Area 2 restrictions.

(a) Application by air of restricted use pesticides as defined in WAC 16-230-810 is prohibited.

(b) The use or application of low volatile ester formulations of restricted use herbicides is prohibited: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5 through October 31 of each year, applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-845 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 3. (1) Area 3 description.

(a) Eastern Yakima Valley. An area including all lands lying within a boundary line beginning at the northwest corner of Section 19, T8N, R24E; thence east four miles along section lines to the southwest corner of Section 14, T8N, R24E; thence north one mile along the section line to the northwest corner of Section 14, T8N, R24E; thence east two miles along section lines to the southwest corner of Section 7, T8N, R25E; thence north one mile along the section line to the northwest corner of Section 7, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 5, T8N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 5 to the northeast corner of Section 5, T8N, R25E; thence east one mile along the section line to the southwest corner of Section 34, T9N, R25E; thence northeast approximately one and four-tenths of a mile diagonally across Section 34 to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southwest corner of Section 30, T9N, R26E; thence north one mile along the section line to the northwest corner of Section 30, T9N, R26E; thence east one mile along the section line to the southwest

corner of Section 20, T9N, R26E; thence northeast approximately one and four-tenths of a mile diagonally across Section 20 to the northeast corner of Section 20, T9N, R26E; thence east two miles along section lines to the northwest corner of Section 23, T9N, R26E; thence southeast approximately one and four-tenths of a mile diagonally across Section 23 to the southeast corner of Section 23, T9N, R26E; thence north six miles along section lines to the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence south approximately eleven miles along the Benton-Yakima county line to the point of beginning.

(b) Cold Creek Area. An area including all lands lying within a boundary line beginning at the intersection of the Benton-Yakima County line and the Columbia River in Section 7, T13N, R24E; thence south approximately six and one-half miles along the Benton-Yakima County line to the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence west approximately five miles along the Columbia River to the point of beginning.

(c) Horse Heaven Hills southwest buffer zone. An area including all lands lying within a boundary line beginning at the southeast corner of Section 9, T5N, R26E; thence north five miles along section lines to the northeast corner of Section 21, T6N, R26E; thence west five miles along section lines to the northeast corner of Section 22, T6N, R25E; thence south five miles along section lines to the southeast corner of Section 10, T6N, R25E; thence along section lines five miles to the point of beginning.

(2) Area 3 restrictions.

(a) Application by air of restricted use herbicides as defined in WAC 16-230-810 is prohibited.

(b) The use or application of low volatile ester formulations of restricted use herbicides is prohibited: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5 through October 31 of each year, applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-850 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 4. (1) Area 4 description.

(a) Tri-cities northwest buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence north two miles along section lines to the northwest corner of Section 13, T10N, R26E; thence east one mile along the section line to the northeast corner of Section 13, T10N, R26E; thence north approximately one-half mile along the section line to the United States Department of Energy Hanford Site south boundary line; thence easterly approximately ten miles and south approximately two and one-half miles along the south boundary line to the south section line of Section 27, T10N, R28E; thence west approximately six and three-fourths miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(b) Tri-cities northeast buffer zone. An area including all lands lying within a boundary line beginning at the intersection of the Esquatzel Diversion Channel drain and the Columbia River; thence east along the Esquatzel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south approximately four miles along section lines and portions of Fraser Drive and Dent Road to the southwest corner of Section 6, T9N, R29E; thence east approximately eight and one-half miles along section lines and a portion of Foster Wells Road to its intersection with the Bonneville Power Administration power line

in Section 4, T9N, R30E; thence southeasterly approximately seven miles along the power line to its intersection with SR 124 in Section 32, T9N, R31E; thence easterly approximately two and one-half miles along SR 124 to the east section line of Section 34, T9N, R31E near the intersection of SR 124 and the Union Pacific Railroad; thence south approximately three miles along section lines to the southeast corner of Section 15, T8N, R31E; thence west approximately one-fourth mile along the section line to the Union Pacific Railroad; thence southerly approximately four and one-half miles along the railroad to its intersection with U.S. Highway 12 near the Boise Cascade paper mill; thence northwesterly along Highway 12 to its intersection with Interstate 182; thence westerly along I-182 to the west shoreline of the Columbia River; thence northerly approximately six and one-half miles along the Columbia River to the U.S. Department of Energy Hanford Site south boundary line in Section 14, T10N, R28E; thence east approximately one-half mile across the Columbia River to its east shoreline; thence northerly approximately one-half mile to the point of beginning.

(2) Area 4 restrictions.

(a) Application by air of restricted use pesticides as defined in WAC 16-230-810 may be made by written permit only.

(b) The use or application of low volatile ester formulations of restricted use herbicides is prohibited: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5 through October 31 of each year all applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise of the following morning.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-855 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 5. (1) Area 5 description.

(a) Cold Creek buffer zone. An area including all lands lying within a boundary line beginning at the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence easterly approximately two miles along the Columbia River to the east section line of Section 6, T13N, R25E, near the Vernita Bridge; thence south approximately eight and one-half miles along section lines to the southeast corner of Section 18, T12N, R25E; thence west seven miles along section lines to the Benton-Yakima County line at the southwest corner of Section 18, T12N, R24E; thence north one mile along the county line to the point of beginning.

(b) Roza buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence north two miles along the county line to the northwest corner of Section 18, T10N, R24E; thence east four miles along section lines to the northeast corner of Section 15, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 15, T10, R24E; thence east seven miles along section lines to the southwest corner of Section 13, T10N, R25E; thence north one mile along the section line to the northwest corner of Section 13, T10N, R25E; thence east six miles along section lines to the northwest corner of Section 13, T10N, R26E; thence south two miles along section lines to the point of beginning.

(2) Area 5 restrictions.

(a) Application by air of restricted use herbicides as defined by WAC 16-230-810 may be made by written permit only.

(b) The use or application of low volatile ester formulations of restricted use herbicides shall be prohibited on and after April 5 through October 31 of each year: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(c) On and after April 5 through October 31 of each year all applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise the following morning.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-860 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 6. (1) Area 6 description. All remaining lands in the area under order.

(2) Area 6 restrictions.

(a) The use or application of low volatile ester formulations of restricted use herbicides shall be prohibited on and after April 5 through October 31 of each year: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(b) On and after April 5 through October 31 of each year all applications of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise the following morning.

AMENDATORY SECTION (Amending Order 2046, filed 6/29/90, effective 7/30/90)

WAC 16-230-861 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—WIND CONDITIONS. The use or application of all herbicides and class 1 and 2 insecticides are prohibited in the area under order listed in WAC 16-230-800 when the mean sustained wind velocity is over ((~~twelve~~) ten) miles per hour throughout the year: PROVIDED, That applications shall be allowed in higher velocity winds when an approved ground apparatus is used. Ground apparatus shall be approved by the department prior to application. Approval shall be based on research data.

NEW SECTION

WAC 16-230-862 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—MORNING AND EVENING CUTOFF. (1) An area within the confines of Area 1 which includes all lands lying within a boundary line beginning at the northwest corner of Section 31, T8N, R24E; thence east two miles along section lines to the northwest corner of Section 33, T8N, R24E; thence north one mile along section lines to the northwest corner of Section 28, T8N, R24E; thence east seven miles along section lines to the northwest corner of Section 27, T8N, R25E; thence north two miles along section lines to the northwest corner of Section 15, T8N, R25E; thence east eight miles along section lines to the northwest corner of Section 15, T8N, R26E; thence south two miles along section lines to the northwest corner of Section 25, T8N, R26E; thence east two miles along section lines to the northwest corner of Section 29, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 32, T8N, R27E; thence east three miles along section lines to the northwest corner of Section 35, T8N, R27E; thence south one mile along section lines to the northwest corner of Section 2, T7N, R27E; thence east two miles along section lines to the northwest corner of Section 13, T7N, R27E; thence south two miles along section lines to the northwest corner of Section 13, T7N, R27E; thence east four miles along section lines to the northwest corner of Section 15, T7N, R28E; thence south one mile along section lines to the northwest corner of Section 22, T7N, R28E; thence east ten miles along section lines to the northwest corner of Section 20, T7N, R30E; thence south two miles along section lines to the northwest corner of Section 32, T7N, R30E; thence east seven miles along section lines to the Columbia River in Section 29, T7N, R31E; thence north approximately three miles to the Kennewick Irrigation District (K.I.D.) Division Four Canal in Section 8, T7N, R31E; thence westerly along the K.I.D. Division Four Canal to the intersection with the K.I.D. Main Irrigation Canal at the Amon Pumping Station located in Section 7, T8N, R29E; thence westerly along the K.I.D. Main Irrigation Canal to its intersection with the east section line of Section 14, T9N, R26E; thence south approximately one mile along the section line to the northwest corner of Section 25, T9N, R26E; thence northwest approximately one and four tenths miles diagonally across Section 23 to the northwest corner of Section 23, T9N, R26E; thence west two miles along section lines to the northwest corner of Section 21, T9N, R26E; thence southwest approximately one and four tenths miles diagonally across Section 20 to the northwest corner of Section 29, T9N, R26E; thence west one mile along section lines to the northwest corner of Section 30, T9N, R26E; thence south one mile along section lines to the northwest corner of Section 31, T9N, R26E; thence west two miles along section lines to the northwest corner of Section 35, T9N, R25E; thence southwest approximately one

and four tenths miles diagonally across Section 34 to the northwest corner of Section 3, T8N, R25E; thence west one mile along section lines to the northwest corner of Section 4, T8N, R25E; thence southwest approximately one and four tenths miles diagonally across Section 5 to the northwest corner of Section 8, T8N, R25E; thence west one mile along section lines to the northwest corner of Section 7, T8N, R25E; thence south one mile along section lines to the northwest corner of Section 18, T8N, R25E; thence west two miles along section lines to the northwest corner of Section 14, T8N, R24E; thence south one mile along section lines to the northwest corner of Section 23, T8N, R24E; thence west four miles to the northwest corner of Section 19, T8N, R24E; thence south two miles along the county line to the point of beginning.

(2) Morning and evening cutoff restrictions.

On and after April 5 through October 31 of each year all applications of restricted use herbicides as defined in WAC 16-230-810 and within the above defined geographic boundary are prohibited daily from three hours prior to sunset until two hours after sunrise the following morning.

NEW SECTION

WAC 16-230-863 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE HERBICIDES GROUND APPARATUS NOZZLE REQUIREMENTS. Ground applications of restricted use herbicides in the area under order listed in WAC 16-230-800 shall be made, throughout the year, using nozzles having a minimum orifice diameter of .052 inches or a LP 8002 equivalent nozzle: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having a minimum orifice of .072 inches: PROVIDED FURTHER, That pressurized hand-sized household device used to apply restricted use herbicides, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such herbicide applications shall be exempt from nozzle requirements.

NEW SECTION

WAC 16-230-864 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE HERBICIDES, AIRCRAFT BOOM LENGTH, PRESSURE, AND NOZZLE REQUIREMENTS. The aerial application of restricted use herbicides in the area under order listed in WAC 16-230-800 shall be made in accordance with the following requirements:

(1) The working boom length on fixed wing aircraft shall not exceed three-fourths of the wing span and the working boom length shall not exceed six-sevenths of the total rotor length where the rotor length exceeds sixty feet.

(2) Pressure for aerial equipment shall not exceed twenty-five psi at the nozzles.

(3) Nozzles for aircraft:

(a) Fixed wing:

(i) Minimum nozzle orifice of .075 inches (no core plate) provided, that RD8 nozzles with orifice size of 0.125 inches and No. 46 core plates may be used. Nozzles shall be directed downward and backward one hundred seventy degrees or more from the direction of flight.

(ii) No flat fan nozzles shall be allowed.

(b) Helicopter:

(i) Minimum nozzle orifice of .063 inches (no core plate) provided, that RD8 nozzles with orifice size of .125 inches and core plate No. 46 may be used. Nozzles shall be directed downward and backward ninety degrees or more from the direction of flight.

(ii) No flat fan nozzles shall be allowed.

NEW SECTION

WAC 16-230-866 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE HERBICIDES—TEMPERATURE CONDITIONS. All phenoxy compounds and Banvel shall not be applied when the temperature is above eighty-five degrees F. or above at the point of application: PROVIDED, That application at the rate of fifty gallons or more per acre using nozzles having a minimum orifice diameter of .072 inches shall be exempt from the eighty-five degrees F. temperature requirement: PROVIDED

FURTHER, That when using the invert system, applications may continue up to ninety-five degrees F. with a maximum wind velocity of fifteen miles per hour and with water carrier at twelve or more gallons per acre.

NEW SECTION

WAC 16-230-867 APPLICATIONS OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE HERBICIDES GROUND APPARATUS PRESSURE REQUIREMENTS. Pressure shall not exceed twenty-five pounds per square inch at the nozzles: PROVIDED, That pressure up to fifty pounds per square inch at the nozzle may be used for equipment with handguns, up to ninety pounds per square inch at the nozzle manifold for an invert system: PROVIDED FURTHER, That when using a LP8002 nozzle instead of a regular 8004 or equivalent, the maximum pressure shall not exceed fifteen pounds per square inch at the nozzle.

NEW SECTION

WAC 16-230-868 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RESTRICTED USE HERBICIDE WEATHER CONDITIONS. Restricted use herbicides shall not be applied throughout the year in the entire area under order when there is a temperature inversion present or weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops, and plantings through physical drift or volatilization.

NEW SECTION

WAC 16-230-870 OTHER RULES. Provisions of WAC 16-230-800 through 16-230-866 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in Benton, Franklin, or Walla Walla counties. No provision of WAC 16-230-800 through 16-230-868 shall be construed as relieving any requirement of existing rules except those in direct conflict.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-230-865 OTHER RULES.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-231-001 RESTRICTED USE HERBICIDES—BENTON COUNTY—AREA UNDER ORDER.
WAC 16-231-005 RESTRICTED USE HERBICIDES.
WAC 16-231-010 OIL-TYPE CARRIERS.
WAC 16-231-015 RESTRICTED USE HERBICIDES—BENTON COUNTY—AREA 1.
WAC 16-231-020 RESTRICTED USE HERBICIDES—BENTON COUNTY—AREA 2.
WAC 16-231-025 AREA 3.
WAC 16-231-030 RESTRICTED USE HERBICIDES—BENTON COUNTY—WIND CONDITIONS.

WSR 92-03-135
PREPROPOSAL COMMENTS
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 22, 1992, 9:25 a.m.]

Subject of Possible Rule Making: Chapter 296-62 WAC, General occupational health standards, safety and health standards relating to indoor air quality.

Persons may Comment on this Subject in the Following Ways: Oral comments at the following locations and

times: Bellevue, Red Lion, 300 112th Avenue S.E., Bellevue, WA 98004, at 9:00 a.m. to 3:00 p.m., on February 26, 1992; at Everett, Everett Pacific Hotel, 3105 Pine Street, Everett, WA 98201, at 9:00 a.m. to 3:00 p.m., on March 2, 1992; at Vancouver, Red Lion Inn at the Quay, River Rooms, 100 Columbia Street, Vancouver, WA 98660, at 9:00 a.m. to 3:00 p.m., on March 3, 1992; at Olympia, Office Building 2 Conference Room in basement, near cafeteria, 14th and Jefferson, Olympia, WA 98504, at 9:00 a.m. to 5:00 p.m., on March 5, 1992; at Spokane, Red Lion, North 1100 Sullivan Road, (East I-90 at Sullivan Road Exit), Veradale, WA 99037, at 9:00 a.m. to 3:00 p.m., on March 12, 1992; and at Yakima, Yakima Towne Plaza, 607 East Yakima Avenue, Yakima, WA 98901, at 9:00 a.m. to 3:00 p.m., on March 13, 1992.

Other Information or Comments by Agency at this Time, if any: Copies of the draft regulations will be available at the public hearings or by calling Ellen Atkinson at (206) 664-9410. Representatives of the Department of Labor and Industries will be available to discuss these draft rules at the hearings and answer questions from the public.

January 22, 1991 [1992]

Joseph A. Dear

Director

WSR 92-03-136
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 22, 1992, 9:29 a.m.]

Original Notice.

Title of Rule: Chapter 296-46 WAC, Installing electric wires and equipment; and chapter 296-401 WAC, Certification of competency for journeyman electricians.

Purpose: Proposed amendments to WAC 296-46-910 are changes made to cover the increasing costs of making electrical inspections. Proposed amendments to WAC 296-46-915 are changes made to cover the increasing costs of electrical contractor licensing, electrical administrator certification and document copy fees. Proposed amendments to WAC 296-401-175 are changes made to cover the increasing costs of electrician and electrical trainee certification.

Statutory Authority for Adoption: WAC 296-46-910 is RCW 19.28.060 and 19.28.210(6); WAC 296-46-915 is RCW 19.28.060, 19.28.120(2), and 19.28.510(2); and WAC 296-401-175 is RCW 19.28.060, 19.28.600, 19.28.510(2), 19.28.540(2), and 19.28.550.

Statute Being Implemented: Chapter 19.28 RCW.

Summary: Proposed amendments to WAC 296-46-910 are changes to increase all of the electrical inspection fees. Proposed amendments to WAC 296-46-915 are changes increasing the fees for electrical contractor licenses, original administrator certificate, renewal and late renewal administrator certificate, and the transfer of administrator. Proposed amendments to WAC 296-401-

175 are changes increasing the fees for electrician original certificate, certificate renewal and late certificate renewal. Fees will also be increased for electrical training certificate renewal applications.

Reasons Supporting Proposal: To cover the increased costs of inspection activity, administrator, electrician and trainee certification, electrical contractor licensing and transfer of administrator.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Roland LeVasseur, 805 Plum Street S.E., Olympia, 753-2330.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule sets increased fees for electrical inspections, revises original and renewal licensing and certification fees, transfer of administrator fees and training certificate original fees. The anticipated effect of this change is to cover the increased costs.

Proposal Changes the Following Existing Rules: This proposal changes the existing rules by increasing the fees for licensing, certification and renewal of electrical contractors, administrators, electricians and trainees. It also increases the fees for the transfer of administrator certificates.

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

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: WAC 296-46-910 and 296-46-915, these sections will have minor or negligible impact on small business. Although it would appear to significantly increase the cost of inspection fees, these fees are included in the project cost bids, by the contractor. The impact therefore, will be on the consumer, not the small business. Additionally, the inspection fees are based on the square footage and service ampacity of the project. A 40 employee firm would likely bid significantly smaller projects than a 400 employee firm. Additionally, a 400 employee firm would likely require significantly more inspections than a 40 employee firm, considering the number of projects each firm would be capable of performing. Therefore, the costs of the inspection fees would be proportional to the size of the project, and the burden would not fall more heavily on small business. The current inspection fee schedules will increase the average residential permit approximately \$33.62. Other permits/licenses will have increases of proportionate percentages. Again, these permit/license fees are absorbed by including the cost in the project bid, or directly by the consumer, not the small business. The amendment in the fee structure of inspection fees for carnivals may result in a cost savings for small carnivals. The restructuring of this rule to a per ride, etc. fee, rather than an hourly fee should have a positive impact on small carnivals, or mitigate any disproportionate burdens on small carnivals, that the previous fee structure may have had; and WAC 296-401-

175, this section will have minor or negligible impact on small business. The largest increase in fees is for the journeyman/specialty electrician's original certificate. That increase is \$20.00. Certificates for renewal (per 24 month period) increase \$14.00 (\$.58 per month), and late fees increase \$28.00 (\$1.17 per month). Training certificates increase \$5.00 for a one-year certificate. The department considers these increases to be minor. Additionally, if two firms have to renew certificates/licenses for each employee, the small firm would likely have to renew fewer certificates/licenses than the large firm. The costs would be proportional to the size of the firm, and the burden would not fall more heavily on small business.

Hearing Location: Spokane Community College, North 1810 Greene Street, Lair Student Union Building, Sasquatch Room, on February 26, 1992, at 1:00 p.m. - 5:00 p.m.; and at the OB2 Auditorium, 12th and Franklin, Olympia, on February 27, 1992, at 1:00 p.m. - 5:00 p.m.

Submit Written Comments to: Joseph Brewer, Assistant Director, B&CSIS, 805 Plum Street S.E., Olympia, WA 98504, by February 26, 1992.

Date of Intended Adoption: April 1, 1992.

January 22, 1992

Joseph A. Dear
Director

AMENDATORY SECTION (Amending WSR 90-17-041, filed 8/10/90, effective 9/10/90)

WAC 296-46-910 INSPECTION FEES. To calculate the inspection fees, the amperage is based on the (~~larger of the~~) conductor ampacity or the overcurrent device rating.

~~((1) The fee for inspection of the installation, alteration, or maintenance of the following service(s), or feeder(s), is:~~

	Residential Services Column A	Commercial/Industrial Column B	Additional Feeders in Commercial/Industrial Column C
1 - 100 AMP	\$ 33	\$ 44	\$ 11
101 - 200 AMP	\$ 44	\$ 55	\$ 17
201 - 400 AMP	\$ 60	\$110	\$ 28
401 - 600 AMP	\$ 77	\$154	\$ 39
601 - 1000 AMP	\$ 94	\$198	\$ 50
1001 - Over AMP	\$110	\$242	\$ 60
Two family dwelling	\$ 55		
Temporary construction service	\$ 30		

~~No additional fee for inspection of branch circuits when included on the service/feeder permit:~~

- ~~Column A - Residential:

 - Single family residential services.
 - Multi-family residential services.~~
- ~~Column B - Commercial and industrial:

 - Each service or the first feeder when the service is not being installed, increased or altered.
 - Feeders that terminate in a separate building.
 - Secondaries of transformers that have a capacity greater than 600 VA.
 - Each service or feeder that is over 600 volts.~~
- ~~Column C - Additional feeders in commercial and industrial facilities:

 - Each feeder inspected with a service or feeder in Column B on the same permit.~~

(2) The following fees shall be provided for the inspection of each of the following units:

Single/first Unit	Additional Units
Column A	Column B

a. Mobile home, modular home, or commercial coach service: (200 Amp. Max.)	28	7*
b. Mobile home feeder.	28	7*
c. Each lot for a recreational vehicle.	28	7
d. Berth at a marina or dock.	28	7
e. Yard pole meter loops or similar isolated metering installations.	28	7
f. Outbuilding(s) on residential property	28	7
g. Motors 10 HP or larger	28	7
h. Multi-family dwelling feeders	28	7
i. Signs	28	7
j. Low voltage temperature control circuits per building story or system	28	7

Column A - The fee for inspection of a single unit or the first of several units when a service or feeder in (1)(A) or (1)(B) is not installed.

Column B - The fee for inspection of additional units when they are inspected at the same time, at the same location and on the same permit as a unit in Column (1)(A), (1)(B), or (2)(A).

*Total fee for inspection of one service and feeder for a mobile home when they are inspected at the same time is \$35.00.

The above fees are in addition to master-meter, mobile home park, recreational vehicle park, marina shore services and/or the main service(s).

(3) The fee for new circuits, circuit extensions, and circuit alterations where the service or feeder is not modified, shall be \$28 for one to four circuits inspected at the same time on the same premises under a single permit plus \$2 for each additional circuit. The total fee shall be no greater than the fee for a new service for the building.

(4) Low voltage systems. The fee for inspection of residential, burglar or fire alarm systems, and other Class 2, low voltage systems shall be \$28. For commercial or industrial, Class 2, low voltage system installations, the minimum fee shall be \$28 for the control panel and up to four circuits or zones plus \$7 for each additional circuit (zone).

(5) In addition to the service and feeder installation fees, the fee for inspecting each electrically driven irrigation machine is \$50 including tower and drive motors.

(6) The fee for emergency, standby, and resource recovery generators up to 50 KVA is \$28. The fee for a generator installation larger than 50 KVA, or that is the main source of power, is that in the appropriate Column B or C in subsection (1) of this section.

(7) A firm, corporation or other entity which has a regularly employed electrical maintenance staff which is exempted from the requirement to have an electrician certificate of competency by RCW 19.28.610, may choose to purchase an annual electrical work permit rather than a work permit for each installation or alteration in accordance with this section. A separate fee shall be provided for each plant location or complex. The following fee will entitle the purchaser to the number of inspections shown for a one-year period after the date of purchase of an electrical work permit.

FEE - INSPECTIONS

1 thru 3 plant electricians	1,430 per year	12
4 thru 6 plant electricians	\$2,860 per year	24
7 thru 12 plant electricians	\$4,290 per year	36
13 thru 25 plant electricians	\$5,720 per year	52
more than 25 plant electricians	\$7,150 per year	52

(8) Fees for carnival electrical inspections:

a. Preseason or first field inspection per year, \$15 per ride and generator truck and \$2 per remote distribution equipment, concession or gaming show with a minimum fee of \$50. Amusement rides shall be set up prior to inspection.

b. For subsequent inspections, the fee shall be \$50 for the first ten rides, concessions, generators, remote distribution equipment or gaming shows and \$2 each for all additional rides, concessions, generators, remote distribution equipment and gaming shows. If a ride, concession, generator, remote distribution equipment or gaming show has no insignia of inspection for the calendar year, the fee shall be that charged in a. of this subsection.

(9) Trip fees. A fee shall be paid before approval of the installation if the following services are necessary:

- a. \$56 for requests to inspect existing installations.
- b. \$28 for trips to inspect when the permit submitter has given notice to the department that the work is ready for inspection when it is not.

c. \$28 where an additional inspection trip is necessary because the submitter has given an erroneous or incomplete address.

d. \$28 for more than one additional inspection trip per permit to inspect corrections or for repeated carelessness, neglect, or improperly installing electrical conductors or equipment.

e. \$28 for each trip necessary to remove a noncompliance citation from the jobsite, posted because unlicensed electrical contractors or uncertified electricians or trainees were working on the jobsite.

f. \$28 per day where corrections have not been made in the prescribed time, unless an exception has been requested and granted.

(10) Double fees. A double inspection fee shall be charged for:

- a. Installations that are covered or concealed before inspection;
- b. Failure to obtain the electrical work permit prior to beginning the installation or alteration. Exception - electrical work permits for emergency repairs to existing electrical systems shall be obtained no later than the next business day.

(11) On jobs requiring partial or progress inspections, "one" inspection of one half hour duration is allowed per \$28 of fee.

(12) The fee for a plan review request pursuant to WAC 296-46-140 (1) and (2) is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-495, plus a plans submission fee of \$50. The fee for review of supplemental submissions of plans is \$40 per hour or a fraction of an hour.)

(1) RESIDENTIAL

(a) Single and Two Family Residential (New Construction)

(i) First 1300 sq. ft. or less	\$60
Each additional 500 sq. ft. or portion of	\$20
(ii) Each outbuilding or detached garage inspected with the service (see note)	\$25

Note: When not inspected at same time as service, refer to (b) of this subsection

(b) Multi-Family Residential (New Construction)

Each Service and or Feeder

Service Ampacity	Service	Feeder
0 to 200	65	\$ 30
201 to 400	80	40
401 to 600	110	55
601 to 800	140	75
801 and over	200	150

(c) Single Family or Multi-Family Altered Services Including Circuits

(i) Service Ampacity Service or Feeder

0 to 200	\$ 55
201 to 600	80
over 600	1201

(ii) Maintenance or Repair of Meter or Mast (No alterations to service or feeder) \$40

(d) Single or Multi-Family Residential Circuits Only (No Service Inspection)

(i) 1 to 4 circuits (see note)	\$40
(ii) Each additional circuit	5

Note: Total fee per panel not to exceed (c)(i) of this subsection Service/Feeder

(e) Mobile Homes; Mobile Home Parks; and RV Parks

(i) Mobile Home Service or Feeder Only	\$40
(ii) Mobile Home Service and Feeder	65

(iii) Mobile Home Park Sites and RV Park Sites

(A) First service or feeder	40
(B) Each additional service; or a feeder inspected at same time as service	25

Note: For Master Service Installations, see subsection (2).

(2) COMMERCIAL/INDUSTRIAL

(a) Service/Feeder; and Feeders Inspected at the Same Time as Service (Circuits Included)

(i) Service/Feeder Ampacity	Service/Feeder	Additional Feeder inspected at the same time
0 to 100	\$ 65	\$ 40
101 to 200	80	50
201 to 400	150	60
401 to 600	175	70
601 to 800	225	95
801 to 1000	275	115
Over 1000	300	160

(ii) Over 600 volts surcharge..... \$50

(b) Altered Services or Feeders (No Circuits)

(i) Service Ampacity	Service/Feeder
0 to 200	\$ 65
201 to 600	150
601 to 1000	225
Over 1000	250

(ii) Over 600 Volts Surcharge..... \$50

(iii) Maintenance or Repair of Meter or Mast (No alteration of service equipment) 55

(c) Circuits Only

(i) First five circuits per branch circuit panel \$50
 (ii) Each additional circuit per branch circuit panel 5

Note: Total fee per panel not to exceed (a)(i) of this subsection Service/Feeder

(3) TEMPORARY SERVICES

(a) Residential \$35

(b) Commercial/Industrial

Service or Feeder Ampacity	
0 to 100	\$40
101 to 200	50
201 to 400	60
401 to 600	80
Over 600	90

Each additional feeder inspected at the same time as service or first feeder add 50% of the fee above.

(4) IRRIGATION MACHINES, PUMPS AND EQUIPMENT
Irrigation Machines

(a) Each tower when inspected at same time as service and feeder \$5

(b) When not inspected at same time as service and feeders - first 6 60

Each additional tower per (a) of this subsection 5

(5) MISCELLANEOUS - Commercial/Industrial and Residential

(a) Thermostats

(i) First thermostat \$30

(ii) Each additional thermostat inspected at the same time as first thermostat 10

(b) Low Voltage Fire Alarm and Burglar Alarm

(i) First 2500 sq. ft. or less. Includes nurse call intercom, security systems and similar low energy circuits and equipment \$35

(ii) Each additional 500 sq. ft. or portion thereof 10

(c) Signs and Outline Lighting

(i) First sign (No service) \$30

(ii) Each additional sign inspected at the same time on the same bldg. or structure 15

(d) Berth at a marina or dock \$40
 Each additional berth inspected at the same time 25

(e) Yard pole meter loops Only \$40

Meters installed remote from service equipment: Inspected at same time as service, temporary service or other installations 10

(f) Emergency Inspections Requested Outside Normal Work Hours. Regular fee plus surcharge of \$75

(g) Generators

(i) 50 KVA or less \$50

(ii) Each additional 50 KVA or portion thereof 10

(h) Annual permit fee for plant location employing regular electrical maintenance staff - Each inspection two hour maximum.

	Fee	Inspections
1 to 3 plant electricians	\$1,430	12
4 to 6 plant electricians	2,860	24
7 to 12 plant electricians	4,290	36
13 to 25 plant electricians	5,720	52
more than 25 plant electricians	7,150	52

(i) Carnival Inspections

(i) First field inspection each year

(A) Each ride and generator truck \$15

(B) Each remote distribution equipment, concession or gaming show 5

(C) Minimum fee 75

(ii) Subsequent inspections

(A) First 10 rides, concessions, generators, remote distribution equipment or gaming show \$75

(B) Each additional ride, concession, generator, remote distribution equipment or gaming show 5

(j) Trip Fees

(i) Requests to inspect existing installations \$60

(ii) Submitter notifies the department that work is ready for inspection when it is not 30

(iii) Additional inspection required because submitter has provided wrong address 30

(iv) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work 30

(v) Each trip necessary to remove a noncompliance notice 30

(vi) Corrections have not been made in the prescribed time, unless an exception has been requested and granted 30

(k) Double Fees will be charged for:

(i) Installations that are covered or concealed before inspection.

(ii) Failure to obtain an electrical work permit prior to beginning the installation or alteration.

Exception: Electrical work permits for emergency repairs to existing electrical systems shall be obtained the next business day.

(l) Progress Inspections

On partial or progress inspections, each one-half hour \$30

(m) Plan Review Fee

(i) Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-495, plus a plan submission fee of \$50

(ii) Supplemental submissions of plans per hour or fraction of an hour \$60

(n) Other Inspections

Inspections not covered by above inspection fees shall be charged portal to portal per hour \$60

AMENDATORY SECTION (Amending WSR 90-17-041, filed 8/10/90, effective 9/10/90)

WAC 296-46-915 ELECTRICAL CONTRACTOR LICENSE, ADMINISTRATOR CERTIFICATE AND EXAMINATION, AND COPY FEES.

- (1) General or specialty contractor license (per twenty-four month period) ((~~\$80~~)
\$200)
- (2) Administrator certificate examination application (nonrefundable) \$25
- (3) Administrator original certificate (submitted with application) ((~~\$40~~)
\$60)
- (4) Administrator certificate renewal (per twenty-four month period) ((~~\$52~~)
\$75)
- (5) Late renewal of administrator certificate (per twenty-four month period) ((~~\$104~~)
\$150)
- (6) Transfer of administrator designation within 10 days ((~~\$20~~)
\$30)
after 10 days ((~~\$50~~)
\$60)
- (7) Certified copy of each document (maximum \$44 per file) \$20 first document
\$2 each additional document

AMENDATORY SECTION (Amending WSR 90-17-041, filed 8/10/90, effective 9/10/90)

WAC 296-401-175 JOURNEYMAN, SPECIALTY AND TRAINEE CERTIFICATE, AND EXAMINATION FEES.

- (1) Journeyman or specialty electrician certificate renewal (per 24-month period) - \$ ((~~26~~)
40)
- (2) Late renewal of journeyman or specialty electrician certificate (per 24-month period) - \$ ((~~52~~)
80)
- (3) Journeyman or specialty electrician examination application (nonrefundable) - \$ 25
- (4) Journeyman or specialty electrician original certificate (submitted with application) - \$ ((~~20~~)
40)
- (5) Trainee certificate (expires one year after purchase) - \$ ((+5)
20)
- (6) Trainee certificate renewal or update of hours - \$ 20

**WSR 92-03-137
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Order 92-01—Filed January 22, 1992, 9:31 a.m.]

Original Notice.

Title of Rule: Chapter 296-62 WAC, General occupational health standards; and chapter 296-155 WAC, Safety standards for construction work.

Purpose: Chapter 296-62 WAC, General occupational health standards, federal-initiated new sections WAC 296-62-08001 and 296-62-08050 are proposed to be "identical" to the federal final rule published in Federal Register Volume 56, Number 235, dated December 6, 1991. Proposed state-initiated housekeeping amendment to change the title of Part J to biological agents and create a new part entitled, Part J-1, Physical agents. This part will contain WAC 296-62-090 through 296-62-09013; and chapter 296-155 WAC, Safety standards

for construction work, state-initiated amendment for this chapter is a proposed amendment to delete the reference to WAC 296-24-045, Safety and health committee plan and require that construction industry employers hold foreman-crew safety meetings to promote employee involvement in occupational safety and health matters. Additional changes establish foreman-crew meeting frequency. The requirements for a walk-around safety inspection conducted jointly by labor and management, which were optional, are now mandatory. The frequency of walk-around safety inspections are defined and the requirement to document those inspections is established.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, 49.17.050, and 49.17.060.

Summary: See Purpose above.

Reasons Supporting Proposal: To ensure a safe and healthful workplace for all employees in Washington state.

Name of Agency Personnel Responsible for Drafting: Ray 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, Federal Register Volume 56, Number 235, dated December 6, 1991.

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above and Small Business Economic Impact Statement below.

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.

Proposed federal-initiated new sections WAC 296-62-08001 and 296-62-08050 are made to be "identical" to the federal final rule published in Federal Register Volume 56, Number 235, dated December 6, 1991. Amendments renaming Parts J and new Part J-1 are housekeeping changes to put biological and physical agents. These changes are made solely to conform or comply with federal laws and regulations.

The department has considered the effects on employers of the proposed change to WAC 296-155-110 and has determined that the adoption of these amendments will not have an adverse disproportionate economic impact on small businesses. The size and complexity of jobs bid by small and large employers is normally related to the size of the business. The greater expenditure of time and money to document and complete a walk-around inspection would be for those businesses with the largest number of employees.

Hearing Location: Office Building 2, Auditorium, 14th and Jefferson, Olympia, Washington 98504, on February 28, 1992, at 9:30 a.m.

Submit Written Comments to: [No information supplied by agency] by February 28, 1992.

Date of Intended Adoption: April 1, 1992.
January 22, 1992
Joseph A. Dear
Director

PART J
BIOLOGICAL AGENTS

NEW SECTION

WAC 296-62-08001 BLOODBORNE PATHOGENS. (1) Scope and application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by subsection (2) of this section.

(2) Definitions. For purposes of this section, the following shall apply:

"Blood" means human blood, human blood components, and products made from human blood.

"Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

"Clinical laboratory" means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

"Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

"Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

"Contaminated sharps" means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

"Director" means the director of the Washington state department of labor and industries; the state designee for the Washington state plan.

"Engineering controls" means controls (e.g., sharps disposal containers, self-sheathing needles) that isolate or remove the bloodborne pathogens hazard from the workplace.

"Exposure incident" means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

"Handwashing facilities" means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

"Licensed healthcare professional" is a person whose legally permitted scope of practice allows him or her to independently perform the activities required by subsection (6) of this section, entitled Hepatitis B vaccination and post-exposure evaluation and follow-up.

"HBV" means hepatitis B virus.

"HIV" means human immunodeficiency virus.

"Occupational exposure" means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

"Other potentially infectious materials" means:

(a) The following human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(b) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, or organs, or other tissues from experimental animals infected with HIV or HBV.

"Parenteral" means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

"Personal protective equipment" is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

"Production facility" means a facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

"Regulated waste" means liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

"Research laboratory" means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

"Source individual" means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

"Sterilize" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

"Universal precautions" are an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

"Work practice controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

(3) Exposure control.

(a) Exposure control plan.

(i) Each employer having an employee(s) with occupational exposure as defined by subsection (2) of this section shall establish a written exposure control plan designed to eliminate or minimize employee exposure.

(ii) The exposure control plan shall contain at least the following elements:

(A) The exposure determination required by (b) of this subsection;

(B) The schedule and method of implementation for subsection (4) of this section, Methods of compliance; subsection (5) of this section, HIV and HBV research laboratories and production facilities; subsection (6) of this section, Hepatitis B vaccination and post-exposure evaluation and follow-up; subsection (7) of this section, Communication of hazards to employees; and subsection (8) of this section, Recordkeeping; and

(C) The procedure for the evaluation of circumstances surrounding exposure incidents as required by subsection (6)(c)(i) of this section.

(iii) Each employer shall ensure that a copy of the exposure control plan is accessible to employees in accordance with WAC 296-62-05209.

(iv) The exposure control plan shall be reviewed and updated at least annually, and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure, and to reflect new or revised employee positions with occupational exposure.

(v) The exposure control plan shall be made available to the director upon request for examination and copying.

(b) Exposure determination.

(i) Each employer who has an employee(s) with occupational exposure as defined by subsection (2) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

(A) A list of all job classifications in which all employees in those job classifications have occupational exposure;

(B) A list of job classifications in which some employees have occupational exposure; and

(C) A list of all tasks and procedures or groups of closely related tasks and procedures in which occupational exposure occurs, and that are performed by employees in job classifications listed in accordance with the provisions of (b)(i)(B) of this subsection.

(ii) This exposure determination shall be made without regard to the use of personal protective equipment.

(4) Methods of compliance.

(a) General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

(b) Engineering and work practice controls.

(i) Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

(ii) Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

(iii) Employers shall provide handwashing facilities which are readily accessible to employees.

(iv) When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

(v) Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

(vi) Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

(vii) Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in (b)(vii)(A) and (B) of this subsection. Shearing or breaking of contaminated needles is prohibited.

(A) Contaminated needles and other contaminated sharps shall not be recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical procedure.

(B) Such recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

(viii) Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

(A) Puncture resistant;

(B) Labeled or color-coded in accordance with this standard;

(C) Leakproof on the sides and bottom; and

(D) In accordance with the requirements set forth in (d)(ii)(E) of this subsection for reusable sharps.

(ix) Eating, drinking, smoking, applying cosmetics, or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

(x) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present.

(xi) All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

(xii) Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

(xiii) Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

(A) The container for storage, transport, or shipping shall be labeled or color-coded according to subsection (7)(a)(i) of this section and closed prior to being stored, transported, or shipped. When a facility utilizes universal precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with subsection (7)(a)(i) of this section is required when such specimens/containers leave the facility.

(B) If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

(C) If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is punctured-resistant in addition to the above characteristics.

(xiv) Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

(A) A readily observable label in accordance with subsection (7)(a)(i)(H) of this section shall be attached to the equipment stating which portions remain contaminated.

(B) The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

(c) Personal protective equipment.

(i) Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

(ii) Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or the co-worker. When the employee makes this judgment, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

(iii) Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

(iv) Cleaning, laundering, and disposal. The employer shall clean, launder, and dispose of personal protective equipment required by subsections (4) and (5) of this section, at no cost to the employee.

(v) Repair and replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

(vi) If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

(vii) All personal protective equipment shall be removed prior to leaving the work area.

(viii) When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination, or disposal.

(ix) Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin; when performing vascular access procedures except as specified in (c)(ix)(D) of this subsection; and when handling or touching contaminated items or surfaces.

(A) Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

(B) Disposable (single use) gloves shall not be washed or decontaminated for re-use.

(C) Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

(D) If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

(I) Periodically reevaluate this policy;

(II) Make gloves available to all employees who wish to use them for phlebotomy;

(III) Not discourage the use of gloves for phlebotomy; and

(IV) Require that gloves be used for phlebotomy in the following circumstances:

— When the employee has cuts, scratches, or other breaks in his or her skin;

— When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and

— When the employee is receiving training in phlebotomy.

(x) Masks, eye protection, and face shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(xi) Gowns, aprons, and other protective body clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

(xii) Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

(d) Housekeeping.

(i) General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

(ii) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(A) Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

(B) Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

(C) All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood of becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

(D) Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

(E) Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

(iii) Regulated waste.

(A) Contaminated sharps discarding and containment.

(I) Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

— Closable;

— Puncture resistant;

— Leakproof on sides and bottom; and

— Labeled or color-coded in accordance with subsection (7)(a)(i) of this section.

(II) During use, containers for contaminated sharps shall be:

— Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

— Maintained upright throughout use; and

— Replaced routinely and not be allowed to overflow.

(III) When moving containers of contaminated sharps from the area of use, the containers shall be:

— Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;

— Placed in a secondary container if leakage is possible. The second container shall be:

● Closable;

● Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and

● Labeled or color-coded according to subsection (7)(a)(i) of this section.

(IV) Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

(B) Other regulated waste containment.

(I) Regulated waste shall be placed in containers which are:

— Closable;

— Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

— Labeled or color-coded in accordance with subsection (7)(a)(i) of this section; and

— Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(II) If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

— Closable;

— Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping;

— Labeled or color-coded in accordance with subsection (7)(a)(i) of this section; and

— Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(C) Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states and territories, and political subdivisions of states and territories.

(iv) Laundry.

(A) Contaminated laundry shall be handled as little as possible with a minimum of agitation.

(I) Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

(II) Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with subsection (7)(a)(i) of this section. When a facility utilizes universal precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions.

(III) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

(B) The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

(C) When a facility ships contaminated laundry off-site to a second facility which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with subsection (7)(a)(i) of this section.

(5) HIV and HBV research laboratories and production facilities.

(a) This subsection applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of the standard.

(b) Research laboratories and production facilities shall meet the following criteria:

(i) Standard microbiological practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(ii) Special practices.

(A) Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

(B) Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled, or color-coded container that is closed before being removed from the work area.

(C) Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

(D) When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with subsection (7)(a)(ii) of this section.

(E) All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

(F) Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

(G) Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

(H) Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(I) Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

(J) Hypodermic needles and syringes shall be used only for parental injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

(K) All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

(L) A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

(M) A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

(iii) Containment equipment.

(A) Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

(B) Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

(c) HIV and HBV research laboratories shall meet the following criteria:

(i) Each laboratory shall contain a facility for hand washing and an eyewash facility which is readily available within the work area.

(ii) An autoclave for decontamination of regulated waste shall be available.

(d) HIV and HBV production facilities shall meet the following criteria:

(i) The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area

from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

(ii) The surfaces of doors, walls, floors, and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

(iii) Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

(iv) Access doors to the work area or containment module shall be self-closing.

(v) An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

(vi) A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

(e) Training requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in subsection (7)(b)(ix) of this section.

(6) Hepatitis B vaccination and post-exposure evaluation and follow-up.

(a) General.

(i) The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.

(ii) The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

(A) Made available at no cost to the employee;

(B) Made available to the employee at a reasonable time and place;

(C) Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and

(D) Provided according to recommendations of the United States Public Health Service current at the time these evaluations and procedures take place, except as specified by this subsection (6).

(iii) The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(b) Hepatitis B vaccination.

(i) Hepatitis B vaccination shall be made available after the employee has received the training required in subsection (7)(b)(vii)(1) of this section and within ten working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

(ii) The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

(iii) If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

(iv) The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in WAC 296-62-08050, appendix A.

(v) If a routine booster dose(s) of hepatitis B vaccine is recommended by the United States Public Health Service at a future date, such booster dose(s) shall be made available in accordance with (a)(ii) of this subsection.

(c) Post-exposure evaluation and follow-up. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

(i) Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

(ii) Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

(A) The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

(B) When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

(C) Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

(iii) Collection and testing of blood for HBV and HIV serological status;

(A) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

(B) If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety days. If, within ninety days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

(iv) Post-exposure prophylaxis, when medically indicated, as recommended by the United States Public Health Service;

(v) Counseling; and

(vi) Evaluation of reported illnesses.

(d) Information provided to the healthcare professional.

(i) The employer shall ensure that the healthcare professional responsible for the employee's hepatitis B vaccination is provided a copy of this regulation.

(ii) The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

(A) A copy of this regulation;

(B) A description of the exposed employee's duties as they relate to the exposure incident;

(C) Documentation of the route(s) of exposure and circumstances under which exposure occurred;

(D) Results of the source individual's blood testing, if available; and

(E) All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

(e) Healthcare professional's written opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within fifteen days of the completion of the evaluation.

(i) The healthcare professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

(ii) The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

(A) That the employee has been informed of the results of the evaluation; and

(B) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

(iii) All other findings or diagnoses shall remain confidential and shall not be included in the written report.

(f) Medical recordkeeping. Medical records required by this standard shall be maintained in accordance with subsection (8)(a) of this section.

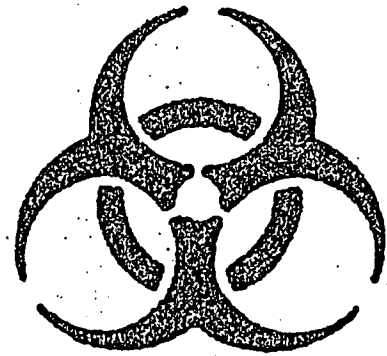
(7) Communication of hazards to employees.

(a) Labels and signs.

(i) Labels.

(A) Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in (a)(i)(E), (F), and (G) of this subsection.

(B) Labels required by this section shall include the following legend:



BIOHAZARD

(C) These labels shall be fluorescent orange-red or predominantly so, with lettering or symbols in a contrasting color.

(D) Labels required by affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

(E) Red bags or red containers may be substituted for labels.

(F) Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of subsection (7) of this section.

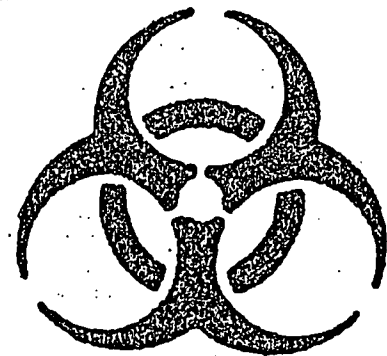
(G) Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

(H) Labels required for contaminated equipment shall be in accordance with this subitem and shall also state which portions of the equipment remain contaminated.

(I) Regulated waste that has been decontaminated need not be labeled or color-coded.

(ii) Signs.

(A) The employer shall post signs at the entrance to work areas specified in subsection (5) of this section, entitled HIV and HBV research laboratory and production facilities, which shall bear the following legend:



BIOHAZARD

(Name of the Infectious Agent)
(Special requirements for entering the area)
(Name, telephone number of the laboratory director
or other responsible person.)

(B) These signs shall be fluorescent orange-red or predominantly so, with lettering or symbols in a contrasting color.

(b) Information and training.

(i) Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.

(ii) Training shall be provided as follows:

(A) At the time of initial assignment to tasks where occupational exposure may take place;

(B) Within ninety days after the effective date of the standard; and

(C) At least annually thereafter.

(iii) For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

(iv) Annual training for all employees shall be provided within one year of their previous training.

(v) Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

(vi) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

(vii) The training program shall contain at a minimum the following elements:

(A) An accessible copy of the regulatory text of this standard and an explanation of its contents;

(B) A general explanation of the epidemiology and symptoms of bloodborne diseases;

(C) An explanation of the modes of transmission of bloodborne pathogens;

(D) An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

(E) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

(F) An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

(G) Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

(H) An explanation of the basis for selection of personal protective equipment;

(I) Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

(J) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

(K) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;

(L) Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

(M) An explanation of the signs and labels and/or color coding required by (a) of this subsection; and

(N) An opportunity for interactive questions and answers with the person conducting the training session.

(viii) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

(ix) Additional initial training for employees in HIV and HBV laboratories and production facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements:

(A) The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

(B) The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

(C) The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

(8) Recordkeeping.

(a) Medical records.

(i) The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with WAC 296-62-052.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by subsection (6)(b) of this section;

(C) A copy of all results of examinations, medical testing, and follow-up procedures as required by subsection (6)(c) of this section;

(D) The employer's copy of the healthcare professional's written opinion as required by subsection (6)(e) of this section; and

(E) A copy of the information provided to the healthcare professional as required by subsection (6)(d)(ii)(B), (C), and (D) of this section.

(iii) Confidentiality. The employer shall ensure that employee medical records required by (a) of this subsection are:

(A) Kept confidential; and

(B) Are not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

(iv) The employer shall maintain the records required by subsection (8) of this section for at least the duration of employment plus thirty years in accordance with WAC 296-62-052.

(b) Training records.

(i) Training records shall include the following information:

(A) The dates of the training sessions;

(B) The contents or a summary of the training sessions;

(C) The names and qualifications of persons conducting the training; and

(D) The names and job titles of all persons attending the training sessions.

(ii) Training records shall be maintained for three years from the date on which the training occurred.

(c) Availability.

(i) The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the director for examination and copying.

(ii) Employee training records required by this section shall be provided upon request for examination and copying to employees, to employee representatives, to the director in accordance with WAC 296-62-052.

(iii) Employee medical records required by this section shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the director in accordance with WAC 296-62-052.

(d) Transfer of records.

(i) The employer shall comply with the requirements involving transfer of records set forth in WAC 296-62-052.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director, at least three months prior to their disposal and transmit them to the director, if required by the director to do so, within that three-month period.

(9) Dates.

(a) Effective date. The standard shall become effective on May 26, 1992.

(b) The exposure control plan required by subsection (3)(b) of this section shall be completed on or before June 26, 1992.

(c) Subsection (7)(b) of this section, entitled Information and training; and subsection (7)(h) of this section, entitled Recordkeeping; shall take effect on or before July 27, 1992.

(d) Subsection (4)(b) of this section, entitled Engineering and work practice controls; subsection (4)(c) of this section, entitled Personal protective equipment; subsection (4)(d) of this section, entitled Housekeeping; subsection (5) of this section, entitled HIV and HBV research laboratories and production facilities; subsection (6) of this section, entitled Hepatitis B vaccination and post-exposure evaluation and follow-up; and subsection (7)(a) of this section, entitled Labels and signs; shall take effect August 27, 1992.

NEW SECTION

WAC 296-62-08050 APPENDIX A—HEPATITIS B VACCINE DECLINATION—MANDATORY.

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a

serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

PART J-1
PHYSICAL AGENTS

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-110 ACCIDENT PREVENTION PROGRAM.

~~((1) Every employer shall develop a written accident prevention program, as required by WAC 296-24-040, and a safety and health committee plan, as required by WAC 296-24-045. Every employer, regardless of the number of employees, is required to implement the requirements of WAC 296-24-045, except that the provisions of WAC 296-24-045 and 296-24-040 (1)(b) may be accomplished by:~~

~~(a) Foreman-crew safety meetings held at least weekly.
(b) Foreman-crew meetings tailored to the particular operation.
(c) At least weekly, a walk-around safety inspection conducted jointly by one member of management and one employee, elected by the employees as their authorized representative.~~

~~(2) Minutes of each foreman-crew meeting shall be prepared and a copy shall be maintained at the location where the majority of the employees of each construction site report for work each day. Minutes of meetings shall be retained by the employer for at least one year and shall be made available for review by personnel of the division of industrial safety and health, upon request.~~

~~(3) Foreman-crew meetings shall address the following:~~

~~(a) A review of any walk-around safety inspection conducted since the last safety meeting.~~

~~(b) A review of any citation to assist in correction of hazards.~~

~~(c) An evaluation of any accident investigations conducted since the last meeting to determine if the cause of the unsafe acts or unsafe conditions involved were properly identified and corrected.~~

~~(d) Attendance shall be documented.~~

~~(e) Subjects discussed shall be documented.~~

~~Note: Subcontractors and their employees may attend the prime contractor's meeting provided that the prime contractor agrees and that all other requirements of this section are met.)~~

(1) Each employer shall develop a formal accident-prevention program, tailored to the needs of the particular plant or operation and to the type of hazard involved. The division may be contacted for assistance in developing appropriate programs.

(2) The following are the minimal program elements for all employers:

A safety orientation program describing the employer's safety program and including:

(a) How, where, and when to report injuries, including instruction as to the location of first-aid facilities.

(b) How to report unsafe conditions and practices.

(c) The use and care of required personal protective equipment.

(d) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(e) Identification of the hazardous gases, chemicals, or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(f) A description of the employer's total safety program.

(g) An on-the-job review of the practices necessary to perform job assignments in a safe manner.

(3) Each accident-prevention program shall be outlined in written format.

(4) Every employer shall conduct foreman-crew safety meetings as follows:

(a) Foreman-crew safety meetings shall be held at the beginning of each job, and at least weekly thereafter.

(b) Foreman-crew meetings shall be tailored to the particular operation.

(5) Foreman-crew safety meetings shall address the following:

(a) A review of any walk-around safety inspection conducted since the last safety meeting.

(b) A review of any citation to assist in correction of hazards.

(c) An evaluation of any accident investigations conducted since the last meeting to determine if the cause of the unsafe acts or unsafe conditions involved were properly identified and corrected.

(d) Attendance shall be documented.

(e) Subjects discussed shall be documented.

Note: Subcontractors and their employees may, with the permission of the general contractor, elect to fulfill the requirements of subsection (4)(a) and (b) of this section by attending the prime contractors foreman-crew safety meeting. Any of the requirements of subsections (5)(a), (b), (c), and (6) of this section not satisfied by the prime contractors safety meetings shall be the responsibility of the individual employers.

(6) Minutes of each foreman-crew meeting shall be prepared and a copy shall be maintained at the location where the majority of the employees of each construction site report for work each day.

(7) Minutes of foreman-crew safety meetings shall be retained by the employer for at least one year and shall be made available for review by personnel of the division of industrial safety and health, upon request.

(8) Every employer shall conduct walk-around safety inspections as follows:

(a) At the beginning of each job, and at least weekly thereafter, a walk-around safety inspection shall be conducted jointly by one member of management and one employee, elected by the employees, as their authorized representative.

(b) The employer shall document walk-around safety inspections and such documentation shall be available for inspection by personnel of the division of industrial safety and health.

(c) Records of walk-around inspections shall be maintained by the employer until the completion of the job.

WSR 92-03-138

PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 92-04—Filed January 22, 1992, 11:04 a.m.]

Date of Adoption: January 22, 1992.

Purpose: To define procedures for allocating state moneys for low-income student tuition assistance for traffic safety education and to set minimum hour requirements for approved traffic safety education courses.

Citation of Existing Rules Affected by this Order:
Amending WAC 392-122-265, 392-153-005, 392-153-015, and 392-153-032.

Statutory Authority for Adoption: RCW 28A.220.030.

Pursuant to notice filed as WSR 91-24-071 on December 2, 1991.

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

January 22, 1992

Judith A. Billings

Superintendent of

Public Instruction

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

WAC 392-122-265 STATE INSTITUTIONAL EDUCATION PROGRAM—INSTITUTIONAL PROGRAM TRAFFIC SAFETY ALLOCATION. Traffic safety moneys shall be allocated to eligible state institutional education programs pursuant to ((chapter 392-153 WAC by January of each school year)) WAC 392-122-300 through 392-122-322.

NEW SECTION

WAC 392-122-300 TRAFFIC SAFETY EDUCATION—APPLICABLE PROVISIONS. WAC 392-122-300 through 392-122-322 and WAC 392-122-905 through 392-122-910 apply to distribution of state moneys for traffic safety education.

NEW SECTION

WAC 392-122-301 TRAFFIC SAFETY EDUCATION—DEFINITION—COMPLETING STUDENT. As used in WAC 392-122-300 through 392-122-322, "completing student" means the same as defined in WAC 392-153-032.

NEW SECTION

WAC 392-122-302 TRAFFIC SAFETY EDUCATION—DEFINITION—LOW-INCOME STUDENT. As used in WAC 392-122-300 through 392-122-322 "low-income student" means the same as defined in WAC 392-100-100.

NEW SECTION

WAC 392-122-303 TRAFFIC SAFETY EDUCATION—LOW-INCOME ELIGIBILITY—DOCUMENTATION AND CONFIDENTIALITY. Documentation of low-income student eligibility shall meet the requirements of WAC 392-100-101. Confidentiality of eligibility of low-income students shall be maintained as provided in WAC 392-100-102.

NEW SECTION

WAC 392-122-304 TRAFFIC SAFETY EDUCATION—DEFINITION—LOW-INCOME TUITION ASSISTANCE. As used in WAC 392-122-300 through 392-122-322, "low-income tuition assistance" means the result of subtracting the traffic safety education fee paid the school district by a completing low-income student from the fee paid by a completing student who is not low-income.

NEW SECTION

WAC 392-122-320 TRAFFIC SAFETY EDUCATION—APPORTIONMENT OF STATE MONEYS. From moneys appropriated for traffic safety education, the superintendent of public instruction shall allocate moneys to each school district as follows:

(1) For the 1991-92 school year, the school district's allocation equals:

(a) The number of completing students as reported on Form F-196 for the 1989-90 school year; multiplied by

(b) The percentage of enrollment determined by the superintendent of public instruction to be eligible for free and reduced priced lunches for the 1990-91 school year; and further multiplied by

(c) The state-wide uniform rate determined by dividing the available appropriation for the 1991-92 school year by the estimated state-wide number of low-income traffic safety education completers.

(2) Payments shall be at the rate of ten percent a month for the months of September through June.

(3) Moneys recovered pursuant to WAC 392-122-322 shall be reallocated proportionately among school districts which report 1991-92 low-income tuition assistance in excess of the allocation provided pursuant to subsection (1) of this section.

NEW SECTION

WAC 392-122-321 TRAFFIC SAFETY EDUCATION—SCHOOL DISTRICT REPORTING. Each school district receiving state traffic safety education moneys for a school year shall report to the superintendent of public instruction by November 1 of the following school year the following information for the school year of the allocation:

(1) The total number of traffic safety education completing students;

(2) The total number of low-income traffic safety education completing students;

(3) The amount of the traffic safety education allocation used for providing low-income tuition assistance;

(4) The criteria used for providing low-income assistance;

(5) The fee paid by low-income completing students; and

(6) The fee paid by completing students who are not low-income.

NEW SECTION

WAC 392-122-322 TRAFFIC SAFETY EDUCATION—RECOVERY OF MONEYS. The superintendent of public instruction shall recover traffic safety education allocations as follows:

(1) After November 1 of the following school year, the superintendent of public instruction shall compare each school district's state traffic safety education allocation for the school year and the amount the school district used to provide low-income tuition assistance for traffic safety education for the school year. Any part of the allocation not used to provide low-income tuition assistance shall be recovered.

(2) Moneys may be recovered pursuant to chapter 392-117 WAC or WAC 392-122-910.

Chapter 392-100 WAC

~~((GENERAL))~~ DEFINITIONS, GENERAL PROVISIONS, AND RULES OF CONSTRUCTIONNEW SECTION

WAC 392-100-100 DEFINITION—LOW-INCOME STUDENT. As used in Title 392 WAC, "low-income student" means a student whose parent(s) or guardian(s) have an annual income equal to or less than one hundred eighty-five percent of the Income Poverty Guidelines published by the United States Department of Health and Human Services in Federal Register No. 220-91 56FR6859 or as later amended (i.e., the standard adopted by the United States Department of Agriculture for reduced priced meals).

NEW SECTION

WAC 392-100-101 DOCUMENTATION OF LOW-INCOME ELIGIBILITY. For purposes of Title 392 WAC, a student's eligibility as a low-income student shall be documented by either:

(1) A notice of eligibility presented by a parent or guardian of the student indicating that the student is

approved for free or reduced priced meals or free milk for the current school year; or

(2) A statement or form signed by a parent or guardian of the student stating that the income of the student's parent(s) or guardian(s) meets the criteria for low-income during the current school year pursuant to WAC 392-122-302.

NEW SECTION

WAC 392-100-102 **CONFIDENTIALITY OF LOW-INCOME ELIGIBILITY.** School districts shall use information contained in the notice of eligibility or other such forms or statements only to determine low-income status or to compile the number of students that are low-income. School districts may not release information contained in a notice of eligibility or other such forms or statements. School districts may release the number of low-income students so long as the students are not identified. Such information is to be used for state allocations and for statistical purposes.

AMENDATORY SECTION (Amending Order 6-77, filed 7/27/77, effective 9/11/77)

WAC 392-153-005 **PURPOSES.** The purposes of this chapter are to implement chapter ((46.81)) 28A.220 RCW and establish the basic requirements governing the operations and scope of traffic safety education programs which may be conducted by any school district maintaining a secondary school which includes any of the grades 10 through 12 or a commercial driving school under the requirements of RCW 46.20.100.

NEW SECTION

WAC 392-153-014 **STATE APPROVAL OF TRAFFIC SAFETY EDUCATION PROGRAM.** The superintendent of public instruction shall approve traffic safety education programs on an annual basis. Only programs meeting the requirements of this chapter shall be approved.

AMENDATORY SECTION (Amending Order 80-24, filed 7/9/80)

WAC 392-153-015 **STATE REIMBURSEMENT((S OR GRANTS)) TO SCHOOL DISTRICTS.** ~~((All payments to school districts pursuant to RCW 46.81.060 for programs in traffic safety education shall be limited to reimbursement for students twenty years of age and under completing an approved traffic safety education program. Traffic safety education programs shall be approved by the superintendent of public instruction on an annual basis. Each school district offering an approved traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be provided from the traffic safety education account.))~~ State reimbursement to school districts operating approved traffic safety education programs shall be provided pursuant to WAC 392-122-300 through 392-122-322 and WAC 392-122-905 through 392-122-910.

AMENDATORY SECTION (Amending Order 80-24, filed 7/9/80)

WAC 392-153-032 **REALISTIC LEVEL OF EFFORT.** Each school district and commercial driving school shall have a locally written curriculum guide available to each teacher and such guide shall be used by each teacher in the traffic safety education program.

The student shall be taught at least the following program concepts: introduction to highway transportation system; preparing and controlling the vehicle; maneuvering in limited space; signs, signals, and pavement markings; vehicle characteristics; human functions used in driving; roadway variations; intersections; traffic flow tasks; lane changes; passing; nonmotorized traffic; internal factors affecting driving performance; physical factors affecting driving performance; alcohol and drugs; vehicle maintenance; planning for travel; limited visibility; reduced traction; special driving conditions; vehicle malfunctioning; avoiding and minimizing impact; post-crash responsibilities; legal responsibilities; highway transportation system improvement; fuel conservation; and motorcycle awareness. The guide shall also include:

- (1) The performance objectives appropriate for the area of instruction.
- (2) The methods of instruction used by the teacher in presenting the material.
- (3) The student activities that will enable a student to accomplish the objectives and to the extent possible allow for individual differences.
- (4) The level of competency each student is to successfully complete in each objective.
- (5) The evaluation criteria for the classroom and laboratory phase.

A student shall meet the objectives and competencies listed in the district curriculum guide as a condition of successful completion of the traffic safety education program.

For the purposes of school district reporting and state reimbursement a completing student ((to be eligible for state reimbursement or a grant)) means a person under twenty-one years of age at the time of enrollment who has enrolled in an approved course and has met one of the following criteria:

- (1) Has completed all the program objectives as required by the school district and approved by the state superintendent of public instruction and has received a passing grade((;)); or
- (2) Has received a failing grade after attending more than ((50%)) fifty percent of the program's scheduled classes but achieved less than ((90%)) ninety percent of the program objectives((;)); or
- (3) Has officially withdrawn, dropped, or transferred after attending more than ((50%)) fifty percent of the program's scheduled classes.

A student taking the course more than once because of a failing grade on the first and subsequent attempts may be counted as a completing student for each attempt.

The traffic safety education course including the classroom and the laboratory phase shall be provided for students in a time period not to exceed ((+8)) eighteen

school weeks nor be less than ((9)) five school weeks ((during the school year: ~~PROVIDED, That summer school course offerings and commercial driving schools offering an approved program shall not be less than 5 weeks in length~~)). A minimum five-week course of instruction is defined as not less than twenty-five hours of contact time in a classroom setting with a certified teacher and not less than four hours of actual driving behind the wheel. In addition, the traffic safety education course shall:

(1) Provide students with no more than ((2)) two hours of classroom instruction and one hour of on-street instruction during any ((24)) twenty-four hour period. Where simulation and/or off-street multiple car driving ranges are utilized, not more than one additional hour per student per day shall be allowed.

(2) Provide laboratory instruction only to students who are currently participating in classroom instruction.

WSR 92-03-139
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Massage)

[Filed January 22, 1992, 11:13 a.m.]

Original Notice.

Title of Rule: WAC 246-830-401 Scope and purpose, 246-830-410 Definitions, 246-830-420 Approval of school, program or apprenticeship program, 246-830-430 Training, 246-830-440 Curriculum, and 246-830-450 Health, sanitation, and faulty [facility] standards.

Purpose: Amends rule by adding language to allow board to approve national educational institutions.

Statutory Authority for Adoption: RCW 18.108.025.

Statute Being Implemented: RCW 18.108.025.

Summary: The Massage Board has the ability to approve massage schools. Amending these rules will allow the board to approve national educational institutions who teach bodywork/somatic education.

Reasons Supporting Proposal: This allows a wider variety of massage students to qualify to take state board examinations to become licensed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Olivia S. Guebara, Olympia, Washington, (206) 753-3199.

Name of Proponent: Board of Massage, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules add specific language regarding national educational institutions approval process by the Board of Massage. The anticipated effects include a order variety of disciplines having the ability to retain professional integrity while being licensed as massage practitioners.

Proposal Changes the Following Existing Rules: Adds specific language regarding national educational institutions.

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

Hearing Location: Holiday Inn, 17338 Pacific Highway South, Seattle, WA 98188, on March 2, 1992, at 9:00 a.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by February 18, 1992.

Date of Intended Adoption: March 2, 1992.

January 21, 1992

Olivia S. Guebara

Program Manager 2

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-401 SCOPE AND PURPOSE. (1) The minimum educational requirements for licensure to practice massage therapy and/or bodywork/somatic education in Washington is successful completion of a course of study from a massage school, program or national educational institution approved by the board.

(2) The purpose of this chapter is to provide a set of standards and procedures by which massage schools, programs or national educational institutions may obtain approval by the board in order that graduates of those schools, programs or national educational institutions may be permitted to take examinations for licensure.

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 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-410 DEFINITIONS. For the purpose of administering chapter 18.108 RCW, the following terms shall be considered in the following manner:

(1) A massage school is an institution which has the sole purpose of offering training in massage therapy.

(2) A massage program is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.

(3) An apprentice is defined, for purposes of this chapter, as one who has successfully completed:

(a) One hundred thirty hours of instruction in anatomy, physiology, and kinesiology including palpation, range of motion and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of instruction in pathology, including indications and contraindications to massage therapy and palpations.

(c) Certification in American Red Cross first aid and American Heart Association CPR or the equivalent.

The above courses must be successfully completed within five years immediately preceding entry into an apprenticeship agreement. The apprentice then shall receive complete training in:

(i) Hydrotherapy (fifteen hours);

(ii) Theory and practice of massage therapy (two hundred fifty hours) at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic; and

(iii) Clinical practices (fifty-five hours), at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws. Training in hydrotherapy, theory and practice of massage therapy, and clinical practices shall be completed in no less than six months or longer than two years from the date of entry into an apprenticeship program.

(4) A massage apprenticeship is training in massage therapy which is offered by a qualified massage practitioner to an apprentice on the basis of an apprenticeship agreement between the massage practitioner and the apprentice. Such agreement shall comply with the educational standards as set forth in this chapter. A qualified massage practitioner is defined as a person that shall have not less than three years full-time

experience in the practice of massage immediately preceding the function as an apprenticeship trainer of massage therapy in an apprenticeship agreement and shall be licensed under this chapter and currently engaged in the practice of massage.

Hereinafter, qualified massage practitioner is referred to as apprenticeship trainer, and apprenticeship program is referred to as program.

(5) A National Educational Institution is an institution which has the purpose of directly supervising training programs in bodywork/somatic education. A National Educational Institution may also be a program which is established for the purpose of offering training in bodywork/somatic education offered in an academic institution which also offers training in other areas of study.

(6) A program is an established area of study offered on a continuous or periodic basis. The national educational institution's certification program must have a permanent administrative location and training location requirements. The Institution's certification program may have its own registered trademark™/servicemarkSM. The certification program must have a code of ethics.

(6) Bodywork/somatic education shall be defined as any established method other than swedish massage in which the practitioner uses touch to improve the function, organization, structure and well being of a person.

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

AMENDATORY SECTION (amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-420 APPROVAL OF SCHOOL, PROGRAM, OR APPRENTICESHIP PROGRAM. The board may accept proof of AMTA, (American Massage Therapy Association) a national professional association's approval of a school or program based on standards and requirements which are substantially equivalent to those identified in this chapter, approval of a school or program in lieu of the requirements contained in this chapter.

(1) Approval of any other school or program may be requested on a form provided by the department.

(2) Application for approval of a school or program shall be made by the authorized representative of the school or the administrator of the apprenticeship agreement.

(3) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specific date.

(4) The application for approval of a school, program or national education institution shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, training locations and facilities, outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy or bodywork/somatic education.

(5) Any school, national educational institution or program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

(6) The board will evaluate the application and, if necessary, conduct a site inspection of the school, national educational institution or program, prior to granting approval by the board.

(7) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification to the application.

(8) In the event the department denies an application or grants conditional approval, the authorized representative of the applicant's school or program may request a review within thirty days of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application.

(9) The authorized representative of an approved school, national educational institution or program or the administrator of an apprenticeship agreement shall notify the board of significant changes with respect to information provided on the application within sixty days.

(10) The board may inspect or review an approved school, national educational institution or program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply

with the requirements of law, administrative rules, or representations in the application.

(11) The authorized representative of a school, national educational institution or administrator of an agreement must immediately correct the deficiencies which resulted in withdrawal of the board's approval.

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.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-430 TRAINING. (1) The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(1 A) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(2 B) Fifty hours of pathology including indications and contraindications of massage therapy and palpations.

(3 C) Two hundred fifty hours of theory and practice of massage therapy, at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic.

(4 D) Fifteen hours of hydrotherapy.

(5 E) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(2) The training in a national educational institution program shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training required of the national educational institution. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(A) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(B) Fifty hours of pathology including indications and contraindications.

(C) Two hundred sixty five hours of theory and practice of bodywork/somatic education, a minimum to include analysis and evaluation of the physical and/or energetic structure, tissue handling techniques, body mechanics of the practitioner, and medical implications. A maximum of 50 of these hours may include time spent in a student clinic.

(D) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(E) A bodywork/somatic education program shall have a curriculum and system of training consistent with its particular area of practice.

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.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-440 CURRICULUM—ACADEMIC STANDARDS—FACULTY—STUDENT CLINIC. (1) The curriculum of the school, national educational institution's program or apprenticeship program shall be designed and presented to meet or exceed the requirement of five hundred hours.

(2) Academic standards. The school, national educational institution or apprenticeship trainer shall regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion of each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.

(3) Faculty. Apprenticeship trainers and faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught. The apprenticeship trainer and faculty should develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional growth. Schools, national educational institutions or programs or apprenticeship programs shall not discriminate on the basis of sex, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty.

(4) Student clinic (optional program). The clinical facilities shall be adequate in size, number, and resources to provide for student practice of massage or bodywork/somatic education on the general public. There shall be properly equipped rooms for consultations, massage therapy or treatment, and equipment as required in the practiced of massage or bodywork/somatic education. A faculty member who is a licensed massage practitioner and adequately experienced in massage therapy or an instructor who is certified by the national educational institution as an instructor of bodywork/somatic education must be present in the clinic at all times the clinic is open and in direct supervisor of, and have final decision in, the massage therapy or bodywork/somatic treatment which is rendered to clients by students.

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.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-450 HEALTH, SANITATION, AND FACILITY STANDARDS. All programs will have adequate facilities and equipment available for students learning massage therapy or bodywork/somatic education. All facility equipment will be maintained in accordance with local rules and ordinances in addition to those imposed by chapter ~~308-51~~ 246-830 WAC. Instructional and practice equipment shall be similar to that found in common occupational practice. An adequate reference library, appropriate to the subjects being taught, shall be available.

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 92-03-140
PROPOSED RULES
DEPARTMENT OF HEALTH**
[Filed January 22, 1992, 11:16 a.m.]

Original Notice.

Title of Rule: WAC 246-806-990 Chiropractic fees.

Purpose: To adopt new fees for new legislation regarding examining board.

Statutory Authority for Adoption: RCW 43.70.250.

Summary: New fees need to be adopted for the new legislation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Glasgow, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 753-0776.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new fees will allow for the following: Temporary permits application fee, temporary practice permit fee, preceptorship fee, and inactive license fee.

Proposal Changes the Following Existing Rules: The change allows for a temporary permit application fee, a temporary practice permit fee, a preceptorship fee and raises the inactive license fee.

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

Hearing Location: Department of Natural Resources, 1102 South Quince Street, Eastside Plaza, Olympia, WA 98504, on February 25, 1992, at 8:30 a.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by February 18, 1992.

Date of Intended Adoption: March 3, 1992.

January 13, 1992
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 207, filed 10/21/91, effective 11/21/91)

WAC 246-806-990 CHIROPRACTIC FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application/full examination or reexamination	\$300.00
Original license	200.00
Temporary permit application	150.00
Temporary practice permit	50.00
Preceptorship	100.00
License renewal	300.00
Late renewal penalty	150.00
Inactive license renewal	((+100.00)) 150.00
Duplicate	15.00
(([Certificate] [Certification])) Certification	25.00
Chiropractic x-ray technician application	25.00
Chiropractic x-ray technician original registration	25.00
Renewal	40.00
Late renewal penalty	25.00
Duplicate	15.00
Certification	25.00

**WSR 92-03-141
PROPOSED RULES
DEPARTMENT OF HEALTH
(Examining Board of Psychology)**
[Filed January 22, 1992, 11:20 a.m.]

Original Notice.

Title of Rule: WAC 246-924-991 Acquisition and retention of health care information; and 246-924-992 Release of health care information.

Purpose: To adopt new rules that cover the acquisition and retention of health care information obtained under the new Health Care Information Act and the release of said information.

Statutory Authority for Adoption: RCW 18.83.050.

Summary: These new rules will set forth the process by which the Examining Board of Psychology obtains, retains and releases health care information.

Reasons Supporting Proposal: The new Health Care Information Act allows the board to obtain information not previously available. These new rules cover the procedure for obtaining, retaining and release of these records.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry J. West, 1300 S.E. Quince Street, EY-21, Olympia, WA 98504, (206) 753-3095.

Name of Proponent: Examining Board of Psychology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will allow for the acquisition, retention and release of information obtained under the Health Care Information Act.

Proposal does not change existing rules.

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

Hearing Location: Seattle Downtown Hilton, Taku/Chinook Room, Sixth and University, Seattle, Washington 98111, on March 13, 1992, at 9:00 a.m.

Submit Written Comments to: Terry J. West, Department of Health, 1300 S.E. Quince Street, EY-21, Olympia, WA 98504, by March 2, 1992.

Date of Intended Adoption: March 13, 1992.

December 20, 1991

Dave Gossett

Chair

NEW SECTION

WAC 246-924-991 ACQUISITION AND RETENTION OF HEALTH CARE INFORMATION. This section sets forth the process by which the examining board of psychology obtains and retains health care information under RCW 70.02.050.

(1) Acquisition of health care information.

(a) The board shall request health care information in writing.

(b) Health care providers shall provide the requested information pursuant to RCW 70.02.050.

(2) The board shall maintain health care information obtained under this section as long as necessary to perform board functions.

(3) The board shall secure the records and protect confidentiality.

(a) The board's program manager and program administrator shall act as custodians of the records and shall provide access to the information only as necessary to perform board functions.

(b) The custodians shall monitor the location and security of the information.

NEW SECTION

WAC 246-924-992 RELEASE OF HEALTH CARE INFORMATION. (1) The board's program manager and program administrator shall act as custodians of all health care information obtained by

the board, shall monitor the location and security of the information, and shall provide access to the information only as necessary to perform board functions.

(2) No health care information containing patient identifying data shall be made available for public inspection and copying.

WSR 92-03-142
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Health)

[Filed January 22, 1992, 11:23 a.m.]

Original Notice.

Title of Rule: Food service rules and regulations, chapter 246-215 WAC.

Purpose: These revisions completely update the existing regulations.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: The revision is a complete update. New sections relating to modified atmosphere packaging, bed and breakfasts, and labeling are included.

Reasons Supporting Proposal: Adoption is desirable to assure public health protection for all food service establishments.

Name of Agency Personnel Responsible for Drafting and Enforcement: Charles A. Bartleson, Building 3, Airdustrial Park, 234-2555 scan; and Implementation: Karen VanDusen, Building 3, Airdustrial Park, 321-5797 scan.

Name of Proponent: State Board of Health, Department of Health, Office of Community Environmental Health Programs, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules relate to food service, restaurants, bars and taverns, retail food stores, bakeries, and institutions are regulated. The purpose is to protect public health and prevent the spread of foodborne diseases. This revision will result in a more pertinent and useful set of regulations which will assure good public health protection.

Proposal Changes the Following Existing Rules: The complete rules have been updated and revised. New sections include modified atmosphere packaging, bed and breakfasts, and labeling. Extensive revisions include mobile food units, temporary food service establishments, and temperature control.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

Purpose: This report reviews and evaluates probable economic impacts on small businesses associated with the proposed revision to chapter 246-215 WAC, Food service regulations. The report addresses requirements relating to the Regulatory Fairness Act, chapter 19.85 WAC.

Overview: The requirements set forth in the food service regulations affect an estimated 20,000 permanent retail food businesses (defined in the regulation as "food service establishments"). In addition an estimated 7,000 or more temporary food establishments are inspected.

The types of permanent establishments regulated include: Restaurants, retail grocery stores, bars and taverns, mobile food units and mobile food carts, retail bakeries, delicatessens, meat and fish markets and certain institutions (i.e. schools, hospitals, nursing homes, retirement homes, prisons, jails, group homes and child care facilities). Temporary food establishments include all food establishments that operate for less than 21 days in conjunction with a fair, festival or similar event. The vast majority of these operations are assumed to be "small businesses."

Local health jurisdictions implement the majority of the provisions of the state food service regulation and often adopt their own, more stringent rules. Activities include: Licensing, inspection, complaint investigation and regulation enforcement. The major exception would be certain institutions licensed and regulated by either the State Departments of Health or Social and Health Services (DOH or DSHS).

This regulation originally adopted to protect public health and safety by preventing the spread of foodborne diseases, has been in force in some form since it was originally adopted in 1962. Previous revisions occurred in 1980, 1984 and 1985.

The current revision to the regulations is necessary because of changes that have occurred in the food service industry since the last revision in 1985. Some of these changes include: Larger supermarkets that are providing many new types of prepared foods; increases in the types and numbers of ethnic foods; increases in numbers and complexity of temporary food establishments; new processes (e.g. modified atmosphere processing); increases in the numbers and complexity of mobile food units (particularly mobile food carts); and new and emerging health concerns. These include tampering, new foodborne pathogens (i.e. *Campylobacter jejuni*, *E. coli* O157:H7, *Listeria monocytogenes* [*monocytogenes*], *Bacillus cereus*, and Norwalk Agent) and the hepatitis A epidemic.

Problems with data gathering, and calculations of impacts: Several factors make it difficult to quantitatively calculate the economic impact of this revision to small businesses. These include:

The Department of Health does not have any list of licensed food service establishments. The most recent data we have was provided to us by local health jurisdictions in 1989. There are 31 local health jurisdictions, each of which keeps its own list of licensed food service establishments. In addition there are several programs within DOH that license institutions as does the Bureau of Nursing Home Affairs in DSHS. All these lists would need to be collected and combined. They exist in different formats, different computer languages and different states of updating.

The three digit business codes do not fit the definition of food service establishment at all well, some but not all, would be impacted by these regulations. The following codes would need to be considered, pulled and sorted to make a calculation, a task causing a significant economic impact to the state: 514-grocery and other products; 541-grocery stores; 542-meat markets and freezers; 543-fruit stores and vegetable markets; 544-candy,

nut and confectionery stores; 545-dairy products stores; 546-retail bakeries; 549-misc. food stores; 581-eating and drinking establishments; 701-hotels, motels and tourist camps; 702-rooming and boarding houses; 805-nursing and personal care facilities; 806-hospitals; 821-elementary and secondary schools; and 836-residential care facilities.

The food service activities of many of the business codes would be very difficult to separate from the other activities performed there (i.e. hospitals, nursing homes, schools, hotels and motels).

Many local health departments have additional local codes and regulations, that are more stringent than the state regulations (i.e. King County Meat Ordinance and Mobile Cart Regulations). It is very difficult to separate the impacts of state and local requirements currently, let alone theoretical future impacts. An example of this occurred recently when the owners of mobile carts were upset by King County regulations but didn't realize that it was a local, not a state requirement that bothered them.

It is very difficult to calculate "loss of profits" due to requirements that food service establishments change processes or cease certain types of food preparation, if they do not have adequate equipment or facilities to properly handle a food product. While they may not be able to continue serving a particular food item, they are also prevented from causing a foodborne illness and suffering the subsequent loss of business.

It is very difficult to separate costs of several codes or ordinances that regulate the same part of a food service establishment's operation. For example, the local building department may require certain standards of construction or plumbing or number of restroom fixtures, and the food service regulations reference the same requirements. There is considerable overlap between building departments, fire regulations and other health regulations governing water supply and sewage disposal. Requirements of other state agencies are also difficult to separate from these regulations (i.e. DOE solid waste requirements, Labor and Industries safety requirements and Washington State Department of Agriculture pesticide requirements).

Identification of economic impacts: Recognizing the data limitations set forth in the previous section, four types of general impacts associated with this revision have none the less been identified. Since almost all of the food service establishments are "small businesses" it is difficult to identify enough large businesses with which to compare costs. Instead it is assumed that these costs will generally affect small businesses more often than large businesses and that the impacts may be harder on small rather than large operations. The groups of economic impacts follow:

Purchase of new equipment. These regulations are based on performance standards rather than on equipment standards; but if the performance standards are not met then new equipment must be purchased. Examples of new equipment or facilities which might be required are: New refrigeration if existing equipment were

not able to maintain proper temperatures; more hand-washing sinks, mop sinks, changes in plumbing (i.e. indirect drains for produce sinks or double check valves for carbonated beverage dispensers, and toilet facilities for patrons).

Costs of HACCP for modified atmosphere packaging. The regulation of modified atmosphere packaging (MAP) is very restrictive as proposed. This is necessary due to a real risk for botulism associated with this process. Since this type of processing has only been used in food service establishments for less than two years, it is difficult to assess what portion of the new business costs are directly associated with this rule revision. Many of the food service uses of MAP are in large businesses but some are in small businesses. Part of the regulation requires that a process called hazard analysis, critical control points (HACCP) be completed before MAP can be done. Many times this process can be done by staff in the food service, but in a complicated operation, the staff may not have adequate training to complete the HACCP. In this case HACCP would have to be completed by a consultant. After HACCP has been done, monitoring requirements will entail some costs as will requirements for laboratory testing if necessary. Part of this cost could be considered "start-up costs", but ongoing quality assurance and HACCP control will be needed.

Costs of plan review. The revisions to the regulation require that the menu as well as the plans for all new food service establishments be reviewed. This assures the facility and equipment design and layouts are appropriate for the intended food service. This requires more cost, since there is more paperwork that must be submitted and approved before licensing is completed. Any extra time required before a new business can be begun operation is an expense that must be considered. Whenever plans are prepared by an architect the costs escalate rapidly. While architectural plans are not a regulatory requirement, as the details needed in plans become more numerous, the likelihood that a professional will complete the plans increases.

Costs of lost business. While the purpose of these regulations is to protect public health; the method used sometimes is to prohibit certain risky practices. For example, smoked, vacuum packed (MAP) fish are not allowed to be processed or sold. This could affect someone's business if they had planned to do that type of business and did not understand that it was prohibited. There are several areas in the regulation where operations may be restricted if they cannot be done safely. These include mobile food units, section 160, temporary food service establishments, section 190 and modified atmosphere packaging, section 060.

Mitigation of small business impacts: While it is very difficult to quantitate all possible economic impacts for small businesses because of the previously mentioned problems; mitigation of many of these costs is possible. This section contains the methods by which a small business can mitigate many of the costs associated with these regulation revisions.

Grandfather clause. An effort has been made to avoid requiring businesses to undertake expensive retrofitting

tasks. For example; in WAC 246-215-090(10) provision is made for exemptions for certain equipment and utensil washing requirements, e.g. sink requirements and mop sinks under certain conditions. The requirements in WAC 246-215-120 (4)(c) for double check valves or approved reduced pressure backflow assemblies do not apply if carbonated beverage machines were installed before the effective date of the new regulations. A similar provision is made in WAC 246-215-120(6) for toilet facilities for patrons.

Variance clause. In WAC 246-215-270 the health officer may grant a variance to any section covering physical facilities, equipment or source of foods if there is no health hazard and the variance is consistent with the intent of the regulations.

Small business impact mitigation. In WAC 246-215-270 the health officer may grant a variance to these regulations when a small business owner can be shown to be economically penalized in comparison to large businesses, as long as no health hazard will occur.

These three remedies will allow a small business to reduce costs related to requirements of these regulations.

Hearing Location: Seattle WestCoast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on March 11, 1992, at 9:00 a.m.

Submit Written Comments to: Charles A. Bartleson, Building 3, Airdustrial Park, P.O. Box 47826, Olympia, WA 98504-7826, by February 25, 1992.

Date of Intended Adoption: March 11, 1992.

January 21, 1992

Sylvia Beck

Executive Director

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-215-001 (~~(SCOPE AND)~~) PURPOSE AND AUTHORITY. (~~These regulations, as authorized under RCW 43.20.050, are adopted to protect the health, safety and well-being of the public and to prevent the spread of disease.)) The purpose of chapter 246-215 WAC is to establish state board of health standards for food service under RCW 43.20.050 to promote and protect the health, safety, and well-being of the public and prevent the spread of disease by food.~~

NEW SECTION

WAC 246-215-010 DEFINITIONS. (1) "Abbreviations":

(a) "FDA" means United States Food and Drug Administration.

(b) "HACCP" means hazard analysis, critical control point.

(c) "PPM" means parts per million.

(d) "USA" means United States of America.

(e) "USDA" means United States Department of Agriculture.

(f) "WSDA" means Washington state department of agriculture.

(2) "Adulterated" means the altered condition of food including:

(a) Bearing or containing any poisonous or deleterious substance in a quantity rendering food injurious to health;

(b) Bearing or containing any added poisonous or deleterious substance where no safe tolerance has been established by regulation, or exceeding such tolerance if one has been established;

(c) Consisting in whole or in part of any filthy, putrid, or decomposed substance, or otherwise being unfit for human consumption;

(d) Processing, preparing, packing, or holding potentially hazardous foods under improper time-temperature conditions or under other conditions increasing the probability of food contamination with excessive microorganisms or physical contaminants;

(e) Organisms, preparing, packing, or holding food under insanitary conditions increasing the probability of food contamination or cross-contamination;

(f) Holding or packaging food in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health; or

(g) Containing any product of a diseased animal, or an animal dying by means other than by slaughter, except as permitted under WAC 246-215-020(6).

(3) "Approved" means acceptable to the health officer based on his/her determination regarding conformance with appropriate standards and public health practice.

(4) "Approved source" means foods which are obtained by the food service establishment owner from persons who comply with applicable federal, state and local laws, ordinances and regulations.

(5) "Aquatic foods" means foods grown in or harvested from water, including all types of fish, shellfish and mollusks, edible crustacea, reptiles, amphibians, and mixtures containing aquatic foods and synthetic foods, such as surimi.

(6) "Base of operation" means an approved site for servicing, cleaning, sanitizing, supplying, and maintaining a mobile food unit.

(7) "Bed and breakfast" means a private home or inn offering lodging on a temporary basis to travelers, tourists, and transient guests which provides food service only to registered guests.

(8) "Bulk food" means processed or unprocessed food in containers where consumers withdraw desired quantities.

(9) "Caterer" means a person or food service establishment contracted to prepare food in an approved facility for final cooking or service at another location.

(10) "Commissary" means an approved food service establishment where food is stored, prepared, portioned, or packaged for service elsewhere.

(11) "Corrosion-resistant" means a material maintaining original surface characteristics under prolonged contact with food, cleaning compounds, or sanitizing solutions.

(12) "Critical control point" means a location where exercising a preventive measure or procedure eliminates, prevents, or minimizes a hazard or hazards from occurring after that point.

(13) "Cross-contamination" means the process where disease causing organisms are transferred from raw or other foods to equipment or ready-to-eat foods.

(14) "Department" means the Washington state department of health.

(15) "Durable" means capable of withstanding expected use and remaining easily cleanable.

(16) "Easily cleanable" means readily accessible with materials and finish fabricated to permit complete removal of residue by normal cleaning methods.

(17) "Equipment" means all stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dish machines, steam tables, and similar items used in the operation of a food service establishment.

(18) "Extensive remodel" means construction in a food service establishment requiring a building permit or plumbing permit, except for signs and fences.

(19) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

(20) "Food additive" means substances added directly or indirectly to food.

(21) "Food contact surfaces" means those surfaces of equipment and utensils normally contacting food, and those surfaces where food may drain, drip, or splash back onto surfaces normally in contact with food.

(22) "Food service establishment" means:

(a) A place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs, including but not limited to:

(i) Restaurants, snack bars, cafeterias, taverns, bars;

(ii) Retail food stores, supermarkets, retail meat markets, retail fish markets, retail bakeries, delicatessens;

(iii) Institutional operations licensed by the department or local health officer, such as schools, hospitals, jails, prisons, and child care facilities;

(iv) Central preparation sites, including caterers;

(v) Satellite servicing locations;

(vi) Temporary food service establishments or mobile food units;

(vii) Bed and breakfast operations;

(viii) Remote feeding sites; and

(ix) Vending machines dispensing potentially hazardous foods.

(b) Except for the following:

(i) Private homes where food is prepared or served for consumption by household members and/or their guests;

(ii) Establishments offering only commercially prepackaged nonpotentially hazardous foods;

(iii) Commercial food processing establishments, licensed and regulated by the USDA, FDA, or WSDA; and

(iv) Farmers exempt from licensure under RCW 36.71.090.

(23) "Food service worker" means the permit holder, an individual having supervisory or management duties, and any other person working in a food service establishment.

(24) "Frozen" means the condition of a food when it is continuously stored at or below 10° F.

(25) "Game meat" means warm-blooded and cold-blooded animals, excluding fish and meat food animals as defined by USDA, noncommercially raised and processed without continuous regulatory surveillance, including, but not limited to:

(a) Mammals such as deer, elk, antelope, buffalo, and bear;

(b) Birds; and

(c) Reptiles such as alligator.

(26) "Hazard analysis critical control point (HACCP)" means a method used to reduce the risk of foodborne illness by:

(a) Identifying hazards of high risk foods;

(b) Assessing the hazards posed by each preparation step;

(c) Determining the critical points for controlling hazards;

(d) Monitoring a critical control point or points; and

(e) Implementing immediate and appropriate corrective action when control criteria are not met.

(27) "Health officer" means the city, county, city-county, or district health officer defined under RCW 70.05.010(2), or his/her authorized representative, or the representative of the department.

(28) "Hermetically sealed container" means a properly designed container, intended to keep the contents free of contamination by microorganisms and to maintain the commercial sterility of its contents after thermal processing.

(29) "Imminent or actual health hazard" means:

(a) A breakdown or lack of equipment or power causing improper temperature control for potentially hazardous foods; and/or

(b) Lack of water preventing adequate handwashing or equipment cleaning and sanitizing; and/or

(c) Emergency situations including fire, flood, building collapse, or similar accident or natural disaster; and/or

(d) A sewage backup or sewage contamination within a food service establishment; and/or

(e) An occurrence of an outbreak of foodborne illness linked to the food service establishment.

(30) "Immediate service" means foods served to the public within thirty minutes of preparation.

(31) "Menu" means a written or graphic description of foods prepared and offered for sale or service by a food service establishment.

(32) "Misabeled" means the presence of any false or misleading written, printed, or graphic material upon or accompanying food or food containers.

(33) "Mobile food unit" means a readily movable food service establishment.

(34) "Modified atmosphere packaging" means a process that completely encases food in an impermeable or partially permeable membrane, with either a partial or complete vacuum; or a gas or mixture of gases surrounding the food. Hermetically sealed containers are not considered to be modified atmosphere packaging.

(35) "Owner" means a person owning and/or responsible for the operation of a food service establishment.

(36) "Perishable food" means foods, other than potentially hazardous foods, where deterioration or spoilage due to loss of moisture or growth of molds and bacteria may occur.

(37) "Person" means any individual, partnership, corporation, association, or other legal entity.

(38) "Person in charge" means the individual present in a food service establishment and designated supervisor of the food service establishment at the time of inspection or any food service worker present when a designated supervisor is absent.

(39) "pH" means a measure of the amount of acid in a food product.

(40) "Potentially hazardous food" means any natural or synthetic edible item, material, or ingredient in a form supporting rapid and

progressive growth of infectious or toxigenic microorganisms or the slower growth of Clostridium botulinum. Potentially hazardous food:

(a) Includes any food of animal origin, raw, cooked, or processed;

(b) Includes certain cooked or prepared foods of plant origin, including but not limited to:

- (i) Potato products;
- (ii) Dry legumes;
- (iii) Rice;
- (iv) Sprouts; and
- (v) Cut melons and cut cantaloupes.

(c) Excludes foods:

- (i) With a water activity (Aw) value of 0.90 or less;
- (ii) With a pH level of 4.6 or below;
- (iii) Enclosed in unopened hermetically sealed containers commercially processed to achieve and maintain commercial sterility under nonrefrigerated storage and distribution conditions; and
- (iv) Where laboratory evidence acceptable to the health officer indicates no likelihood of rapid or progressive growth of infectious or toxigenic microorganisms or the slower growth of Clostridium botulinum.

(41) "Restructured" means potentially hazardous foods processed and formed so surface contaminants may become incorporated inside the final product.

(42) "Sanitary design" means smooth, nonabsorbent, and easily cleanable.

(43) "Sanitized" means effective bactericidal treatment by a process providing enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on food contact surfaces.

(44) "Sealed" means free of cracks or other openings permitting entry or passage of moisture or air.

(45) "Self-service" means any site within a food service establishment where customers dispense their own food or beverages.

(46) "Served" means offered to a person for consumption.

(47) "Single service articles" means utensils designed, fabricated, and intended by the manufacturer for one time use.

(48) "Sulfiting agents" means chemicals used to treat food to increase shelf life and enhance appearance including:

- (a) Sulfur dioxide;
- (b) Sodium sulfite;
- (c) Sodium bisulfite;
- (d) Potassium bisulfite;
- (e) Sodium metabisulfite; and
- (f) Potassium metabisulfite.

(49) "Temporary food service establishment" means a food service establishment operating at a fixed location for not more than twenty-one consecutive days in conjunction with a single event or celebration.

(50) "Time/temperature" means the relationship between the length of time and the specific temperatures to which potentially hazardous foods are subjected during storage, transportation, preparation, cooking, reheating, dispensing, service, or sale.

(51) "Utensil" means any food contact implement used in storing, preparing, transporting, dispensing, serving, or selling of food.

(52) "Water activity (Aw)" means a measure of the amount of moisture available for bacterial growth in a food.

(53) "Wholesome" means in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

NEW SECTION

WAC 246-215-020 FOOD SUPPLIES. Food service establishment owners shall:

(1) Use or sell food supplies which are:

- (a) From approved sources;
- (b) In compliance with applicable federal, state, and local laws, ordinances, and regulations;
- (c) Clean, wholesome, and free from spoilage and adulteration;
- (d) Protected from becoming adulterated;
- (e) Safe for human consumption; and
- (f) Hermetically sealed containers, processed in an approved commercial food processing establishment, when used.

(2) Use or sell commercially pasteurized fluid milk, fluid milk products, dry milk, and dry milk products which meet the Grade "A" quality standards contained in the most current version of the federal Pasteurized Milk Ordinance, except:

(a) Grade "A" raw milk as defined under RCW 15.36.140 may be sold in the original container for off-premises consumption in retail food stores only;

(b) Unripened raw milk cheese and similar raw milk cultured products may be sold in retail stores for off-premises consumption and may be used in food service establishments, only if the foods are subsequently cooked to a minimum temperature of 165° F; and

(c) Properly fermented raw milk cheeses, produced using a flash heating process and meeting cheese composition requirements described under WAC 246-215-040 (6)(c), may be sold or used in food service establishments and are exempted from the cooking requirements of (b) of this subsection.

(3) Use or sell fresh and frozen shellfish (oysters, clams, mussels, and scallops):

(a) From sources approved by the department; or certified for interstate shipment in accordance with the National Shellfish Sanitation Program (NSSP); and

(b) Which are identified by one of the following methods:

(i) A tag or label containing name, address, state certification number, harvest date, and location attached to bags of unshucked shellfish;

(ii) A label containing name, address, and state certification number attached to containers of shucked shellfish; or

(iii) State certification numbers and harvest location provided on invoices accompanying shellfish.

(4) Use or sell eggs meeting WSDA or USDA standards. The use or sale of ungraded eggs, unpasteurized liquid eggs, except as specified in WAC 246-215-030 (1)(j), or cracked or checked eggs is prohibited.

(5) Use or sell only USDA inspected meat, meat products, poultry, and poultry products. Custom meat facilities defined in RCW 16.49-.435 may process or handle uninspected meat for the household user. Custom meat facilities shall not use or sell uninspected meat to the public.

(6) Use or sell game meat:

(a) Processed in a state agriculture inspected processing plant;

(b) Processed in a processing plant with USDA voluntary inspection;

(c) Imported from outside the USA from a country having an approved program of inspection authorized by USDA or FDA; or

(d) Approved by the health officer for use in the following types of institutions:

(i) Jails and correction facilities; and

(ii) Distributing organizations limited to food banks and soup kitchens specified under RCW 69.80.020.

NEW SECTION

WAC 246-215-030 FOOD PROTECTION. (1) Food service establishment owners shall protect food from potential or actual sources of contamination or adulteration during transporting, storing, preparing, cooking, displaying, and serving by the following methods:

(a) Covering food or food storage containers with tightly fitting covers manufactured from approved materials such as metal, plastic, plastic wrap, or aluminum foil, except:

(i) During necessary preparation or cooling periods;

(ii) When serving food to the customers;

(iii) When displaying or storing fresh, raw, unprocessed whole fruits and vegetables;

(iv) When displaying or storing raw, whole aquatic foods; and

(v) During storage, quarters or sides of meat, and primal cuts may be placed on clean sanitized hooks or racks.

(b) Prohibiting the storage of food under leaking refrigeration condensers, exposed or unprotected sewer lines, leaking water lines, or water lines with accumulations of condensed water;

(c) Storing foods above the floor level to prevent contamination and permit easy cleaning, except:

(i) Floor storage is permitted for foods stored in bulk if contained in impervious covered containers;

(ii) Storage on a floor surface is permitted when beverages are in pressurized beverage containers; or foods are protected by glass, durable plastic, cans, or other waterproof containers; and

(A) Floors beneath the foods are dry and easily cleanable; and

(B) Foods can be easily moved to allow cleaning of the floor.

(d) Prohibiting the storage of food, utensils, or single-service articles in toilet rooms, toilet room vestibules, or garbage rooms;

(e) Labeling foods removed from original containers, unless identity of the food is unmistakable;

(f) Providing protection from contamination through use of a sneeze guard, display case, packaging, or other effective measures;

(g) Minimizing hand contact with foods by:

(i) Using appropriate utensils, including single service food service gloves when practical; and

(ii) Providing tongs, bakery papers, scoops, spatulas, ladles, and similar utensils for handling foods during display or service.

(h) Prohibiting the storage of raw meats, poultry, and aquatic foods above foods requiring no additional cooking before service or in a manner increasing the probability of cross-contamination;

(i) Prohibiting the use of ice for human consumption following use for cold holding or after contamination; or

(j) Prohibiting use of pooled eggs prepared from raw eggs, except:

(i) If used for immediate service; or

(ii) If cooked to 140° F. or above within thirty minutes of breaking.

(k) Prohibiting egg breaking procedures where liquid eggs contact egg shells such as egg breaking machines;

(l) By any other methods approved by the health officer.

(2) In emergency situations when an imminent or actual health hazard exists, the owner or person in charge of a food service establishment shall take appropriate action to prevent adulteration of foods, including the following:

(a) Protecting foods from contamination;

(b) Ensuring proper temperature controls;

(c) Notifying the health officer; and

(d) Destroying contaminated, adulterated, or temperature abused foods after consultation with the health officer.

(3) Food service establishment owners shall:

(a) Prohibit application of sulfiting agents in the food service establishment;

(b) Prohibit the storage of sulfiting agents on the premises unless in packaged form, clearly labeled, and offered for retail sale; and

(c) Allow sulfiting agents only if contained within properly labeled commercially processed foods.

(4) When owners of food service establishments store or display mollusks in live holding systems, they shall protect the mollusks from contamination by:

(a) Requiring an approved source for seawater placed in the system; or

(b) Using a commercial mix for artificial seawater mixed with potable drinking water; and

(c) Completely separating mollusks from crustaceans or fish.

(5) Owners of food service establishments specified in WAC 246-215-020 (6)(d) shall establish control measures for the use of game meat. These control measures designed to prevent illness and approved by the health officer include:

(a) Requiring adequate facilities for butchering and processing;

(b) Designation of a person in charge who is responsible for:

(i) Record keeping of all game meat received and used;

(ii) Insuring separation of raw game meat from all other foods;

(iii) Adequate cooking of all game meat to 165° F. or above; and

(iv) Maintenance of temperature monitoring and control.

(c) Compliance with all other parts of this chapter, unless specified otherwise.

(6) Game meat, except sources specified in WAC 246-215-020 (6)(a), (b), and (c), may only be possessed, handled, and processed by retail food stores:

(a) When approved by the health officer;

(b) For hunters who bring their game meat to the retail store and receive the same game meat back after the completion of processing;

(c) So contamination is avoided by separating raw game meat from all other foods; and

(d) When all processing of game meat occurs at a separate time than processing of all other meat or meat products.

(7) Owners of food service establishments may sell or serve mold cultured cheeses. The sale or service of moldy cheese is prohibited unless the cheese is reconditioned by removing the mold in the following manner:

(a) If the cheese has been held under refrigeration, a one-half inch layer is removed and the moldy portions are discarded;

(b) If the cheese has been held at ambient temperatures, a one inch layer is removed and the moldy portions are discarded;

(c) The cutting is performed so that mold contamination of the new surfaces is minimized; and

(d) When cheese has high moisture content such as brie, camembert, cream cheese, or cottage cheese, or where mold filaments have deeply penetrated the surface, the entire cheese shall be discarded.

NEW SECTION

WAC 246-215-040 PUBLIC HEALTH LABELING. (1) Food service establishment owners shall label all food products offered for sale if enclosed in a package or container; except:

(a) Food products produced on-site;

(b) Nonpotentially hazardous bakery products from approved sources; or

(c) Single service portions or other packaged foods which are shipped to the food service establishment enclosed within a properly labeled master carton.

(2) Food service establishment owners shall label modified atmosphere packaged foods in compliance with WAC 246-215-060.

(3) Food service establishment owners shall ensure labels include:

(a) The common name of the food;

(b) All ingredients, including food additives, in descending order of predominance;

(c) The name, city, state, and zip code of the manufacturer; and

(d) A packaging date code, when required by law or when the food is potentially hazardous.

(4) Food service establishment owners shall ensure information contained on labels is:

(a) Accurate;

(b) Easily readable; and

(c) In the English language, except that duplicate labeling in foreign languages is allowed.

(5) When labels, menus, or other printed or graphic materials are inaccurate or misleading and a report of illness or injury is associated with the food product, the health officer may:

(a) Stop sale of the product until correctly labeled;

(b) Require relabeling of the product; and

(c) Issue public health advisories.

(6) Whenever raw milk or raw milk cheese or similar raw milk products are offered for sale in a food service establishment, the health officer shall:

(a) Require conspicuous labeling of raw milk or products containing raw milk as "raw milk" or "contains raw milk";

(b) Require conspicuous posting of signs near the product that state: "Warning: Raw milk or foods prepared from raw milk, such as unripened or fresh cheese, may be contaminated with dangerous bacteria capable of causing severe intestinal illnesses. Contact your local health department for advice or to report a suspected illness";

(c) Exempt properly fermented raw milk cheeses from the labeling requirements contained in this subsection, provided the cheeses are produced using a flash heating process and they meet the following cheese composition requirements:

(i) Moisture content of 40% or less;

(ii) Saline-in-moisture content of 3.75% or greater;

(iii) Water activity (Aw) of 0.96 or less; and

(iv) pH of 5.40 or less.

(7) Food service establishment owners shall label packaged or bulk foods containing sulfiting agents at detectable levels as follows:

(a) Accept accurate labels placed on packaged foods by the manufacturer;

(b) Place a label on prepackaged foods stating, "This food contains a sulfiting agent";

(c) Place a sign or label on the bulk food container or in a conspicuous place nearby stating, "The following food or foods contain a sulfiting agent,";

(d) Except these foods may be sold without labeling:

(i) Wine by the glass;

(ii) Salad bars; and

(iii) Delicatessens and similar take-out food facilities when food is prepared on-site.

(8) Food service establishment owners shall provide prominent and conspicuous labels on bulk food display units with at least one of the following:

(a) Manufacturer's or processor's container label plainly in view;

(b) A card, sign, or other appropriate device stating the common name of the food; or

(c) A list of ingredients and any food additives contained in the product.

(9) Food service establishment owners shall ensure accurate labels are present on bulk containers of chemicals and pet foods.

(10) Food service establishment owners shall label all foods which have been irradiated in a commercial food processing establishment with the radura symbol and the wording "treated with irradiation," "treated by irradiation," or "irradiated."

(11) When raw or undercooked meats, eggs, or aquatic foods are offered for immediate service or for sale as ready-to-eat, the health officer shall require these foods to be identified, as such:

(a) On the menu;

- (b) On the label; or
- (c) On a sign clearly visible to the patrons.
- (12) The health officer may approve alternate wording on signs required in subsections (6), (7), and (10) of this section.

NEW SECTION

WAC 246-215-050 FOOD PREPARATION. (1) The health officer may require a food service establishment owner to limit or modify food preparation and may delete some menu items when the available equipment is inadequate to rapidly cool or reheat, properly cook, hot hold, cold hold, or process potentially hazardous foods.

(2) Food service establishment owners shall prepare, display, serve, and transport food:

- (a) Only with safe and necessary time-temperature steps;
- (b) With a minimum amount of hand contact;
- (c) With suitable utensils;
- (d) On clean, sanitized surfaces;
- (i) Washed, rinsed, and sanitized as required under this chapter prior to use; and
- (ii) Washed, rinsed, and sanitized to prevent cross-contamination.

(3) Food service establishment owners shall:

(a) Maintain the internal temperature of potentially hazardous food at 45° F. or below, or 140° F. or above, at all times except as provided in these regulations;

(b) Minimize the time potentially hazardous foods remain at room temperature during preparation to a total time of two hours;

(c) Store in-use serving utensils:

- (i) In the food product, only if the handle remains out of the food item; except in ice machines;
- (ii) In a running water dipper well;
- (iii) In water above 140° F., or below 45° F.;
- (iv) For ice machines, either on a clean dry surface or in an approved utensil holder; or
- (v) By other approved methods;
- (vi) Except that in-use serving utensils for nonpotentially hazardous foods may be stored on a clean surface.

(d) Discard any leftover foods already served to a customer; except that packaged, nonpotentially hazardous foods which are still packaged in a sound and sanitary condition, may be re-served. Properly dispensed, nonpotentially hazardous foods such as those dispensed by using squeeze dispensers, covered containers with proper serving utensils, or shaker dispensers, may be re-served.

(e) Ensure all foods served raw are thoroughly washed with potable water before serving;

(f) Prepare potentially hazardous salads and sandwich spread using cold ingredients prechilled to 45° F. or below;

(g) Ensure potentially hazardous foods transported or stored in ice are prechilled to 45° F. or below.

(h) Prepare potentially hazardous foods transported or stored in ice are prechilled to 45° F. or below.

NEW SECTION

WAC 246-215-060 MODIFIED ATMOSPHERE PACKAGING. (1) Modified atmosphere packaging of foods in food service establishments is permitted by the health officer for the following:

- (a) Nonpotentially hazardous foods;
- (b) Raw meat;
- (c) Natural hard or semi-soft cheeses containing live starter culture organisms; and
- (d) Foods which are rapidly frozen and are stored frozen until reheated or thawed for immediate service. Foods frozen under this subsection shall meet all of the following continuous cooling and freezing requirements:

(i) Cooling foods from 140° F. to 70° F. or below within two hours;

(ii) Cooling foods from 140° F. to 45° F. or below within four hours;

(iii) Cooling foods to below 38° F. within twelve hours; and

(iv) Freezing foods completely to below 10° F. within twenty-four hours.

(2) Food service establishment owners shall not perform modified atmosphere packaging on the premises for any foods unless allowed under subsection (1) of this section; except

(3) The health officer may allow additional foods to be modified atmosphere packaged only if an approved HACCP based procedure which controls the growth of bacterial pathogens is in place. Acceptable controls would be:

- (a) Maintaining water activity below 0.93;
- (b) Maintaining pH below 4.6;

(c) Using processed meats or meat products, poultry, or poultry products produced in a plant regulated by USDA and received in an intact package before modified atmosphere packaging;

(d) Properly curing the food on site using a standard recipe approved by the health officer with an initial sodium nitrite concentration of 120 ppm and 3.5% salt concentration; or

(e) Properly processing uncured meats or poultry on-site by monitoring critical control points established in the HACCP plan specified in subsection (4)(e) of this section.

(4) Whenever foods are modified atmosphere packaged under subsection (3) of this section, the health officer shall require all of the following:

- (a) Store the food at 38° F. or below;
- (b) Sell the food within fourteen days of packaging;
- (c) Prohibit exceeding the original processor's shelf life, if applicable;
- (d) Establish critical control points during processing, packaging, and storage;
- (e) Monitor critical control points established in (d) of this subsection by any or all of the following:

(i) Routine laboratory testing;

(ii) Measuring refrigerated storage temperatures;

(iii) Measuring temperatures during smoking or cooking processes;

(iv) Providing other information requested by the health officer; and

(f) Maintain accurate records of critical control point monitoring specified in (e) of this subsection, for examination by the health officer;

(g) Attach the following labels:

(i) "Keep refrigerated at 38° F. or below and use within seven days of purchase, unless frozen"; and

(ii) "Sell by month/day/year" with the date established within fourteen days of packaging.

(5) Modified atmosphere packaging of aquatic foods, including fish, is prohibited by the health officer except under subsections (1)(d), (3)(a), (b), or (d) of this section.

(6) The food service establishment owner shall designate a person in charge of all modified atmosphere packaging operations to be responsible for control measures contained in subsections (4) and (9) of this section.

(7) Modified atmosphere packaged foods packaged in USDA or FDA regulated plants and maintained in intact packages are exempted by the health officer from meeting labeling requirements contained in subsection (4)(g) of this section.

(8) The food service establishment owner shall destroy modified atmosphere packaged foods which have exceeded the requirement for foods to be sold within fourteen days of packaging (contained in subsection (4)(b) of this section), except until that date modified atmosphere packaged foods may be:

- (a) Frozen; or
- (b) Removed from the packaging and used in the food service establishment.

(9) Modified atmosphere packaged foods which have exceeded the requirement for foods to be sold within fourteen days of packaging (contained in subsection (4)(b) of this section) are prohibited by the health officer from sale.

NEW SECTION

WAC 246-215-070 TEMPERATURE CONTROL. (1) The food service establishment owner shall:

(a) Provide metal, stem-type, numerically scaled food thermometers accurate to within 2° F. in the appropriate range for the foods being tested;

(b) Ensure thermometers are checked for accuracy;

(c) Be allowed to use digital thermometers or thermocouples to measure temperatures as long as they are accurate to within 2° F. and are capable of measuring all food temperatures contained in (e) of this subsection;

(d) Equip each refrigeration unit with a numerically scaled thermometer accurate to within 3° F. located:

(i) To be easily readable; and

(ii) In the warmest part of the unit.

(e) Ensure food service workers use thermometers to measure food temperatures to attain and maintain safety for potentially hazardous foods during:

- (i) Cooking;
- (ii) Reheating;
- (iii) Hot holding;
- (iv) Cooling; and

(v) Cold holding.
 (2) Food service workers shall safely thaw potentially hazardous foods:

(a) In refrigeration units at a temperature of 45° F. or less;
 (b) Under potable running water of a temperature of 70° F. or less with sufficient water velocity to agitate and float loose food particles into the overflow; or

(c) In an approved cooking unit as part of a continuous cooking process, only when the food depths or thickness for solid foods is less than four inches.

(3) Food service workers shall safely cook all parts of potentially hazardous foods requiring cooking to the following minimum internal temperatures:

(a) 165° F. or above for:
 (i) Poultry or any food containing poultry;
 (ii) Stuffed meats or stuffing containing meats; and
 (iii) Casseroles containing potentially hazardous foods.
 (b) 155° F. or above for ground, fabricated, or restructured meats; except that ground beef may be cooked to lower temperatures if specifically ordered by the immediate consumer;
 (c) 150° F. or above for pork or any food containing pork;
 (d) 130° F. or above for:
 (i) Rare roast beef; and
 (ii) Rare beef steak, except that beef steak may be cooked to a lower temperature if specifically ordered by the immediate consumer.
 (e) 140° F. or above for eggs and foods containing uncooked eggs, unless specifically ordered by the immediate consumer otherwise, except:

(i) Health care facilities such as nursing homes and hospitals shall only use pasteurized eggs or eggs cooked to 140° F. or above unless a physician's statement allows otherwise; and

(ii) Traditionally uncooked or undercooked eggs when used to prepare foods such as eggs benedict, caesar salad, meringue, or hollandaise sauce shall be:

(A) Prepared for immediate service to the customer;
 (B) Rapidly cooled and held at 45° F. or less; or
 (C) Held hot at 140° F. or above.
 (f) 140° F. or above for all other potentially hazardous foods except as specified under (a) through (e) of this subsection;

(g) Except that potentially hazardous foods that have been partially cooked or blanched shall be cooled rapidly using procedures contained in subsection (5) of this section and reheated before service as described in subsection (7) of this section.

(4) Food service establishment owners are prohibited from overnight cooking without temperature monitoring.

(5) Food service workers shall ensure potentially hazardous foods, after initial cooking or reheating, are held hot at or above the following temperatures:

(a) 130° F. for unsliced rare roast beef; or
 (b) 140° F. for all other potentially hazardous foods;
 (c) Except that overnight hot holding without temperature monitoring is prohibited.

(6) When potentially hazardous foods require cooling or cold holding after preparation, rapid methods of cooling from 140° F. to 45° F. shall be used. Food service workers shall use methods including:

(a) Reducing very viscous foods such as refried beans, chowders, and gravies to a thickness of two inches or less and:

(i) Placing immediately in a refrigerator or in a freezer; and
 (ii) Leaving uncovered until cooled to 45° F. or below, while protecting the food from cross-contamination.

(b) Reducing foods not listed in subsection (5)(a) of this section to a thickness of four inches or less and:

(i) Placing immediately in a refrigerator or freezer; and
 (ii) Leaving uncovered until cooled to 45° F. or below, while protecting the food from cross-contamination.

(c) Placing liquid foods deeper than four inches into an ice and water bath provided:

(i) The container is immersed to the depth of the food;
 (ii) Ice is replaced as it melts;
 (iii) The food is frequently stirred;
 (iv) A metal stem thermometer is used; and
 (v) The food is refrigerated or frozen once cooled to 45° F.

(d) Using other methods for rapid cooling approved by the health officer, provided the food is cooled from 140° F. to 45° F. or below within four hours.

(7) Food service workers shall ensure potentially hazardous foods requiring cold holding are kept at 45° F. or below by:

(a) Using mechanical refrigeration;
 (b) Storing in ice provided:
 (i) The food is prechilled to 45° F. or below;
 (ii) The container is placed in ice to the height of the food;
 (iii) Ice is replaced as it melts; and
 (iv) Melt water is frequently drained.
 (c) Using refreezable ice or similar products with prior approval by the health officer;

(d) Except cold holding temperatures required for commercially prepared modified atmosphere processed aquatic foods are 38° F. or below.

(8) Food service workers shall ensure potentially hazardous foods previously cooked and cooled are rapidly reheated from 45° F.:

(a) With no interruption in the reheating process;
 (b) In one hour or less;
 (c) To the following minimum temperatures:
 (i) 165° F. for foods prepared in any food service establishment; or
 (ii) 140° F. for foods prepared in any food processing establishment under jurisdiction of USDA or FDA only for initial reheating.

(d) In equipment designed to meet the performance standards provided in this subsection; and

(e) With frequent stirring for liquid or semi-solid potentially hazardous foods.

(9) Food service workers may reheat completely cooked potentially hazardous foods with no minimum reheating temperature only if they are:

(a) Served either hot or cold; and
 (b) Reheated to order in individual portions when ordered by the consumer.

NEW SECTION

WAC 246-215-080 PERSONAL HYGIENE. (1) Food service workers shall wash their hands, including fingernails, in an approved handwashing facility by applying soap, using warm water, scrubbing thoroughly, rinsing, and then drying, using methods which prevent recontamination:

(a) Before starting work; and
 (b) During work, as often as necessary to prevent contamination of foods:

(i) After using the toilet;
 (ii) After handling raw meat, poultry, or aquatic foods;
 (iii) After handling unclean items;
 (iv) After eating or smoking; and
 (v) Before preparing ready-to-eat foods.

(2) Food service workers shall:
 (a) Wear clean outer garments;
 (b) Maintain a high degree of personal cleanliness; and
 (c) Restrain hair as necessary.

(3) The food service establishment owner shall ensure bactericidal and viricidal hand rinses are used only in addition to approved handwashing methods.

(4) The food service establishment owner shall ensure eating or use of tobacco in any form by food service workers is permitted only in designated areas approved by the health officer.

(5) The food service establishment owner shall provide adequate facilities for the orderly storage of food service workers' clothing and personal belongings.

(6) The person in charge of the food service establishment shall ensure all food service workers:

(a) Comply with the provisions of chapter 69.06 RCW and chapter 246-217 WAC;

(b) Obtain valid food and beverage service worker permits within thirty days of employment; and

(c) Maintain current food and beverage service worker permits.

(7) The person in charge of the food service establishment must display or file the food and beverage service workers permits, or copies thereof, where they are available for inspection by the health officer upon request.

NEW SECTION

WAC 246-215-090 SANITARY DESIGN, CONSTRUCTION, AND INSTALLATION OF EQUIPMENT AND UTENSILS. (1) Food service establishment owners shall use equipment and utensils designed and of such materials and workmanship to be:

(a) Smooth;
 (b) Easily cleanable;

- (c) Durable;
- (d) In good repair; and
- (e) In conformance with the current standards and listings of the National Sanitation Foundation or equivalent.

(2) Food service establishment owners shall ensure food contact surfaces of equipment and utensils are:

- (a) Made of food grade material;
- (b) Smooth;
- (c) Easily accessible for cleaning;
- (d) Nontoxic;
- (e) Corrosion resistant; and
- (f) Nonabsorbent.

(3) When single service articles are used, the food service establishment owner shall ensure they are:

- (a) Made from clean, sanitary, and safe materials; and
- (b) Prohibited from reuse.

(4) Food service establishment owners shall install and maintain equipment to:

- (a) Facilitate cleaning of equipment and adjacent areas; and
- (b) Avoid placement under:
 - (i) Exposed or unprotected sewer lines;
 - (ii) Open stairwells;
 - (iii) Unprotected insulation; and
 - (iv) Other sources of contamination.

(5) Owners shall ensure food service establishments using equipment or utensils requiring cleaning and sanitizing are equipped with either:

- (a) Approved mechanical dishwashing facilities and a sink with a minimum of two compartments in the dishwashing area;
- (b) A sink with a minimum of three compartments, a space for soiled utensils ahead of the first compartment, and a drain board for clean utensils when no mechanical dishwasher is available, or when utensils cannot be cleaned and sanitized in the mechanical dishwasher due to size or configuration; or
- (c) A sink with a minimum of two compartments, a space for soiled utensils ahead of the first compartment, and a drainboard for clean utensils when:

- (i) Only single service articles are provided for use by the consumer, very minimal utensil washing is needed, and the health officer determines it is consistent with the intent of the regulations; and
- (ii) Only single service articles are provided for use by the consumer, only nonpotentially hazardous foods and ingredients are used, and the health officer determines it is consistent with the intent of the regulations.

(6) Food service establishment owners shall provide sink compartments of sufficient size to accommodate the largest utensil.

(7) Food service establishment owners of bars and taverns shall provide a sink compartment for disposing of liquid waste in addition to sinks necessary for cleaning and sanitizing.

(8) Food service establishment owners shall provide sufficient food preparation sinks in which foods may be:

- (a) Washed, soaked, rinsed, or drained;
- (b) Cooled or thawed; or
- (c) Processed in a manner requiring placement in a sink.

(9) Food service establishment owners shall prohibit use of food preparation sinks for:

- (a) Handwashing;
- (b) Utensil washing; and
- (c) Other activities which may contaminate foods.

(10) Food service establishment owners shall provide a mop sink or equivalent fixture capable of supplying and disposing of water for cleaning floors, walls, and other nonfood contact surfaces.

(11) The health officer may exempt food service establishment owners from subsections (5)(a), (7), (8), and (10) of this section when:

- (a) A plan review was approved prior to the effective date of these regulations;
- (b) The food service establishment was constructed prior to the effective date of these regulations; or
- (c) The menu, method of food preparation, and volume of food preparation present no health hazard.

NEW SECTION

WAC 246-215-100 EQUIPMENT AND UTENSIL CLEANING AND SANITIZING. (1) The following articles shall be thoroughly washed, rinsed, and sanitized by a food service worker after each use:

- (a) Utensils; and
- (b) Food contact surfaces of equipment, except cooking surfaces.

(2) All utensils and food contact surfaces of equipment used in preparation, service, display, or storage of potentially hazardous food shall be sanitized by a food service worker:

(a) Following any interruption of operations during which contamination of the food contact surfaces may have occurred; and

(b) Whenever contamination has occurred.

(3) When equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production line basis, the food service establishment owner shall ensure utensils and the food contact surfaces of equipment are washed, rinsed, and sanitized. The health officer, based on food temperatures, type of food, and amount of particle accumulation shall specify the minimum time interval between cleaning operations.

(4) The food service establishment owner shall ensure cleaning and sanitizing of food contact surfaces of equipment and utensils are accomplished by first prescraping or prerinsing and then by either of the following methods:

(a) Manual dishwashing in proper sequence:

- (i) Washing in a clean, hot detergent solution;
- (ii) Rinsing in clean, warm water;
- (iii) Sanitizing by immersion for at least one minute in:

(A) A chemical sanitizing solution at proper concentration as described in C.F.R. 21.178; or

(B) A mechanically heated sink at a temperature of at least 170° F.; and

(iv) Air drying; or

(b) Mechanical dishwashing which washes and then sanitizes by:

- (i) A high temperature final rinse with a minimum of 180° F. measured by the gauge;
- (ii) A high temperature final rinse with a minimum of 160° F. measured at the surface of the utensil;
- (iii) An approved concentration of chemical sanitizer as described in C.F.R. 21.178 which is automatically dispensed; or
- (iv) A method approved by the health officer consistent with the intent of the regulations.

(5) The food service establishment owner shall ensure cleaned and sanitized equipment, utensils, and single service articles are stored to:

- (a) Protect from all sources of contamination; and
 - (b) Minimize unnecessary handling.
- (6) Food service workers shall ensure wiping cloths used for cleaning up food spills or wiping work surfaces, table surfaces, high chairs, equipment, utensils, or foodworkers' hands are:
- (a) Kept in a clean, sanitary condition at all times;
 - (b) Moistened with an approved sanitizing solution at all times when in use; and
 - (c) Stored in a proper concentration of sanitizing solution between uses.

(7) Food service workers shall be responsible for monitoring sanitizing operations by:

- (a) Checking temperature gauges;
- (b) Measuring chemical concentrations with appropriate methods; or
- (c) Using premeasured sanitizing packages or tablets, following label directions.

(8) The food service establishment owner shall ensure:

- (a) Wiping cloths used for removing food spills from tableware such as plates or bowls, are clean, dry, and used for no other purposes;
- (b) Cooking surfaces of equipment are cleaned at least once daily; and
- (c) Nonfood contact surfaces of equipment are cleaned at such intervals to keep them clean and in a sanitary condition.

NEW SECTION

WAC 246-215-110 POISONOUS OR TOXIC MATERIALS.

(1) Food service establishment owners shall allow poisonous or toxic materials on the premises only under the following conditions:

- (a) When necessary and intended for the operation and maintenance of the food service establishment;
- (b) When used to prevent or control pests;
- (c) When used to clean and sanitize equipment, utensils, and work surfaces; or
- (d) When offered for sale in a retail food store, grocery, or similar food service establishment, provided these materials are separated from food and single-service articles by:
 - (i) Spacing;
 - (ii) Partitioning;
 - (iii) Dividers; or
 - (iv) Storage below food or single-service articles.

(2) Food service establishment owners shall ensure commercially filled containers of poisonous or toxic materials are labeled in accordance with Environmental Protection Agency regulations. Small containers may be filled or taken from a properly labeled container only when identified with the common name of the material.

(3) Food service establishment owners shall ensure poisonous or toxic materials are stored and used:

(a) In accordance with the manufacturer's label requirements;

(b) In a manner preventing adulteration of food and contamination of food contact surfaces, utensils, and single-service articles; and

(c) So food service workers and other persons are protected from potential health and safety hazards.

(4) Food service establishment owners shall ensure lubricants used on food contact surfaces of equipment are nontoxic.

NEW SECTION

WAC 246-215-120 SANITARY FACILITIES AND CONTROLS. (1) Food service establishment owners shall ensure:

(a) Their water source is;

(i) Adequate in quantity and quality;

(ii) Supplied by a source approved under chapter 246-290 WAC (formerly chapter 248-54 WAC); and

(iii) Monitored according to standards established by the health officer.

(b) Use of bottled water from an approved source; and

(c) Ice used for any purpose is:

(i) Made from an approved water source; and

(ii) Manufactured, stored, transported, and handled in a sanitary manner.

(2) Food service establishment owners shall dispose of all liquid waste including gray water, mop water, and ice melt:

(a) Into a public sewer system;

(b) Into an approved on-site sewage disposal system; or

(c) In another manner approved by the health officer.

(3) Food service establishment owners shall ensure plumbing is:

(a) Sized, installed, and maintained in accordance with applicable state and local plumbing codes;

(b) Free of cross connections between potable water supplies and:

(i) Nonpotable or questionable sources of water; or

(ii) Chemical feed lines or similar devices.

(c) Indirectly drained from ice machines, food preparation sinks, beverage ice sinks, salad bars, dipper wells, and mechanical dishwashers, into:

(i) A floor sink;

(ii) Hub drain; or

(iii) A similar device.

(4) Food service establishment owners shall install a properly vented dual check valve device or an approved reduced pressure backflow assembly between copper pipe or tubing and carbonated beverage dispensing machines. Carbonated beverage dispensing machines installed before the effective date of these regulations are exempt from this requirement.

(5) Food service establishment owners shall ensure toilets for food workers are:

(a) Provided within the food service establishment; or

(b) Convenient to food workers and within two hundred feet of the food service establishment.

(6) Food service establishment owners shall ensure toilet facilities for patrons are provided within, or convenient to, the food service establishment when:

(a) Customer seating for on-premises consumption of food or drink is provided; and

(b) The food service establishment was constructed or extensively remodeled after the effective date of these regulations.

(7) Toilet facilities may be used jointly by patrons and food service workers, provided patrons accessing the facility are excluded from food preparation and storage areas.

(8) Food service establishment owners shall ensure all toilet facilities are:

(a) Of sanitary design;

(b) Kept clean;

(c) In good repair;

(d) Provided with toilet paper; and

(e) Provided with easily cleanable waste storage receptacles.

(9) Food service establishment owners shall ensure hand sinks are:

(a) Accessible to food workers at all times;

(b) Located to permit convenient use by all food workers in food preparation, food service, and utensil washing areas and in, or immediately adjacent to, toilet facilities; and

(c) Used exclusively for hand washing.

(10) Food service establishment owners shall be responsible for maintenance of hand sinks designated for use by food service workers and patrons and ensure each hand sink is:

(a) Provided with hot, at a minimum temperature of 100° F., and cold running water provided through a mixing faucet;

(b) Provided with hand soap;

(c) Provided with single use towels or other hand drying devices approved by the health officer; and

(d) Kept clean and in good repair.

(11) Food service establishment owners shall ensure hand operated automatic faucets have a minimum cycle of fifteen seconds.

NEW SECTION

WAC 246-215-130 GARBAGE, RUBBISH, AND LITTER. The food service establishment owner shall:

(1) Properly store and dispose of all garbage, rubbish, and litter in and around a food service establishment. Storage prior to disposal shall be in containers that are:

(a) Durable;

(b) Easily cleanable;

(c) Insect and rodent proof;

(d) Nonabsorbent;

(e) In sound condition;

(f) Watertight; and

(g) Kept covered with tight fitting lids except when stored in a closed, pest-proof room or enclosure.

(2) Dispose of liquid wastes as waste water when collected from:

(a) Leaking garbage containers;

(b) Garbage compacting operations; or

(c) Cleaning operations.

(3) Store all other rubbish in containers or other areas in a manner approved by the health officer.

(4) Use rooms, enclosures, areas, and containers adequate in size and number for garbage storage.

(5) Prevent overflows and nuisances caused by garbage, rubbish, and litter by:

(a) Ensuring frequent disposal;

(b) Providing adequate cleaning facilities; and

(c) Ensuring that containers, rooms, and areas are cleaned as needed.

NEW SECTION

WAC 246-215-140 PESTS AND PEST CONTROL. Food service establishment owners shall:

(1) Take effective measures to minimize:

(a) Entry of pests such as rodents and insects; and

(b) Presence of pests.

(2) Ensure the premises are kept in such condition to prevent:

(a) Harborage of pests; and

(b) Feeding of pests.

(3) Ensure only pesticides labeled for use in food service areas are stored on the premises or used to eliminate or control pests.

(4) Ensure pesticides are stored:

(a) In cabinets;

(b) In a physically separate place used for no other purpose; and

(c) Below or separate from food, food equipment, utensils, or single service articles.

(5) Ensure that pesticides are applied:

(a) In accordance with label directions; and

(b) In compliance with Washington state department of agriculture rules located in chapter 16-228 WAC, pesticide regulations, to prevent adulteration of foods and contamination of food contact surfaces.

(6) Employ the services of a licensed pest control operator when the health officer determines:

(a) Measures taken by the owner of the food service establishment are ineffective; or

(b) Pest problems are severe and extend beyond the property boundaries controlled by the food service establishment owner.

(7) Ensure that automatic dispensing aerosol units, if used, are:

(a) Prohibited in all areas where food is prepared or served; and

(b) Installed and used only in areas outside the influence area of ventilation systems and at least twenty feet away from any:

- (i) Food storage area;
- (ii) Food preparation or service area;
- (iii) Unprotected food contact surfaces; and
- (iv) Utensil washing or storage area.

NEW SECTION

WAC 246-215-150 CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES. Food service establishment owners shall:

- (1) Ensure floors and floor coverings in all areas are:
 - (a) Constructed of easily cleanable materials;
 - (b) Kept clean;
 - (c) In good repair; and
 - (d) Coved at the floor/wall junctures, except for carpeted areas.
- (2) Provide proper construction of floors and floor coverings with the following characteristics:
 - (a) Water impervious construction;
 - (b) Grease resistance;
 - (c) Durability; and
 - (d) Drains provided when water or pressure spray methods of cleaning are used, in any of the following areas:
 - (i) Food preparation areas;
 - (ii) Food and utensil storage areas;
 - (iii) Utensil washing areas;
 - (iv) Walk-in refrigerators;
 - (v) Dressing rooms or locker rooms with shower facilities; and
 - (vi) Bathrooms where toilets or urinals are located.
- (3) Ensure walls, windows, doors, and ceilings in all areas are clean and in good repair.
- (4) Ensure that walls are constructed, in addition to requirements in subsection (3) of this section, with the following characteristics:
 - (a) Smooth finish;
 - (b) Nonabsorbent surfaces; and
 - (c) Construction with easily cleanable materials in the following areas:
 - (i) Walk-in refrigerators and freezers;
 - (ii) Food preparation areas;
 - (iii) Utensil washing areas;
 - (iv) Dressing rooms or locker rooms with shower facilities; and
 - (v) Bathrooms.
 - (5) Provide:
 - (a) Lighting of at least thirty foot candles in the following:
 - (i) Areas where food is prepared or stored;
 - (ii) Areas where utensils are washed;
 - (iii) Areas where hands are washed;
 - (iv) In bathrooms; and
 - (v) When cleaning is occurring.
 - (b) Proper shields or guards for lights in the food preparation and storage areas.
 - (6) Ensure design, installation, and maintenance of ventilation systems in accordance with applicable state and local mechanical and fire codes; and
 - (a) Provide ventilation systems, when necessary, to keep all areas free of excessive:
 - (i) Heat;
 - (ii) Steam;
 - (iii) Condensation;
 - (iv) Fumes and vapors;
 - (v) Obnoxious odors; and
 - (vi) Smoke.
 - (b) Design and maintain ventilation hoods and filters to:
 - (i) Prevent grease and condensate from dripping into food or onto food contact surfaces; and
 - (ii) Allow ready removal of filters for cleaning and replacement.
 - (7) Maintain the premises by:
 - (a) Allowing only articles necessary for operation and maintenance of the food service establishment to be stored there;
 - (b) Prohibiting use of any room in the food service establishment as living or sleeping quarters:
 - (i) Except when separated from all food service operations by complete partitions and solid doors; and
 - (ii) Except for bed and breakfasts.
 - (c) Allowing live animals only under the following conditions:
 - (i) Fish, crustacea, and shellfish for food purposes in aquariums;
 - (ii) Fish in aquariums for display or decor;
 - (iii) Patrol dogs accompanying security or police officers; or

(iv) Guide dogs or service dogs, as defined under chapter 70.84 RCW, are allowed to accompany a blind, visually handicapped, hearing impaired, or otherwise physically disabled person in all areas of a food service establishment except in food preparation areas.

(d) Allowing only food service workers or other persons authorized by the health officer in food preparation and storage areas.

NEW SECTION

WAC 246-215-160 MOBILE FOOD UNITS. (1) The owner of a mobile food unit shall comply with the requirements of this chapter, except as allowed in this section.

(2) The health officer may impose additional requirements to protect against health hazards related to the operation of a mobile food unit and may:

- (a) Limit the food preparation steps;
- (b) Restrict the mode of operation when facilities or equipment are inadequate to protect public health; or
- (c) Prohibit some menu items; and
- (d) When no imminent health hazard will result, may waive or modify requirements of this chapter.
- (3) The person in charge of the mobile food unit shall ensure:
 - (a) All foods, including ice, are from an approved source or commissary; and
 - (b) All prepackaged foods are properly labeled, except when prepared in the mobile food unit.
- (4) The person in charge of the mobile food unit shall ensure proper temperature control of potentially hazardous foods on the unit by:
 - (a) Prohibiting cooling of potentially hazardous foods or ingredients;
 - (b) Allowing only potentially hazardous foods that have been cooked and cooled in a commissary to be reheated in individual portions for immediate service;
 - (c) Allowing only foods processed in commercial food processing plants to be reheated from 45° F. to 140° F. or above:
 - (i) Within one hour when reheated at the commissary; or
 - (ii) Within thirty minutes when reheated on the mobile unit after leaving the commissary.
 - (d) Prohibiting cooking of raw meats greater than one inch in thickness;
 - (e) Preheating hot holding equipment and prechilling cold holding equipment before loading potentially hazardous food onto the mobile unit; and
 - (f) Monitoring temperatures of potentially hazardous foods with a thermometer.
- (5) The person in charge of the mobile food unit shall ensure:
 - (a) Preparation steps for potentially hazardous foods are minimized to decrease risk of foodborne illness;
 - (b) Facilities are adequate for all food preparation steps on the mobile unit; and
 - (c) Daily preparation of potentially hazardous foods prepared on the mobile unit.
- (6) The owner of a mobile food unit shall:
 - (a) Allow only food service workers and persons authorized by the health officer to be present in the mobile food unit; and
 - (b) Ensure that all food service workers in the mobile food unit have current food and beverage service workers permits, unless all foods are prepackaged and nonpotentially hazardous.
- (7) The owner of a mobile food unit shall ensure cold holding of potentially hazardous foods is accomplished by use of:
 - (a) Mechanical refrigeration; or
 - (b) Ice, when all food is prechilled and packaged in sealed containers.
- (8) The owner of a mobile food unit shall only provide single service articles for use by the consumer.
- (9) When a mobile food unit has a water supply:
 - (a) The source and system design shall be approved by the health officer;
 - (b) The capacity of the system shall be sufficient to furnish enough hot and cold water for each of the following procedures if they occur on the mobile food unit:
 - (i) Food preparation;
 - (ii) Utensil cleaning;
 - (iii) Sanitizing;
 - (iv) Handwashing; and
 - (v) Facility cleaning.
- (10) The owner of a mobile food unit with a water system shall ensure:

(a) All liquid waste is stored in a wastewater retention tank with at least fifteen percent more capacity than the water tank; and

(b) Wastewater is retained on the mobile food unit until disposed of by a method approved by the health officer.

(11) The owner of a mobile food unit shall provide:

(a) A three-compartment sink with hot and cold running water to wash, rinse, and sanitize utensils when equipment or utensils are re-used on the mobile food unit; except

(b) This requirement may be waived or modified by the health officer when:

(i) Limited food preparation occurs; or

(ii) Additional clean utensils are available and utensil washing can take place at an approved base of operation.

(12) The person in charge of the mobile food unit shall provide a separate handwashing facility for food workers consisting of:

(a) A sink with potable, warm, running water;

(b) Soap; and

(c) Paper towels.

(13) Food workers may use a three-compartment utensil washing sink for handwashing if:

(a) The mobile food unit owner locates it in the food preparation area; and

(b) The health officer determines that periodic handwashing will not interfere with washing of utensils.

(14) When only prepackaged food items are served, the health officer may waive or modify requirements for handwashing.

(15) The person in charge of the mobile food unit shall ensure toilet facilities for food workers are available and readily accessible within two hundred feet of the unit during operation.

(16) The owner of a mobile food unit or permit applicant shall submit properly prepared plans and specifications of the mobile food unit, base of operation, and/or commissary to the health officer for approval before:

(a) Construction or remodeling begins;

(b) The menu of the mobile food unit is changed; or

(c) The method of food preparation is changed.

(17) The owner or permit applicant shall include in the plan:

(a) Menu and food preparation steps;

(b) Floor plan;

(c) Equipment specifications and location;

(d) Finish schedule;

(e) Proposed itinerary or sites to be served;

(f) Source of water and specifications of the on-board plumbing;

(g) Site used for sewage disposal;

(h) Availability of restrooms for food service workers; and

(i) Base of operation or commissary.

(18) The permit applicant shall obtain approval from the department of labor and industries, if necessary.

NEW SECTION

WAC 246-215-170 CUSTOMER SELF-SERVICE OF FOOD AND BULK FOOD DISPENSING. (1) Food service establishment owners shall protect foods from adulteration and contamination during customer self-service by:

(a) Designating a person to be responsible for the customer self-service area. This person shall:

(i) Monitor the customer self-service and bulk food areas to prevent tampering and contamination of foods;

(ii) Ensure adequate temperature control of potentially hazardous foods by:

(A) Cooking, reheating, or prechilling foods before offering for sale;

(B) Monitoring food temperatures with a metal stem thermometer; and

(C) Correcting improper storage practices.

(iii) Clean up any spills that occur and rotate stock;

(iv) Clean and sanitize storage containers and utensils used for food storage or handling of foods; and

(v) Dispose of any bulk foods returned to the food service establishment or contaminated by customers.

(b) Separating all bulk food display units from any containers of chemicals which might contaminate bulk foods and from pet foods by approved methods including one of the following:

(i) Horizontal separation, different aisles, or partitions between bulk foods and chemicals or pet foods; or

(ii) Vertical separation with chemicals or pet foods stored below bulk foods.

(c) Storing and dispensing all foods on display for customer self-service or bulk foods by one of the following:

(i) Gravity dispensing units;

(ii) Display units or storage containers with covers or lids; or

(iii) Foods on display while being held hot or cold shall be protected with a properly designed sneeze guard, display case, or easily movable cover.

(2) Food service workers shall utilize:

(a) Proper utensils when required in this section using the following:

(i) Properly designed and cleaned scoops, spatulas, tongs, and similar dispensing utensils present in or on each display unit;

(ii) In-use serving utensils stored in the food with the handles extending out of the food; or

(iii) Dispensing utensils stored clean and dry between uses in a protective enclosure or utensil holder.

(b) Containers for display of ready-to-eat foods with the lowest access point at least thirty inches above floor level, except for:

(i) Raw fruits and vegetables;

(ii) Honey;

(iii) Oil; or

(iv) Similar liquids as approved by the health officer.

NEW SECTION

WAC 246-215-180 BED AND BREAKFAST FOOD SERVICE OPERATIONS. (1) Owners of bed and breakfast homes and inns shall comply with all food supply, food handling, personal hygiene, food protection, food service establishment maintenance, permitting, and enforcement requirements under WAC 246-215-020, 246-215-030, 246-215-050, 246-215-060, 246-215-070, 246-215-080, 246-215-090, 246-215-100, 246-215-110, 246-215-120, 246-215-130, 246-215-140, 246-215-200, 246-215-210, 246-215-220, 246-215-230, 246-215-240, 246-215-260 and 246-215-300, except as otherwise provided in this section.

(2) The health officer may impose additional requirements to protect against health hazards related to the food service portion of a bed and breakfast operation and when no health hazard will result, may waive or modify requirements of these regulations.

(3) Owners of bed and breakfast homes and inns may prepare foods in their residential kitchen when:

(a) All food service is limited to overnight guests;

(b) Potentially hazardous foods items are prepared for immediate service;

(c) Cooling and/or reheating of potentially hazardous foods prepared on-site is prohibited;

(d) A minimum of a three-compartment sink or a sink together with a homestyle dishwasher with 155° F. water provided by a booster or a sanitizing cycle is available and used;

(e) Food supplies for domestic use are separated from food supplies intended for customer use; and

(f) Children under age ten and pets are kept out of the kitchen during preparation of foods for bed and breakfast guests.

NEW SECTION

WAC 246-215-190 TEMPORARY FOOD SERVICE ESTABLISHMENTS. (1) The owner of a temporary food service establishment shall comply with the requirements of this chapter, except as allowed in this section.

(2) The health officer may impose additional requirements to protect against health hazards related to the operation of the temporary food service establishment and may:

(a) Limit the preparation steps; or

(b) Prohibit some menu items; and

(c) When no health hazard will result, waive or modify requirements of this chapter.

(3) The owner of a temporary food service establishment shall ensure proper time/temperature control by:

(a) Prohibiting cooling of potentially hazardous foods at temporary food service establishments, except potentially hazardous foods may be cooled before an event if:

(i) The food product that was cooled will be served cold; or

(ii) Individual portions of the food are reheated for immediate service;

(iii) The food was cooled in an approved facility with adequate cooling capacity and cold holding facilities; and

(iv) Cooling procedures meet requirements contained in WAC 246-215-070(5).

(b) Ensuring rapid reheating of all potentially hazardous foods from 45° F. to a minimum temperature of 165° F. within thirty minutes, except when individual portions are reheated for immediate service.

(4) The owner of a temporary food service establishment shall safely prepare foods by:

(a) Providing adequate facilities at the temporary food service establishment for all proposed food preparation steps; and

(b) Ensuring all off-site preparation is done in an approved facility.

(5) The owner of a temporary food service establishment shall:

(a) Apply for a permit to operate a temporary food service establishment, as far in advance as possible, to allow adequate time for review by the health officer;

(b) Require the person in charge of the temporary food service establishment to obtain a valid food and beverage service worker permit before beginning work;

(c) Allow only food service workers and other persons authorized by the health officer to be present in a temporary food service establishment;

(d) Require the use of only single service articles for use by consumers;

(e) Separate grills and barbecues from public access by using ropes or other approved methods; and

(f) Construct booths to minimize:

(i) Public access;

(ii) Dust;

(iii) Mud; and

(iv) Overhead contamination.

(6) The owner of a temporary food service establishment shall provide:

(a) Approved hand washing facilities for food workers at the temporary food service establishment with:

(i) Clean, warm, running water;

(ii) Soap; and

(iii) Paper towels.

(b) Readily accessible and available toilet facilities within two hundred feet of the temporary food service establishment; and

(c) Access within two hundred feet to a three compartment sink with running water to wash, rinse, and sanitize utensils when:

(i) Equipment or utensils are reused on-site; or

(ii) The temporary food service establishment operates for two or more consecutive days;

(iii) Except the health officer may approve an alternative utensil cleaning method when three compartment sinks are not available and no health hazard will exist.

(7) The health officer may allow handwashing in a three compartment utensil washing sink only if:

(a) The sink is located in the food preparation area; and

(b) Periodic handwashing will not interfere with washing of utensils.

NEW SECTION

WAC 246-215-200 PERMITS REQUIRED, SUSPENSION, REVOCATION, ENFORCEMENT. (1) Any person desiring to operate a food service establishment shall:

(a) Comply with the provisions of these regulations; and

(b) Make written application for a permit on forms provided by the health officer.

(2) Food service establishment owners operating a food service establishment:

(a) Shall possess a valid permit issued to him/her by the health officer;

(b) Shall post the permit conspicuously in the food service establishment;

(c) May be guilty of a misdemeanor pursuant to RCW 70.05.120 and/or local regulations if operating without a valid permit issued by the health officer; and

(d) May be exempt from the permit requirements for the sale of certain foods with prior authorization of the health officer and concurrence of the department.

(3) The health officer may suspend any permit to operate a food service establishment if:

(a) Continued operation of the food service establishment constitutes an imminent or actual health hazard;

(b) Operations, facilities, or equipment in the food service establishment fail to comply with these regulations;

(c) The holder of the permit does not comply with these regulations; or

(d) Interference with the health officer in the performance of his/her duties has occurred.

(4) When the health officer has suspended a food service establishment permit, the person in charge:

(a) Shall immediately cease all food service operations;

(b) Shall be notified in writing by the health officer that the food service establishment permit is immediately suspended upon service of the notice and the suspension shall remain in effect until a hearing with the health officer occurs. If the health officer finds the operation to be in compliance with the requirements of these regulations the suspension will be lifted;

(c) May request a hearing by filing a written request for a hearing with the health officer within ten days of receipt of the notice of suspension; and

(d) Shall be notified, if a written request for a hearing is not filed within ten days, that the suspension is sustained.

(5) Any food service establishment owner whose food service permit has been suspended may at any time make written application for a reinspection for the purpose of reinstatement of the permit. The application shall include a statement, signed by the owner, that in the owner's opinion, the conditions causing the suspension of the permit have been corrected.

(6) Within two working days following receipt of a written request for a reinspection, the health officer shall make a reinspection, and reinstate the permit if the owner of the food service establishment is in compliance with these regulations.

(7) The health officer may use a permit suspension process different from those specified under subsections (3), (4), (5), or (6) of this section, if adopted by the local board of health.

(8) The health officer may revoke a food service permit after providing the owner of the food service establishment an opportunity for a hearing if:

(a) Serious and repeated violation(s) of any requirements of these regulations have occurred; or

(b) Repeated interference with, or assault upon, the health officer in the performance of his/her duty has occurred.

(9) Before revocation, the health officer shall notify, in writing, the owner of the food service establishment or the person in charge of the specific reason(s) why the permit is to be revoked. The notice shall state:

(a) That the permit will be revoked at the end of the ten days following such notice unless a written request for a hearing is filed with the health officer by the owner of the food service establishment within such ten-day period; and

(b) If a request for a hearing is not filed by the owner of the food service establishment within the ten-day period, the revocation of the permit becomes final.

(10) Any owner of a food service establishment whose permit has been revoked by the health officer, after a period of six months may:

(a) Make written application for a new permit; and

(b) Request a hearing with the health officer to determine whether a new permit will be issued.

(11) The health officer may use a permit revocation process different from those specified under subsections (8), (9), and (10) of this section if adopted by the local board of health.

(12) The health officer may initiate any one, or a combination of, compliance methods which include, but are not limited to:

(a) Holding an administration conference with the food service establishment owner or person in charge;

(b) Placing the owner of the food service establishment on probation;

(c) Setting conditions for continued operation of the food service establishment, by the owner, during the probation period;

(d) Requiring additional education and/or training of employees, management, and owners of the food service establishment; and

(e) Completing a hazard analysis critical control point (HACCP) evaluation and requiring monitoring procedures be implemented for critical control points identified.

NEW SECTION

WAC 246-215-210 SERVICE OF NOTICES. (1) A notice provided for in these regulations is properly served when it is:

(a) Delivered to the holder of the permit;

(b) Delivered to the person in charge of the food service establishment; or

(c) Sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit.

(2) A copy of the notice shall be filed in the records of the health officer.

NEW SECTION

WAC 246-215-220 HEARINGS. (1) The hearings provided for in these regulations shall be:

- (a) Conducted by the health officer or his/her designee; and
- (b) Conducted at a time and place designated by the health officer.
- (2) The health officer or designee shall:
 - (a) Make a final finding based upon the complete hearing record;
 - (b) Sustain, modify, or rescind any notice or order considered in the hearing; and
 - (c) Furnish a written report of the hearing decision to the holder of the permit.
- (3) An alternate hearing process, if adopted by a local board of health, may be used.

NEW SECTION

WAC 246-215-230 INSPECTIONS AND INVESTIGATIONS.

- (1) Inspections or investigations of a food service establishment:
 - (a) Shall be performed by the health officer as often as necessary for the enforcement of these regulations;
 - (b) Shall be required by the health officer:
 - (i) Before issuing a new permit to a new food service establishment; and
 - (ii) Following extensive remodeling of a food service establishment.
 - (c) May be required by the health officer:
 - (i) For renewal of a permit;
 - (ii) Before issuing a new permit to an existing food service establishment; and
 - (iii) For an existing food service establishment when the on-site management has changed.
- (2) The person in charge of any food service establishment shall permit the health officer, after proper identification, to enter at any time, for the purpose of making inspections or investigations to determine compliance with these regulations.
- (3) The person in charge of the food service establishment shall permit the health officer to examine the records of the establishment to obtain information pertaining to:
 - (a) Food and supplies purchased, received, or used; and
 - (b) Any person employed which is pertinent to an illness investigation; or
 - (c) Other matters which may affect health or the enforcement of these regulations.
- (4) The health officer may conduct a HACCP in lieu of, or in addition to, routine inspections. The health officer may investigate to ensure monitoring of critical control points.
- (5) Whenever an inspection of a food service establishment is made:
 - (a) The health officer shall record the findings on an inspection report form approved by the department;
 - (b) The health officer shall state on the completed inspection report specific violations found, and establish a specific and reasonable period of time for correction; and
 - (c) The health officer shall furnish a copy of the completed inspection report to the person in charge of the food service establishment at the conclusion of the inspection.
- (6) The health officer shall inspect all food service establishments at least once a year.
- (7) The health officer shall conduct additional inspections of food service establishments based upon the risk of foodborne illness transmission as determined by:
 - (a) Types of foods served;
 - (b) Methods of food preparation and service;
 - (c) Number of meals served; and
 - (d) Past history of compliance.

NEW SECTION

WAC 246-215-240 EXAMINATION, HOLD ORDERS, CONDEMNATION, AND DESTRUCTION OF FOOD. (1) The person in charge of a food service establishment in which food has been improperly handled, stored, or prepared shall:

- (a) Voluntarily destroy the questionable food; or
- (b) Contact the health officer to determine if the food is safe for human consumption.

(2) The person in charge of a food service establishment shall denature or destroy any food if the health officer determines the food presents an imminent or actual health hazard.

(3) The health officer may examine or collect samples of food as often as necessary for enforcement of these regulations.

(4) The health officer may, after notice to the person in charge, place a written hold order on any suspect food until a determination on its safety can be made and shall:

- (a) Tag;
- (b) Label; or
- (c) Otherwise identify any food subject to the hold order and complete a department-approved form for all suspect food.
- (5) The hold order issued by the health officer shall include:
 - (a) Instructions for filing a written request for a hearing with the health officer within ten calendar days; and
 - (b) Notification that if a hearing is not requested in accordance with the instructions provided in the hold order, and the health officer does not vacate the hold order, the food shall be destroyed under the supervision of the health officer.

(6) When foods are subject to a hold order by the health officer the food service establishment owner is prohibited from:

- (a) Using;
- (b) Serving; or
- (c) Moving them from the food service establishment.
- (7) The health officer shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case, immediate destruction shall be ordered and accomplished by the owner of the food service establishment.
- (8) Based upon evidence provided at the hearing, the health officer shall either:
 - (a) Vacate the hold order; or
 - (b) Direct the owner of the food service establishment by written order to:
 - (i) Denature or destroy such food; or
 - (ii) Bring the food into compliance with the provisions of these regulations.

NEW SECTION

WAC 246-215-250 REVIEW OF PLANS AND MENU. (1) The food service establishment owner shall submit properly prepared plans and specifications to the health officer for approval whenever:

- (a) A food service establishment is constructed;
- (b) An existing structure is converted for use as a food service establishment;
- (c) Significant changes to the methods of food preparation or style of service occurs; or
- (d) An existing food service establishment undergoes an extensive remodel, provided that the health officer may waive a complete plan review if:
 - (i) The remodel does not substantially affect the requirements of these regulations; or
 - (ii) The health officer requires minor modifications of the existing food service establishment to improve compliance with these regulations.

(2) The health officer shall base plan approval on:

- (a) Information on proposed type of menu and style of service, including:
 - (i) Type of food to be served;
 - (ii) Method of food preparation and type of cooking;
 - (iii) Seating capacity and anticipated maximum meals per day;
 - (iv) Designation of smoking and nonsmoking sections as applicable;
 - (v) Methods of customer service;
 - (vi) Type of customer utensils; and
 - (vii) Number of employees per shift.
- (b) Information on proposed site, including:
 - (i) Site plan;
 - (ii) Availability of approved public water supply;
 - (iii) Availability of approved sewage disposal; and
 - (iv) Accessibility for delivery traffic, garbage storage, garbage pick-up frequency, and other auxiliary needs.
- (c) Information on proposed facilities, including:
 - (i) Floor plan;
 - (ii) Finishes used on floors, walls, and ceilings;
 - (iii) Number, types, and locations of sinks and drain boards;
 - (iv) Plumbing specifications, such as types and locations of fixtures, drains, and grease traps;
 - (v) Restroom design and number of fixtures;

- (vi) Types and locations of lighting; and
- (vii) Types and locations of ventilation, including exhaust hoods, screened windows, or doors.
- (d) Information on proposed equipment, including:
 - (i) Material and design of food contact surfaces;
 - (ii) Refrigeration and shelving design for rapid cooling, prechilling, thawing, and separation of raw meats from other foods;
 - (iii) Ice-making equipment for supplying ice bath cooling, salad bar, or buffet service;
 - (iv) Cooking, reheating, and hot holding equipment;
 - (v) Shelving for dry food storage;
 - (vi) Mechanical dishwashing machine and associated equipment; and
 - (vii) Design and installation of equipment, including self-service and display equipment.

(3) The procedure for plan approval is as follows:

- (a) The food service establishment owner shall submit plans as described in this chapter;
- (b) The health officer shall grant approval if the health officer determines the plans are satisfactory;
- (c) The food service establishment owner shall submit a food service permit application and request a preoperational inspection; and
- (d) Prior to operation of the food service establishment, the health officer shall provide a preoperational inspection to determine conformance with approved plans and compliance with these regulations.

NEW SECTION

WAC 246-215-260 **PROCEDURE WHEN DISEASE TRANSMISSION IS SUSPECTED.** (1) When a possible foodborne illness incident is reported to any food service employee, the person in charge of the food service establishment shall:

- (a) Immediately report the incident to the local health officer; and
- (b) Remove from sale and refrigerate any suspect foods until released by the health officer.
- (2) When the health officer suspects that a food service establishment, or its employees, may be a source of a foodborne illness, the health officer shall take appropriate action to control the transmission of disease. Such actions shall include any or all of the following:
 - (a) Secure records that may enable identification of persons potentially exposed to the disease, and/or require additional assistance in locating such persons;
 - (b) Secure the illness history of each suspected employee;
 - (c) Exclude any suspected employee(s) from working in food service establishments until, in the opinion of the health officer, there is no further risk of disease transmission;
 - (d) Suspend the permit of the food service establishment until, in the opinion of the health officer, there is no further risk of disease transmission;
 - (e) Restrict the work activities of any suspected employee;
 - (f) Require medical and laboratory examinations of any food service employee and of his/her body discharges;
 - (g) Obtain any suspect food for laboratory examination; and
 - (h) Require the destruction of suspect food or prevent it from being served.

(3) The health officer shall prohibit food handlers with a communicable illness in a disease or carrier state from handling food if the infectious agent can be transmitted through food.

(4) The provisions of chapter 246-100 WAC, Communicable and certain other diseases shall apply.

NEW SECTION

WAC 246-215-270 **VARIANCE CLAUSE AND SMALL BUSINESS IMPACT MITIGATION.** (1) The health officer, upon written petition of the owner of the food service establishment, may grant a variance to any section of these regulations covering physical facilities, equipment standards, and food source requirements when:

- (a) No health hazard would exist as a result of this action; and
- (b) The variance is consistent with the intent of these regulations.
- (2) The health officer, upon written petition from a food service establishment owner whose business qualified as a small business under chapter 19.85 RCW, shall grant a small business mitigation to physical facilities and equipment standards when:
 - (a) No health hazard would exist as a result of this action; and

(b) The economic impact of this chapter places a proportionately higher burden on small businesses as provided in chapter 19.85 RCW, the Regulatory Fairness Act.

NEW SECTION

WAC 246-215-280 **INTERPRETATION.** (1) These regulations shall be enforced by the health officer in accordance with the interpretations contained in the 1976 edition of the United States Public Health Service, "Food Service Sanitation Manual," where applicable.

(2) When a section of these regulations conflicts with the "Food Service Sanitation Manual," these regulations shall apply.

(3) A local board of health may adopt more stringent regulations than those contained in these regulations.

NEW SECTION

WAC 246-215-290 **SEPARABILITY CLAUSE.** Should any section, paragraph, clause, or phrase of these rules and regulations be declared unconstitutional or invalid for any reason, the remaining rules and regulations shall not be affected.

NEW SECTION

WAC 246-215-300 **PENALTY CLAUSE.** Any person violating, refusing, or neglecting to comply with these regulations shall:

- (1) Upon conviction be guilty of a misdemeanor under RCW 70.05-.120; or
- (2) May be subject to a civil penalty under local health department/district rules and regulations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-215-009 DEFINITIONS.
- WAC 246-215-019 FOOD SUPPLIES.
- WAC 246-215-029 FOOD PROTECTION AND STORAGE.
- WAC 246-215-039 FOOD PREPARATION, DISPLAY, SERVICE AND TRANSPORTATION.
- WAC 246-215-049 PERSONNEL.
- WAC 246-215-059 SANITARY DESIGN, CONSTRUCTION, AND INSTALLATION OF EQUIPMENT AND UTENSILS.
- WAC 246-215-069 EQUIPMENT AND UTENSIL CLEANING AND SANITATION.
- WAC 246-215-079 SANITARY FACILITIES AND CONTROLS.
- WAC 246-215-089 GARBAGE AND RUBBISH.
- WAC 246-215-099 INSECT AND RODENT CONTROL.
- WAC 246-215-109 CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES.
- WAC 246-215-119 MOBILE UNITS.
- WAC 246-215-129 BULK FOODS, STORAGE, AND DISPLAY.
- WAC 246-215-139 TEMPORARY FOOD SERVICE ESTABLISHMENTS.
- WAC 246-215-149 PERMITS REQUIRED, SUSPENSION AND REVOCATION PROCEDURES.
- WAC 246-215-159 SERVICE OF NOTICES.
- WAC 246-215-169 HEARINGS.
- WAC 246-215-179 INSPECTIONS.
- WAC 246-215-189 EXAMINATION—HOLD ORDERS—CONDEMNATION—DESTRUCTION OF FOOD.
- WAC 246-215-199 REVIEW OF PLANS.
- WAC 246-215-209 PROCEDURE WHEN INFECTION IS SUSPECTED.
- WAC 246-215-219 VARIANCE CLAUSE.
- WAC 246-215-229 INTERPRETATION.
- WAC 246-215-239 SULFITING AGENTS.
- WAC 246-215-500 SEPARABILITY CLAUSE.
- WAC 246-215-900 PENALTY CLAUSE.

WSR 92-03-143
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Health)
 [Filed January 22, 1992, 11:26 a.m.]

Supplemental Notice to WSR 91-20-172.

Title of Rule: WAC 246-205-520 through 246-205-580, local health officer responsibilities.

Purpose: To establish procedures to protect the public health and safety by regulating the occupancy and use of the property where the manufacture of illegal drugs, or the storage of hazardous chemicals associated with the manufacture of illegal drugs occurred.

Statutory Authority for Adoption: RCW 64.44.070.

Statute Being Implemented: Chapter 64.44 RCW.

Summary: These new sections delineate local health officer responsibilities regarding designation of contaminated property as unfit for use, contamination reduction of property, and designation of the decontaminated property as fit for use.

Reasons Supporting Proposal: Some properties are being contaminated by hazardous chemical used in the manufacture of illegal drugs. Innocent members of the public may be harmed by the chemicals residue when the properties are subsequently rented or sold without having been decontaminated.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Milo Straus, Building 3 Airdustrial Park, Olympia, 586-9120.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The 1990 legislature passed SHB 2906, an act relating to properties contaminated by illegal drug manufacturing. This legislation was codified into chapter 64.44 RCW. The law requires local health officers to inspect and post property suspected to be contaminated by illegal drug manufacturing, prohibit use of contaminated property, review decontamination plans, and permit re-use of property upon decontamination.

Proposal does not change existing rules.

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

Hearing Location: Seattle WestCoast SeaTac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on March 11, 1992, at 10:00 a.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street, Olympia, WA 98504-7902, by February 19, 1992.

Date of Intended Adoption: March 11, 1992.

January 21, 1992

Sylvia Beck

Executive Director

Chapter 246-205 WAC
 ((CONTRACTOR CERTIFICATION FOR)) DECONTAMINATION OF ILLEGAL DRUG MANUFACTURING OR STORAGE SITES

AMENDATORY SECTION (Amending Order 125SB, filed 1/24/91, effective 4/1/91)

WAC 246-205-001 PURPOSE AND AUTHORITY. ~~((+))~~ 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;)) (1) This chapter is adopted to protect the public's health, safety, and welfare by establishing standards, procedures, and responsibilities for:

(a) The certification of contractors and their employees authorized to perform decontamination of illegal drug manufacturing or storage sites; and

(b) Regulating the occupancy and use of property where hazardous chemicals or chemical residues commonly associated with the manufacture of illegal drugs are or may be present.

(2) The statutory authority for the adoption of this chapter is chapter 64.44 RCW.

(a) Contractor certification rules are jointly adopted by the state board of health and the department of health; and

(b) Rules in this chapter pertaining to local health officers' responsibilities are adopted by the state board of health.

(3) This chapter does not apply to industrial sites where a person's manufacturing process uses a hazardous chemical when licensed or regulated by state or federal agencies.

DECONTAMINATION CONTRACTOR CERTIFICATION

LOCAL HEALTH OFFICER RESPONSIBILITIES

NEW SECTION

WAC 246-205-520 POSTING OF PROPERTY. (1) Within one working day of notification by a law enforcement agency or property owner that a property may be contaminated by hazardous chemicals, the local health officer shall notify the public of the potential contamination by causing a posting of a notice on the premises.

(2) The local health officer's initial notice shall:

(a) Warn the public that entry to the property may be unsafe; and

(b) Not declare the property unfit for use unless in the local health officer's opinion an immediate public health threat exists.

(3) If, in the local health officer's opinion, an immediate public health threat exists, the local health officer shall cause a posting of an order prohibiting use of all or portions of the property as required under WAC 246-205-560.

(4) The local health officer shall cause the posting, but, based on applicable local regulations or agreements, actual physical attachment of the written notice to the property may be effected by the:

(a) Health officer;

(b) Law enforcement personnel;

(c) Fire department personnel; or

(d) Other local health officer designee.

NEW SECTION

WAC 246-205-530 ENVIRONMENTAL ASSESSMENT. (1) Within fourteen days after a law enforcement agency or property owner notifies the local health officer of potential property contamination, the local health officer shall cause an inspection of the property to commence. To enable the local health officer to determine contamination, the property inspection shall include an acquisition of data such as evidence of hazardous chemical use or storage on site, the presence of chemical stains, or the presence of glassware or other paraphernalia associated with the manufacture of illegal drugs.

(2) As part of the property's inspection, the local health officer shall request copies of any law enforcement reports, forensic chemist reports, and any department of ecology hazardous material transportation manifests needed to evaluate:

- (a) The length of time a person used the property as an illegal drug manufacturing or storage site;
- (b) The size of the site actually used for the manufacture or storage of illegal drugs;
- (c) What chemical process was involved in the manufacture of illegal drugs;
- (d) What chemicals were removed from the scene; and
- (e) The location of the illegal drug manufacturing or storage site in relation to the habitable areas of the property.

(3) The local health officer may coordinate the property's inspection with other appropriate agencies. At the request of the local health officer, the Washington state department of ecology may conduct an environmental assessment and may sample the property's ground water, surface water, septic tank water, soil, and other media as necessary to enable the local health officer to evaluate the long-term public health threats.

(4) If the local health officer determines law enforcement and ecology documents do not provide enough data to determine whether the property is contaminated, the local health officer may conduct a site visit or use other methods of obtaining information, to include a review of the analytical results obtained through sampling of the property by an authorized contractor or by the local health officer.

NEW SECTION

WAC 246-205-540 EVALUATION. (1) In making a determination of contamination, the local health officer shall follow guidelines developed by the Washington state department of health or other more stringent guidelines as deemed appropriate. If the local health officer determines that a contaminant is present for which no guidelines exist, and further finds that the contaminant presents a potential immediate or long term health hazard, then the local health officer shall find that the property is unfit for use.

(2) If designated unfit for use, the local health officer shall cause a posting of an order prohibiting use of all or portions of the property as required under WAC 246-205-560.

(3) If the local health officer determines the property is not contaminated and is fit for use, the local health officer shall document the findings for future use. The local health officer's documentation shall include:

- (a) Findings;
- (b) Conclusions;
- (c) Name of the property owner;
- (d) Mailing and street address of the property owner;
- (e) Parcel identification number and legal description of the property; and
- (f) Clear directions for locating the property.

NEW SECTION

WAC 246-205-550 REPORTING. (1) When property is determined unfit for use, the local health officer shall report the contaminated property to the state department of health within one working day by:

- (a) Telephone; and
 - (b) In writing within ten working days.
- (2) The local health officer's written unfit for use report to the state department of health shall include:
- (a) Description of the findings;
 - (b) Conclusions;
 - (c) Name of the property owner;
 - (d) Mailing and street address of the property owner;
 - (e) Parcel identification number and legal description of the property to including township and section;
 - (f) Tax account number;
 - (g) Date property designated unfit for use; and
 - (h) Clear directions for locating the property.

NEW SECTION

WAC 246-205-560 NOTIFICATION. (1) Within one working day after the local health officer's determination that a property is

contaminated, the local health officer or the local health officer's designee shall post in a conspicuous place on the property an order prohibiting use of all or portions of the property.

(2) Within ten working days after the local health officer's determination that a property is contaminated, the local health officer shall cause to be served, either personally or by certified mail, return receipt requested, an order prohibiting use to all known:

- (a) Occupants; and
- (b) Persons having an interest in the property as shown upon the records of the auditor's office of the county in which the property is located.

(3) If the whereabouts of persons described under subsection (2) of this section is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made by:

- (a) Personal service; or
- (b) Mailing a copy of the order by certified mail, postage prepaid, return receipt requested:

- (i) To each person at the address appearing on the last equalized tax assessment roll of the county where the property is located; or
- (ii) At the address known to the county assessor.

(4) The local health officer shall also mail a copy of the order addressed to each person or party having a recorded right, title, estate, lien, or interest in the property.

(5) The local health officer's order shall:

- (a) Describe the local health officer's intended course of action;
- (b) Describe a property owner's penalties for noncompliance with this order;

- (c) Prohibit a property owner's use of all or portions of the property;
- (d) Describe what measures a property owner must take to have the property decontaminated; and
- (e) Indicate the potential health risks involved.

(6) The local health officer shall:

- (a) File a copy of the order prohibiting use of the property with the county auditor; and
- (b) Provide a copy of such order to the local building permit department.

(7) The local health officer's order shall advise that:

- (a) A hearing before the local health officer or local health board shall be held upon the request of a person notified of the order as required under this chapter; and
- (b) The person's request for a hearing shall be made within ten days of the local health officer's serving of the order; and

(c) The hearing shall then be held within not less than twenty days or more than thirty days after the serving of the order; and

(d) In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use.

NEW SECTION

WAC 246-205-570 CONTAMINATION REDUCTION. (1) An owner of contaminated property who desires to reduce the contamination shall use the services of an authorized contractor.

(2) The local health officer shall provide the property owner with a list of authorized contractors upon request.

(3) Before commencing contamination reduction, the property owner shall have a written work plan to reduce contamination of the property prepared by the contractor and approved by the local health officer. The work plan shall outline the contamination reduction and waste disposal procedures the contractor intends to use.

(4) The property owner and the contractor shall follow the state department of health contamination reduction guidelines or other more stringent procedures as deemed appropriate by the local health officer.

(5) The property owner shall be:

- (a) Financially responsible for any property testing which may be required to demonstrate the presence or absence of hazardous chemicals;

- (b) Financially responsible for the property's contamination reduction and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter;

- (c) Responsible for keeping records documenting contamination reduction procedures and submitting notarized copies of all records to the local health officer; and

- (d) Responsible for petitioning the local health officer to review the contamination reduction records and to declare the property fit for use.

NEW SECTION

WAC 246-205-580 FIT FOR USE. (1) Within ten working days of a request for review of contamination reduction records, the local health officer:

(a) Shall review the documentation to verify reduction of contamination to acceptable levels for reoccupancy as stated in state department of health guidelines or other more stringent requirements as deemed appropriate by the local health officer;

(b) May visit the property site to assess the thoroughness of the contractor's clean-up;

(c) May require the property owner to provide more extensive testing and assessment of the property site by an independent laboratory or firm qualified to perform such testing and assessment.

(2) If, after review of the information in subsection (1) of this section, the local health officer determines the property has been decontaminated, the local health officer shall within ten working days:

(a) Record a notice in the real property records of the county auditor where the property is located indicating the property is fit for use. The local health officer's notice shall indicate the property has been decontaminated in accordance with the rules of the state department of health;

(b) Notify the property owner by certified mail, return receipt requested, that such notice is recorded in the real property records of the county auditor where the property is located; and

(c) Notify the state department of health that the property is fit for use.

(d) Notify the local building permit department that the property is fit for use.

FEES

WSR 92-03-144
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Examining Board of Psychology)
 [Memorandum—January 16, 1992]

The following are the 1992 meeting dates for the Examining Board of Psychology:

January 10 and 11, 1992	Seattle Airport Hilton – Oral examinations
February 7 and 8, 1992	Wyndham Gardens Hotel, Seattle – Board meeting
March 13 and 14, 1992	Hilton Hotel, Seattle – Board meeting, Rules hearing, disciplinary hearing
April 10 and 11, 1992	University Plaza Hotel, Seattle – Board meeting, disciplinary hearing
May 8 and 9, 1992	Private Residence, Olympia – Board meeting
June 12 and 13, 1992	Silverdale on the Bay Hotel, Silverdale, – Board meeting
July 10 and 11, 1992	Seattle Airport Hilton – Oral Examinations
September 11 and 12, 1992	No location available – Board meeting
October 9 and 10, 1992	No location available – Board meeting
November 13 and 14, 1992	No location available – Board meeting
December 11 and 12, 1992	No location available – Board meeting

WSR 92-03-145**PROPOSED RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed January 22, 1992, 11:29 a.m.]

Original Notice.

Title of Rule: Employer notice and separation determination rules as petitioned by Evergreen Legal Services.

Purpose: To hold a hearing pursuant to RCW 34.05-.340 for rules adopted in WSR 91-19-007, due to substantial changes between proposed and adopted rules.

Other Identifying Information: Petition filed on November 5, 1991, by Elizabeth Schott, Evergreen Legal Services on behalf of Jose Gutierrez.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Summary: These amendments would amend the rules to the form originally proposed in WSR 91-08-051.

Name of Agency Personnel Responsible for Drafting: Judy Johnson, 212 Maple Park, Olympia, WA, (206) 586-8849; Implementation and Enforcement: Marie Brillante, Assistant Commissioner (UI), 212 Maple Park, Olympia, WA, (206) 753-5120.

Name of Proponent: Elizabeth Schott, Evergreen Legal Services on behalf of Jose Gutierrez, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: If adopted, these rules would return the Employment Security Department to considering only the last separation from employment when determining eligibility for benefits, except in the case of criminal misconduct pursuant to RCW 50.20.060(2).

Proposal Changes the Following Existing Rules: WAC 192-12-300 is amended to delete reference to mailing notices to other base year employers; WAC 192-12-305 eliminates claimant responsibility for providing address information for other than last employer; WAC 192-12-310 deletes reference to request for separation information from other than last employer; and WAC 192-12-320 deletes references to separations from other than last employer.

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

The proposed rules have a minor or negligible economic impact on businesses. These changes will result in fewer mailings to employers and resulting employer responses.

Hearing Location: Training Room 1, Employment Security Training Facility, 106 Maple Park, Olympia, WA, on February 26, 1992, at 9:00 a.m.; and at the US Department of Labor, Regional Office, 2nd Floor, Room 200, 1111 Third Avenue, Seattle, WA, on Thursday, March 5, 1992, at 10:00 a.m.; and at the Towne Plaza Motor Hotel, North 7th Street and East Yakima Avenue, Yakima, Washington, on Wednesday, March 4, 1992, at 9:00 a.m.

Submit Written Comments to: Wm. Eric Jordan, Rules Coordinator, Employment Security Department, Olympia, Washington 98504, by February 28, 1992.

Date of Intended Adoption: April 10, 1992.

January 22, 1992
Ellen O'Brien Saunders
Deputy Commissioner
for Vernon E. Stoner
Commissioner

AMENDATORY SECTION (Amending WSR 91-19-007, filed 9/6/91, effective 9/8/91)

WAC 192-12-300 MAILING ADDRESSES FOR NOTICE TO EMPLOYER. Notices to employers mailed as required in RCW 50.20.150 and WAC 192-12-310 will be mailed as follows:

(1) The notice to the last employer of the claimant will be mailed to the address provided by the claimant.

(2) The notice to any base year employer who has reported wages to the department will be mailed to the mailing address of record of the employer provided by the employer for tax purposes.

~~((3) The notice to any other employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed to the address provided by the claimant.))~~

AMENDATORY SECTION (Amending WSR 91-19-007, filed 9/6/91, effective 9/8/91)

WAC 192-12-305 CLAIMANT RESPONSIBILITY FOR PROVIDING ACCURATE EMPLOYER ADDRESS. (1) If the notice to employer (WAC 192-12-310) is mailed to an address provided by the claimant (WAC 192-12-300 (1) ~~((& (3)))~~) and is returned by the post office as undeliverable, the claimant will be determined to have failed to provide details of separation of employment, unless:

(a) The mail returned by the post office indicates the employer has moved and left no forwarding address(;;); or

(b) The claimant can establish that the address provided was an accurate address at the time the claimant last worked for the employer.

(2) No payment will be made to a claimant found to have failed to provide details of separation from employment pursuant to subsection (1) of this section unless the claimant is a continued claim recipient as defined in WAC 192-12-011, in which case payments will be made conditionally pursuant to WAC 192-12-012.

(3) A claimant who has failed to provide details of separation from employment pursuant to subsection (1) of this section may be subject to disqualification pursuant to WAC 192-23-051 if the claimant does not respond to a request to provide an accurate employer address.

AMENDATORY SECTION (Amending WSR 91-19-007, filed 9/6/91, effective 9/8/91)

WAC 192-12-310 NOTICE TO EMPLOYER. (1) At the time of filing any new claim (the filing of an application for initial determination) a notice will be mailed to:

~~((a)) the claimant's last employer(~~(-and~~~~

~~((b) Any prior employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification)~~

~~((2) The)). This notice ((in subsection (1) above)) will provide the employer with information provided to the department by the claimant and request that the employer provide information to the department if the separation was for reasons of other than lack of work.~~

~~((3)) (2) At the time of filing any new claim (the filing of an application for initial determination) that results in the establishment of a benefit year pursuant to RCW 50.04.030, a notice will be mailed to all base year employers. This notice to base year employers will include information on wages reported and benefit charging related information and will request employer response if wage information is incorrect or if the employer wishes to request relief of benefit charging.~~

~~((4)) (3) At the time of filing an additional claim for benefits (re-opening a claim after subsequent employment) a notice will be mailed to the last employer reported by the claimant ((and to any prior employer from who the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) and who has not previously been notified)).~~

AMENDATORY SECTION (Amending WSR 91-19-007, filed 9/6/91, effective 9/8/91)

WAC 192-12-320 MAILING OF DETERMINATION NOTICES. RCW 50.20.180 allows the commissioner to determine the parties to be mailed notices of allowance or denial of benefits.

(1) The claimant will be mailed a notice of determination

(a) That denies the claimant benefits, or

(b) That allows benefits and is also mailed to an employer.

(2) The last employer will be mailed a determination notice if the claimant was separated from employment for reasons other than lack of work.

~~((3) ((Any employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed a determination notice if the claimant was separated from employment for reasons other than lack of work.~~

~~((4)) A determination of eligibility will be made and a notice mailed to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged as a result of a felony or gross misdemeanor connected with the work.~~

~~((5)) (4) A determination of eligibility ((for)) for benefits based on an issue other than a separation from employment will be mailed to an employer if the employer provides relevant information relating to eligibility for a specific week.~~

NEW SECTION

WAC 192-12-370 LAST EMPLOYER RULE. (1) For the purpose of determining eligibility for benefits pursuant to RCW 50.20.050, only the separation from the last employer will be considered.

(2) For the purpose of determining eligibility for benefits pursuant to RCW 50.20.060(1), only the separation from the last employer will be considered.

(3) For the purpose of determining eligibility pursuant to RCW 50.20.060(2), any separation subsequent to the beginning of an individual's base year will be considered.

WSR 92-03-146
PROPOSED RULES
LOTTERY COMMISSION
[Filed January 22, 1992, 11:32 a.m.]

Original Notice.

Title of Rule: WAC 315-33B-010, Definitions for "Beat the State"; 315-33B-020, Price of "Beat the State" ticket; 315-33B-030, Play for "Beat the State"; 315-33B-040, Prizes for "Beat the State"; 315-33B-050, "Beat the State" purchases; 315-33B-060, Drawings; 315-33B-070, Suspension/termination of "Beat the State"; 315-11-750, 315-11-751 and 315-11-752, Definitions, criteria and ticket validation requirements for Instant Game No. 75 ("Movie Mania"); 315-11-760, 315-11-761 and 315-11-762, Definitions, criteria and ticket validation requirements for Instant Game No. 76 ("Gold & Glory"); 315-11-770, 315-11-771 and 315-11-772, Definitions, criteria and ticket validation requirements for Instant Game No. 77 ("Wildcard"); 315-41-50400, 315-41-50410 and 315-41-50420, Definitions, criteria and ticket validation requirements for Paper Scratch Game No. 504 ("Treasure Hunt"); 315-41-50500, 315-41-50510 and 315-41-50520, Definitions, criteria and ticket validation requirements for Paper Scratch Game No. 505 ("Rooster Tail"); 315-41-50600, 315-41-50610 and 315-41-50620, Definitions, criteria and ticket validation requirements for Paper Scratch Game No. 506 ("Criss Cross"); and 315-34-040, Prizes for lotto.

Purpose: To establish the rules for Beat the State at chapter 315-33B WAC, and the game play rules and criteria for determining winners of Instant Game Nos. 75 ("Movie Mania"), 76 ("Gold & Glory"), and 77 ("Wildcard") and Paper Scratch Game Nos. 504 ("Treasure Hunt"), 505 ("Rooster Tail"), and 506 ("Criss Cross"), and to amend WAC 315-34-040.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rules below.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Contracts Specialist, Olympia, 586-6583; Implementation and Enforcement: Evelyn Y. Sun, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-33B-010, 315-33B-020, 315-33B-030, 315-33B-040, 315-33B-050, 315-33B-060 and 315-33B-070, these rules are proposed for "Beat the State," an enhancement of the on-line game "Quinto." The rules define terms and describe play, prize claims procedures and the drawing mechanism; WAC 315-11-750, 315-11-751, 315-11-752, 315-11-760, 315-11-761, 315-11-762, 315-11-770, 315-11-771 and 315-11-772, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets; and WAC 315-41-50400, 315-41-50410, 315-41-50420, 315-41-50500, 315-41-50510, 315-41-50520, 315-41-50600, 315-41-50610 and 315-41-50620, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal Changes the Following Existing Rules: WAC 315-34-040 is amended to change the percentage of revenue reserved for the prize allocation, prize pool and prize reserve. The same section is also amended to change the percentage of the prize pool allocated to first, second, third, and fourth prizes.

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

The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure

and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, 814 4th Avenue, Olympia, WA 98504, on March 6, 1992, at 10:00 a.m.

Submit Written Comments to: Jeff Burkhardt, Lottery, P.O. Box 43025, Olympia, WA 98504-3025, by March 5, 1992.

Date of Intended Adoption: March 6, 1992.

January 21, 1992

Evelyn Y. Sun
Director

CHAPTER 315-33B WAC "BEAT THE STATE" RULES

WAC 315-33B-010	DEFINITIONS FOR "BEAT THE STATE"
WAC 315-33B-020	PRICE OF "BEAT THE STATE" TICKET
WAC 315-33B-030	PLAY FOR "BEAT THE STATE"
WAC 315-33B-040	PRIZES FOR "BEAT THE STATE"
WAC 315-33B-050	"BEAT THE STATE" PURCHASES
WAC 315-33B-060	DRAWINGS
WAC 315-33B-070	SUSPENSION/TERMINATION OF "BEAT THE STATE"

NEW SECTION

WAC 315-33B-010 DEFINITIONS FOR "BEAT THE STATE". (1) Card suit: Heart, diamond, club or spade symbol.

(2) Number: Any integer from 2 through 10 inclusive and jack, queen, king and ace. The sequential order of the numbers shall be: Ace, 2, 3, 4, 5, 6, 7, 8, 9, 10, jack, queen, king, ace. An ace may not be used to follow "king" and precede "2" in the same play.

(3) Set: One number and one card suit.

(4) Play: A selection of five sets, also referred to as a "hand."

(5) Royal flush: A play containing the numbers, 10, jack, queen, king and ace, and all of the numbers are of the same suit.

(6) Straight flush: A play containing five different numbers, with no break in the sequential order among the numbers, and all of the numbers are of the same suit.

(7) Four of a kind: A play containing four numbers which are exactly the same as each other.

(8) Full house: A play containing three numbers which are exactly the same as each other, and in the same play, two other numbers which are exactly the same as each other.

(9) Flush: A play containing five numbers which are all of the same suit.

(10) Straight: A play containing five different numbers with no break in the sequential order among the numbers.

(11) Three of a kind: A play containing three numbers which are exactly the same as each other.

(12) Two pair: A play containing two numbers which are exactly the same as each other, and in the same play, two other numbers which are exactly the same as each other.

(13) One pair: A play containing two numbers which are exactly the same as each other.

(14) No pair: A play which does not contain any of the plays described above.

NEW SECTION

WAC 315-33B-020 PRICE OF "BEAT THE STATE" PLAY. The price of each "Beat the State" play shall be \$1.00 and shall contain one five (5) set play.

NEW SECTION

WAC 315-33B-030 PLAY FOR "BEAT THE STATE". (1) Type of play: A winning play is achieved only when the play held by the ticket holder is superior to the play held by the state.

(2) Method of play: An on-line computer system will make all set selections for players with the use of a random number generator, a method commonly referred to as "quick play."

(3) Hierarchy of plays: The play with the highest superiority is the royal flush, followed by the straight flush, four of a kind, full house,

flush, straight, three of a kind, two pair, one pair, no pair and fold in that order.

NEW SECTION

WAC 315-33B-040 PRIZES FOR "BEAT THE STATE". (1) When the play held by the ticket holder is superior, as delineated in WAC 315-33B-030(3), to the play held by the state, the ticket holder shall be entitled to receive a prize, based on the play held by the ticket holder. Where the ticket holder's play contains more than one winning play, the ticket holder shall be entitled to only the largest prize for which the play is eligible. Prizes corresponding to winning plays follow:

TICKET HOLDER'S HAND	PRIZE AMOUNT	ODDS OF WINNING (ONE PLAY)
Royal Flush	\$ 5,000	1:662,480.00
Straight Flush	1,000	1:75,081.07
Four of a Kind	250	1:4,512.08
Full House	75	1:784.71
Flush	29	1:615.30
Straight	19	1:348.67
Three of a Kind	9	1:79.39
Two Pair	5	1:57.57
One Pair	3	1:24.61
No Pair	2	1:20.75

Overall odds of winning a "Beat the State" prize: 1:8

(2) Prize payments will be made in accordance with WAC 315-30-030(6). Each prize shall be paid in a single payment. Federal income tax shall be withheld from prize payments as required by law.

NEW SECTION

WAC 315-33B-050 "BEAT THE STATE" PURCHASES. (1) "Beat the State" plays may be purchased or redeemed during no less than seventeen (17) hours each day in accordance with a schedule to be determined by the director, provided that on-line retailers shall sell and redeem tickets only during their normal business hours.

(2) "Beat the State" plays may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.

(3) A "Beat the State" play may be purchased only as an addition to a Quinto ticket purchased under WAC chapter 315-33A. "Beat the State" must be purchased before the Quinto ticket is printed. "Beat the State" cannot be added to a Quinto ticket already printed by the on-line computer system.

(4) The purchase of a "Beat the State" play will be noted by the on-line computer system on a Quinto ticket, as described in WAC 315-33A-050(3).

NEW SECTION

WAC 315-33B-060 DRAWINGS. (1) The "Beat the State" drawing held pursuant to this chapter shall be once each Saturday beginning May 16, 1992 in conjunction with the Quinto drawing held pursuant to WAC chapter 315-33A, except that the director may change the drawing schedule if Saturday is a holiday.

(2) The drawing of the state's hand will be overseen by lottery officials.

(3) The state's hand shall be determined by a random drawing of one hand from 52 possibilities, which shall be as follows:

Number of possibilities for Royal Flush:	1
Number of possibilities for Straight Flush:	1
Number of possibilities for Four of a Kind:	2
Number of possibilities for Full House:	2
Number of possibilities for Flush:	3
Number of possibilities for Straight:	5
Number of possibilities for Three of a Kind:	7
Number of possibilities for Two Pair:	12
Number of possibilities for One Pair:	14
Number of possibilities for Fold:	5
Total possibilities	52

(4) The state's hand shall not be declared official until certified by the lottery. If the state's hand is not certified, another drawing will be conducted to determine the state's hand.

(5) The drawing shall not be invalidated based on the liability of the lottery.

NEW SECTION

WAC 315-33B-070 SUSPENSION/TERMINATION OF "BEAT THE STATE". At the discretion of the director, "Beat the State" play may be suspended or terminated at any time, to be effective prior to the beginning of sales for any future drawing. The director may suspend or terminate sales and a drawing only where no sales have been made for the drawing.

NEW SECTION

WAC 315-11-750 DEFINITIONS FOR INSTANT GAME NUMBER 75 ("MOVIE MANIA"). (1) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$6.00"; "\$12.00"; "\$24.00"; "\$40.00"; "\$80.00"; "\$10,000." One of these symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 75, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
\$1.00	ONE DOL
\$2.00	TWO DOL
\$4.00	FOR DOL
\$6.00	SIX DOL
\$12.00	TLV DOL
\$24.00	TTF DOL
\$40.00	\$FORTY\$
\$80.00	\$EIGHTY
\$10,000	TENTHOU

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 07500001-000 printed on the front of the ticket. The first eight digits of the pack-ticket number for Instant Game Number 75 constitute the "pack number" which starts at 07500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 75, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
SIX	\$ 6.00
TLV	\$12.00
TTF	\$24.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-11-751 CRITERIA FOR INSTANT GAME NUMBER 75. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having the following play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 1.00 play symbols – Win \$ 1.00
Three \$ 2.00 play symbols – Win \$ 2.00
Three \$ 4.00 play symbols – Win \$ 4.00
Three \$ 6.00 play symbols – Win \$ 6.00
Three \$ 12.00 play symbols – Win \$ 12.00
Three \$ 24.00 play symbols – Win \$ 24.00
Three \$ 40.00 play symbols – Win \$ 40.00
Three \$ 80.00 play symbols – Win \$ 80.00
Three \$ 10,000 play symbols – Win \$ 10,000

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 18.00	EIGHTEEN
\$ 40.00	\$FORTY\$
\$ 80.00	\$EIGHTY
\$ 5,000	FIVTHOU

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 75 set forth in WAC 315-11-752, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 75; and/or
- (b) Vary the number of tickets sold in Instant Game Number 75 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-752 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 75. (1) A valid instant game ticket for Instant Game Number 75 shall meet all of the following validation requirements as well as all other requirements in these rules and regulations:

- (a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.
- (b) Each of the six play symbols must have a caption below it and each must agree with its caption.
- (c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-750(1) and each of the captions must be exactly one of those described in WAC 315-11-750(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-760 DEFINITIONS FOR INSTANT GAME NUMBER 76 ("GOLD & GLORY"). (1) Play symbols: The following are the "play symbols": "\$1.00"; "\$2.00"; "\$4.00"; "\$8.00"; "\$18.00"; "\$40.00"; "\$80.00"; and "\$5,000." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 76, the captions which correspond with and verify the play symbols are:

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 07600001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 76 constitute the "pack number" which starts at 07600001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 or less. For Instant Game Number 76, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
EGT	\$ 8.00
EGN	\$18.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-761 CRITERIA FOR INSTANT GAME NUMBER 76. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three \$ 1.00 play symbols – Win \$ 1.00
Three \$ 2.00 play symbols – Win \$ 2.00
Three \$ 4.00 play symbols – Win \$ 4.00
Three \$ 8.00 play symbols – Win \$ 8.00
Three \$ 18.00 play symbols – Win \$ 18.00
Three \$ 40.00 play symbols – Win \$ 40.00
Three \$ 80.00 play symbols – Win \$ 80.00
Three \$ 5,000 play symbols – Win \$ 5,000.00

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 76 set forth in WAC 315-11-762, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 76; and/or
- (b) Vary the number of tickets sold in Instant Game Number 76 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-762 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 76. (1) A valid instant game ticket for Instant Game Number 76 shall meet all of the following

validation requirements as well as all other requirements in these rules and regulations.

(a) Exactly one play symbol must appear in each of the six play spots under the removable latex covering on the front of the ticket.

(b) Each of the six play symbols must have a caption below it, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-760(1) and each of the captions must be exactly one of those described in WAC 315-11-760(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-076 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-770 DEFINITIONS FOR INSTANT GAME NUMBER 77 ("WILDCARD"). (1) Play symbols: The following are the "play symbols": " "; "A"; "K"; "Q"; "J"; "10"; and "9." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket.

(2) Captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 77, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
A	ACE
K	KNG
Q	QUE
J	JAC
10	TEN
9	NIN
	WLD

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The eleven-digit number of the form 07700001-000 printed on the front of the ticket. The first eight digits of the pack-ticket number for Instant Game Number 77 constitute the "pack number" which starts at 07700001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25.00 and less. For Instant Game Number 77, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
EGT	\$ 8.00
SXT	\$16.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-11-771 CRITERIA FOR INSTANT GAME NUMBER 77. (1) The price of each instant game ticket shall be \$1.00.

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

The bearer of a ticket having the following play symbols in any 3 of 6 spots beneath the removable covering on the front of the ticket shall win the following prize:

Three 9's	- Win \$ 1.00
Two 9's and one symbol	- Win \$ 2.00
Three 10's	- Win \$ 2.00
Two 10's and one symbol	- Win \$ 4.00
Three J's	- Win \$ 4.00
Two J's and one symbol	- Win \$ 8.00
Three Q's	- Win \$ 16.00
Three K's	- Win \$ 40.00
Two K's and one symbol	- Win \$ 80.00
Three A's	- Win \$ 10,000

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 77 set forth in WAC 315-11-772, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 77; and/or
- (b) Vary the number of tickets sold in Instant Game Number 77 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-11-772 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 77. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 77 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the six play spots under the latex covering on the front of the ticket.

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

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-770(1) and each of the captions must be exactly one of those described in WAC 315-11-770(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-41-50400 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 504 ("TREASURE HUNT"). (1) Play symbols: The following are the "play symbols": " "; " "; " "; " "; " "; " "; " "; " "; " "; " "; and " ". One of these play symbols appears in each of the twelve play spots in the playfield under the scratch-off material covering the game play data on the back of the

ticket. The twelve play spots shall be arranged in four rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 504, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	FLAG
	PALM
	SHVL
	TRSUR
	SHIP
	SORD
	PAROT
	SNSHN
	SGLAS

(3) Pack-ticket number: The eleven-digit number of the form 50400001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 504 constitute the "pack number" which starts at 50400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 504, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the back of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
HAF	\$.50
ONE	\$ 1.00
FIV	\$ 5.00
HUN	\$ 100.00

(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50410 CRITERIA FOR PAPER SCRATCH GAME NUMBER 504. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

The bearer of a ticket having three identical play symbols in the same game (horizontal row) shall win the prize which corresponds with that set of identical play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of identical play symbols and its corresponding prize, as follows:

Three	play symbols - Win	\$.50
Three	play symbols - Win	\$ 1.00
Three	play symbols - Win	\$ 5.00
Three	play symbols - Win	\$100.00

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 504 set forth in WAC 315-41-50420, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Paper Scratch Game Number 504; and/or

(b) Vary the number of tickets sold in Paper Scratch Game Number 504 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50420 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 504. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 504, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the twelve rub-off spots on the back of the ticket under the latex covering.

(b) Each of the twelve play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number, and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50400(1) and each of the captions must be exactly one of those described in WAC 315-41-50400(2).

(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-41-50500 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 505 ("ROOSTER TAIL"). (1) Play symbols: The following are the "play symbols": " "; " "; " "; " "; " "; " "; " "; " "; " "; " "; " "; and " ". One of these play symbols appears in each of the twelve play spots in the playfield under the scratch-off material covering the game play data on the back of the ticket. The twelve play spots shall be arranged in four rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 505, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	TUBE
	PADL
	CHEST
	VEST
	PLANE
	FISH
	BONE
	KEYE
	BELL
	CARR

(3) Pack-ticket number: The eleven-digit number of the form 50500001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 505 constitute the "pack number" which starts at 50500001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 505, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations

among the play symbols on the back of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
HAF	\$.50
ONE	\$ 1.00
TWO	\$ 2.00
FOR	\$ 4.00
TWF	\$ 25.00

(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50510 CRITERIA FOR PAPER SCRATCH GAME NUMBER 505. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

The bearer of a ticket having three identical play symbols in the same game (horizontal row) shall win the prize which corresponds with that set of identical play symbols. Play symbols in different games (horizontal rows) may not be combined to win a prize. The ticket shall bear a legend which lists each set of identical play symbols and its corresponding prize, as follows:

Three	play symbols - Win	\$.50
Three	play symbols - Win	\$ 1.00
Three	play symbols - Win	\$ 2.00
Three	play symbols - Win	\$ 4.00
Three bars	play symbols - Win	\$25.00

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 505 set forth in WAC 315-41-50520, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Paper Scratch Game Number 505; and/or
- (b) Vary the number of tickets sold in Paper Scratch Game Number 505 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50520 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 505. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 505, all of the following validation requirements apply.

- (a) Exactly one play symbol must appear in each of the twelve rub-off spots on the back of the ticket under the latex covering.
- (b) Each of the twelve play symbols must have a caption below it and each must agree with its caption.
- (c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number, and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50500(1) and each of the captions must be exactly one of those described in WAC 315-41-50500(2).

(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-41-50600 DEFINITIONS FOR PAPER SCRATCH GAME NUMBER 506 ("CRISS CROSS"). (1) Play symbols: The following are the "play symbols": " ", " ", " ", " ", " ", " ", " ", " ", and " ". One of these play symbols appears in each of the nine play spots in the playfield under the scratch-off material covering the game play data on the back of the ticket. The nine play spots shall be arranged in three rows, with three play spots to each row.

(2) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Paper Scratch Game Number 506, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	PLUS
	STAR
	CRCL
	ECKS
	TRNGL

(3) Pack-ticket number: The eleven-digit number of the form 50600001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Paper Scratch Game Number 506 constitute the "pack number" which starts at 50600001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the back of the ticket which the lottery retailer uses to verify all winners. For Paper Scratch Game Number 506, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the back of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
HAF	\$.50
ONE	\$ 1.00 (\$.50 and \$.50)
TWO	\$ 2.00 (\$1.00 and \$1.00)
TEN	\$10.00 (\$5.00 and \$5.00)
TWF	\$25.00

(5) Pack: A set of four hundred individually cut game tickets packaged in plastic shrinkwrapping.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50610 CRITERIA FOR PAPER SCRATCH GAME NUMBER 506. (1) The price of each paper scratch game ticket shall be \$.50.

(2) Determination of prize winning tickets: A paper scratch prize winner is determined in the following manner:

(a) The bearer of a ticket having three identical play symbols in any row, column or diagonal shall win the prize which corresponds with that set of identical play symbols. The ticket shall bear a legend which lists each set of identical play symbols and its corresponding prize, as follows:

Three	play symbols - Win	\$.50
Three	play symbols - Win	\$ 1.00
Three	play symbols - Win	\$ 2.00
Three	play symbols - Win	\$ 5.00
Three	play symbols - Win	\$ 25.00

(b) The bearer of a ticket having more than one set of winning play symbols shall win the total amount of the prizes for each winning set.

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-40-060, to the particular ticket validation requirements for Paper Scratch Game Number 506 set forth in WAC 315-41-50620, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Paper Scratch Game Number 506; and/or

(b) Vary the number of tickets sold in Paper Scratch Game Number 506 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

Reviser's note: The illustrations in the above section were omitted in the copy filed by the agency, which appears as filed pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 315-41-50620 TICKET VALIDATION REQUIREMENTS FOR PAPER SCRATCH GAME NUMBER 506. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid paper scratch game ticket for Paper Scratch Game Number 506, all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the nine rub-off spots on the back of the ticket under the latex covering.

(b) Each of the nine play symbols must have a caption below it and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(d) Each of the play symbols and its caption, the pack-ticket number, and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-41-50600(1) and each of the captions must be exactly one of those described in WAC 315-41-50600(2).

(2) Any ticket not passing all the validation requirements in WAC 315-40-060 and subsection (1) of this section is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90)

WAC 315-34-040 PRIZES FOR LOTTO. (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, third and fourth prize categories vary due to the parimutuel calculation of prizes. The prize amounts are based on the total amount in the prize pool for that Lotto drawing distributed over the number of winning tickets in each category.

WINNING COMBINATIONS	PRIZE CATEGORIES	ODDS OF WINNING (ONE PLAY)
All six winning numbers in one play	First Prize (Jackpot)	1:13,983,816
Any five but not six winning numbers in one play	Second Prize	1:54,201
Any four but not five or six winning numbers in one play	Third Prize	1:1,033
Any three but not four, five or six winning numbers in one play	Fourth Prize	1:57

(2) Prize allocation. The prize allocation consists of ~~((forty-five))~~ forty-eight percent of Lotto revenue. The prize allocation will be divided between the prize pool and the prize reserve as follows: prize pool—~~((forty-three))~~ forty-six percent of Lotto revenue; prize reserve—two percent of Lotto revenue.

(3) Prize amounts.

(a) First prize (jackpot). ~~((Fifty-eight))~~ Sixty-four percent of the prize pool is to be divided equally among all players who selected all six winning numbers in one play (in any sequence). The director may increase the cash value of the jackpot by an amount not to exceed the amount in the prize reserve.

(b) Second prize. ~~((Six))~~ Five percent of the prize pool is to be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. ~~((Twelve))~~ Ten percent of the prize pool is to be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. ~~((Twenty-four))~~ Twenty-one percent of the prize pool is to be divided equally among all players who selected three of the six winning numbers in one play (in any sequence).

(e) Prize reserve. The prize reserve will be held for payment of prizes at the discretion of the director.

(f) All prizes will be rounded to the nearest dollar. The remainder or shortages, if any, from the rounding process shall be placed in or taken from the prize reserve.

(g) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(h) The holder of two or more jackpot winning tickets with a cumulative total cash value of \$250,000 or more may elect to receive a single prize based on the total cash value with prize payments in accordance with subsection (5)(a) or (b) of this section.

(i) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

(4) Roll-over feature.

(a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(c) If no player selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(d) If no player selects three of the six winning numbers for any given drawing, the fourth prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments will be made in accordance with WAC 315-30-030(6).

(a) Each prize that has a cash value of \$500,000 or more shall be paid in twenty annual payments.

(b) Each prize that has a cash value of more than \$250,000 but less than \$500,000 shall, at the discretion of the director, be paid either in ten annual payments or twenty annual payments.

(c) Each prize that has a cash value of \$250,000 or less shall be paid in a single payment.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form designated by the director.

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 92-03-147
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 22, 1992, 11:39 a.m.]

Original Notice.

Title of Rule: WAC 388-95-360 Allocation of income—Institutionalized recipient.

Purpose: Amendment of Social Security Act, Section 1924 (d)(3)(a), effective July 1, 1991. Amendment of the community spouse maintenance needs allowance to ensure compliance with the above federal regulation that became effective July 1, 1991.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Correct the community spouse maintenance needs allowance to ensure compliance with above federal regulation that became effective July 1, 1991.

Reasons Supporting Proposal: To ensure compliance with the July 1, 1991, community spouse maintenance needs allowance increase.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Hornby, Medical Assistance Administration, 753-7462.

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

Rule is necessary because of federal law, Social Security Act Section 1924 (d)(3)(a).

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 February 25, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by February 25, 1992.

Date of Intended Adoption: March 10, 1992.

January 22, 1992
 Leslie F. James, Director
 Administrative Services
 by Rosemary Carr

AMENDATORY SECTION (Amending Order 3232, filed 8/20/91, effective 9/20/91)

WAC 388-95-360 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) In reducing payment to the institution, the department shall consider the institutionalized recipient's income under WAC 388-95-335 (3)(a), (b), (c), and (d).

(2) The department shall deduct the following amounts, in the following order, from the institutionalized recipient's total income, including amounts excluded in determining eligibility:

- (a) Specified personal needs allowance;
- (b) An amount an SSI, AFDC, or FIP-related client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance;
- (c) The current personal needs allowance plus wages the SSI-related client receives for work approved by the department as part of a

training or rehabilitative program designed to prepare the (~~individual~~) person for a less-restrictive placement when the total wages received plus the personal needs allowance do not exceed the one-person medically needy income level:

(i) (~~No~~) A deduction(~~s are~~) is not allowed for employment expenses (~~of employment~~); and

(ii) The excess wages shall apply to the cost of care when the total wages received plus the initial personal needs allowance exceeds the one-person medically needy income level.

(d) A monthly needs allowance for the community spouse:

(i) Of an amount added to the community spouse's income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars;

(ii) Actual shelter expenses that exceed two hundred (~~seventy~~) ninety-five dollars and (~~ninety~~) fifty cents. The department shall calculate actual shelter expenses for the community spouse's principal residence for:

- (A) Rent;
- (B) Mortgage;
- (C) Taxes and insurance;
- (D) Any maintenance charge for a condominium or cooperative; and
- (E) A food stamp standard allowance for utilities provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(iii) The total of the community spouse's monthly needs allowance shall not exceed (~~one thousand six hundred sixty-two dollars~~) one thousand seven hundred eighteen dollars, unless:

- (A) A court enters an order against the institutionalized client for the community spouse support in excess of this amount; or
- (B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(e) An amount for the maintenance needs of a family member residing with the community spouse equal to one-third of the amount nine hundred (~~three~~) eighty-five dollars exceeds the family member's income for each:

- (i) Dependent or minor child;
- (ii) Dependent parent; or
- (iii) Dependent sibling of the institutionalized or community spouse(~~;~~);

(f) If an institutional recipient does not have a community spouse, an amount for the maintenance needs of family members residing in the recipient's home is equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents;

(g) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

- (i) Health insurance premiums, co-insurance, or deductible charges; and
- (ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(h) Maintenance of the home of a single person or couple:

- (i) Up to one hundred eighty dollars per month; and
- (ii) Limited to a six-month period; and
- (iii) A physician has certified that either of the individuals is likely to return to the home within that period; and
- (iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

(3) The department shall not deduct specified personal needs allowance, community spouse, needy dependent maintenance needs, or home maintenance needs from a veteran's aid and attendance allowance.

(4) The recipient shall use the income remaining after allocations specified in subsection (2) of this section, toward payment of the recipient's cost of care at the department rate.

(5)(a) Effective July 1, 1988, SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility if the:

- (i) Stay in the institution or facility is not expected to exceed three months; and
- (ii) SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider the SSI payment when computing the participation amount.

(6) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the participation amount.

WSR 92-03-148
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 22, 1992, 11:40 a.m., effective January 23, 1992, 12:01 a.m.]

Date of Adoption: January 22, 1992.

Purpose: Amended to make rule consistent with revised chapter 43.43 RCW and DSHS Administrative Policy 9.04.

Citation of Existing Rules Affected by this Order: Amending WAC 388-330-030 Application of inquiry findings.

Statutory Authority for Adoption: Chapters 74.15 and 43.43 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: Effectively screen person who the department may license or authorize to care for children or will have access to children in such care.

Effective Date of Rule: January 23, 1992, 12:01 a.m.

January 22, 1992

Rosemary Carr

for Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2777, filed 3/22/89)

WAC 388-330-030 APPLICATION OF INQUIRY FINDINGS. (1) For the purposes of conducting criminal history portions of background inquiries (~~pur-~~ suant to) under RCW 74.15.030, the department shall consider only convictions and pending charges. The department shall not solicit or use as the sole basis for disqualification information about:

- (a) Arrests not resulting in charges; and
- (b) Dismissed charges (~~which were dismissed~~).
- (2) The department shall maintain a listing of offenses which, because of their seriousness, shall disqualify prospective care providers from being licensed or otherwise authorized to provide care to children or developmentally disabled persons. The following offenses or their equivalents in jurisdictions outside of the state of Washington shall constitute that list:
 - (a) Aggravated murder,
 - (b) Murder in the first degree,
 - (c) Murder in the second degree,
 - (d) Manslaughter in the first degree,
 - (e) Manslaughter in the second degree,
 - (f) Simple assault, if ~~(it)~~ the assault involves physical harm to another person,
 - (g) Assault in the first degree,
 - (h) Assault in the second degree,
 - (i) Assault in the third degree,
 - (j) Custodial assault;

- (k) Vehicular homicide;
- ~~((k*))~~ (l) Criminal mistreatment in the first degree;
- ~~((t*))~~ (m) Criminal mistreatment in the second degree;
- ~~((m*))~~ (n) Reckless endangerment;
- ~~((n*))~~ (o) Kidnapping in the first degree;
- ~~((o*))~~ (p) Kidnapping in the second degree;
- ~~((p*))~~ (q) Unlawful imprisonment;
- ~~((q*))~~ (r) Rape in the first degree;
- ~~((r*))~~ (s) Rape in the second degree;
- ~~((s*))~~ (t) Rape in the third degree;
- ~~((t*))~~ (u) First degree rape of a child;
- ~~((u*))~~ (v) Second degree rape of a child;
- ~~((v*))~~ (w) Third degree rape of a child;
- ~~((w*))~~ (x) Child molestation in the first degree;
- ~~((x*))~~ (y) Child molestation in the second degree;
- ~~((y*))~~ (z) Child molestation in the third degree;
- ~~((z*))~~ (aa) Sexual misconduct with a minor in the first degree;
- ~~((aa*))~~ (bb) Sexual misconduct with a minor in the second degree;
- ~~((bb*))~~ (cc) Indecent liberties;
- ~~((cc*))~~ (dd) Felony indecent exposure;
- (ee) Arson in the first degree;
- ~~((dd*))~~ (ff) Arson in the second degree;
- ~~((cc*))~~ (gg) Burglary in the first degree;
- ~~((ff*))~~ (hh) Extortion in the first degree;
- ~~((gg*))~~ (ii) Extortion in the second degree;
- ~~((hh*))~~ (jj) Robbery in the first degree;
- ~~((ii*))~~ (kk) Robbery in the second degree;
- ~~((jj*))~~ (ll) Incest in the first degree;
- ~~((kk*))~~ (mm) Incest in the second degree;
- ~~((ll*))~~ (nn) Promoting prostitution in the first degree;
- ~~((mm*))~~ (oo) Promoting prostitution in the second degree;
- ~~((nn*))~~ (pp) Sexual exploitation of a minor;
- ~~((oo*))~~ (qq) Communication with a minor for immoral purposes;
- ~~((pp*))~~ (rr) Child selling - child buying;
- ~~((qq*))~~ (ss) Public indecency, if toward a person under the age of fourteen years;
- ~~((rr*))~~ (tt) Prostitution;
- (uu) Dealing in depictions of a minor engaged in sexually explicit conduct;
- ~~((ss*))~~ (vv) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
- ~~((tt*))~~ (ww) Possession of depictions of a minor engaged in sexually explicit conduct;
- ~~((uu*))~~ (xx) Patronizing a juvenile prostitute;
- ~~((vv*))~~ (yy) Family abandonment;
- ~~((ww*))~~ (zz) Child abandonment;
- (aaa) Unlawfully manufacturing, delivering, or possessing, with intent to deliver, a controlled substance;
- ~~((xx*))~~ (bbb) Promoting a suicide attempt;
- ~~((yy*))~~ (ccc) Malicious harassment;
- ~~((zz*))~~ (ddd) Promoting pornography;
- ~~((aaa*))~~ (eee) Coercion;
- (fff) Child abuse or neglect as defined in RCW 26.44.020;
- (ggg) Violation of child abuse restraining order;
- (hhh) First or second degree custodial interference.

(3) Whenever a criminal history inquiry reveals a prospective care provider has been charged with or convicted of an offense, or has been listed in the central registry as a perpetrator of substantiated child abuse or neglect, or in the WSP file as a person found to be a child abuser in a civil adjudication or disciplinary board final decision, the department shall take action as follows:

(a) If it is confirmed the subject's name appears on the aforementioned WSP file of child abusers, that person shall not be licensed, employed by licensees or contractors, serve in a volunteer capacity for licensees or contractors, or otherwise be authorized by the department to provide care. If the subject's name appears on the central registry of child abuse, the individual shall be disqualified;

(b) If the inquiry reveals charges are pending against the subject for any of the offenses listed in subsection (1) of this section, or their equivalents in other jurisdictions, the department shall withhold licensure or authorization to provide care until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding licensure or authorization to provide care. If the inquiry reveals pending charges are more than one year old, the department shall contact the charging law enforcement agency to determine the disposition or status of the charge;

(c) If the inquiry reveals the subject has been convicted of any of the offenses listed in subsection (1) of this section or their equivalents in other jurisdictions, the department shall deny licensure or authorization to provide care;

(d) If the inquiry reveals the subject has been convicted of an offense not listed, the department shall consider such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. However, the department shall not use conviction as the sole basis for denial of licensure or authorization to provide care unless the conviction is directly related to the employment, licensure, or authorization being sought. The department shall consider the recency, seriousness, kind, and number of previous offenses as well as the vulnerability of the clients to be cared for.

WSR 92-03-149
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3321—Filed January 22, 1992, 11:42 a.m., effective January 23, 1992, 12:01 a.m.]

Date of Adoption: January 22, 1992.

Purpose: Amendment of Social Security Act, Section 1924 (d)(3)(a), effective July 1, 1991. Amendment of the community spouse maintenance needs allowance to ensure compliance with the above federal regulation that became effective July 1, 1991.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-95-360 Allocation of income—
 Institutionalized recipient.

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: Section 1924 (d)(3)(a) of Social Security Act changed, effective July 1, 1991.

Effective Date of Rule: January 23, 1992, 12:01 a.m.

January 22, 1992

Leslie F. James, Director
 Administrative Services

**AMENDATORY SECTION (Amending Order 3232,
 filed 8/20/91, effective 9/20/91)**

WAC 388-95-360 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) In reducing payment to the institution, the department shall consider the institutionalized recipient's income under WAC 388-95-335 (3)(a), (b), (c), and (d).

(2) The department shall deduct the following amounts, in the following order, from the institutionalized recipient's total income, including amounts excluded in determining eligibility:

(a) Specified personal needs allowance;

(b) An amount an SSI, AFDC, or FIP-related client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance;

(c) The current personal needs allowance plus wages the SSI-related client receives for work approved by the department as part of a training or rehabilitative program designed to prepare the ~~((individual))~~ person for a less-restrictive placement when the total wages received plus the personal needs allowance do not exceed the one-person medically needy income level:

(i) ~~((No))~~ A deduction~~((s-are))~~ is not allowed for employment expenses ~~((of employment))~~; and

(ii) The excess wages shall apply to the cost of care when the total wages received plus the initial personal needs allowance exceeds the one-person medically needy income level.

(d) A monthly needs allowance for the community spouse:

(i) Of an amount added to the community spouse's income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars;

(ii) Actual shelter expenses that exceed two hundred ~~((seventy))~~ ninety-five dollars and ~~((ninety))~~ fifty cents. The department shall calculate actual shelter expenses for the community spouse's principal residence for:

(A) Rent;

(B) Mortgage;

(C) Taxes and insurance;

(D) Any maintenance charge for a condominium or cooperative; and

(E) A food stamp standard allowance for utilities provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(iii) The total of the community spouse's monthly needs allowance shall not exceed (~~one thousand six hundred sixty-two dollars~~) one thousand seven hundred eighteen dollars, unless:

(A) A court enters an order against the institutionalized client for the community spouse support in excess of this amount; or

(B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(e) An amount for the maintenance needs of a family member residing with the community spouse equal to one-third of the amount nine hundred ((three)) eighty-five dollars exceeds the family member's income for each:

- (i) Dependent or minor child;
- (ii) Dependent parent; or
- (iii) Dependent sibling of the institutionalized or community spouse(;;).

(f) If an institutional recipient does not have a community spouse, an amount for the maintenance needs of family members residing in the recipient's home is equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents;

(g) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, co-insurance, or deductible charges; and

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

(h) Maintenance of the home of a single person or couple:

- (i) Up to one hundred eighty dollars per month; and
- (ii) Limited to a six-month period; and
- (iii) A physician has certified that either of the individuals is likely to return to the home within that period; and

(iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

(3) The department shall not deduct specified personal needs allowance, community spouse, needy dependent maintenance needs, or home maintenance needs from a veteran's aid and attendance allowance.

(4) The recipient shall use the income remaining after allocations specified in subsection (2) of this section, toward payment of the recipient's cost of care at the department rate.

(5)(a) Effective July 1, 1988, SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility if the:

- (i) Stay in the institution or facility is not expected to exceed three months; and
- (ii) SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider the SSI payment when computing the participation amount.

(6) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the participation amount.

WSR 92-03-150

PROPOSED RULES

DEPARTMENT OF FISHERIES

[Filed January 22, 1992, 11:53 a.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend bottom gear and catch limit rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: All bottom, roller and bobbin gear limited in mesh size and chafing gear limitations imposed. Double wall codends prohibited. 1992 coastal bottomfish limits established.

Reasons Supporting Proposal: Clarification that mesh size applies to all bottom trawl. Chafing gear and codend restrictions limit juvenile catch. Catch limits prevent overharvest.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, Mailstop AX-11, Olympia, 753-6585; Implementation: Judith Freeman, Mailstop AX-11, Olympia, 753-6749; and Enforcement: Dayna Matthews, Mailstop AX-11, Olympia, 753-6585.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-44-030, this rule provides clarification regarding the mesh size in bottomfish trawl, and disallows chafing gear to be directly attached to the end of the codend and double wall codends in bottom trawl. These measures will reduce the trawl impact on juvenile and undersize fish. WAC 220-44-050, the catch limits are proposed at the recommendation of the Pacific Fisheries Management Council, and are intended to provide for an economic stability in the industry. The black rockfish proposal anticipates federal action.

Proposal Changes the Following Existing Rules: Fishing gear and catch limit changes.

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

These proposals do not affect 10 percent of the businesses in any one three-digit industrial classification nor 20 percent of all businesses.

Hearing Location: General Administration Conference Room, 115 General Administration Building, Olympia, on February 26, 1992, at 10:00 a.m.

Submit Written Comments to: Fisheries Hearings Office, 115 General Administration Building, Olympia, 98504, by February 25, 1992.

Date of Intended Adoption: March 4, 1992.

January 21, 1992
Judith Merchant
Deputy
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 88-157, filed 10/27/88)

WAC 220-44-030 COASTAL BOTTOMFISH GEAR. It is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington state ports, bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 59A, 59B, 60A and that portion of Area 58 within the United States 200-mile Fishery Conservation Zone with any gear except as provided in this section:

(1) Otter trawl and beam trawl:

(a) It is unlawful to use, operate or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches.

(b) It is unlawful to use or operate any bottom roller or bobbin trawl having meshes less than 4.5 inches. A bottom roller or bobbin trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5-inch minimum mesh size.

Chafing gear must not be connected directly to the terminal (closed) end of the codend. For all bottom roller or bobbin trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(c) ~~(It is unlawful to use or operate a)~~ On roller or bobbin trawls ~~(with meshes less than 3.0 inches.)~~, chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6.0 inches. Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

(d) ~~(Double wall codends may not be used in any trawl with mesh size less than 4.5 inches. If a double wall codend is used, the double walled layers must be the same mesh size and coincide, knot to knot, and may not be longer than 25 trawl meshes or 12 feet, whichever is greater.~~

~~(e))~~ It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches. ~~(It is unlawful to use a double wall codend in any pelagic trawl.)~~ Chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6 inches. Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(e) It is unlawful to use double wall codends in any trawl gear.

(2) Set lines. It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Set lines must be attended at least once every seven days. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator.

(3) Bottomfish pots. It is unlawful for the operator of bottomfish pots to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Bottomfish pots must be attended at least once every seven days. Bottomfish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner or operator.

(4) Commercial jig gear.

(5) Troll lines. It is unlawful to take, fish for or possess salmon while fishing for bottomfish with troll line gear under authority of a bottomfish troll license, except that in any coastal waters it is lawful to retain for commercial purposes any species of bottomfish taken with commercial salmon gear incidental to a lawful salmon fishery.

(6) Shrimp trawls. It is unlawful in any coastal waters, to retain for commercial purposes more than 1,500 pounds per day of any bottomfish species other than Pacific whiting, shortbelly rockfish or arrow-tooth flounder taken with shrimp trawl gear incidental to a lawful shrimp fishery.

(7) It is unlawful to take, fish for or possess any species of shellfish taken with lawful bottomfish gear except as provided in WAC 220-52-053, 220-52-063, 220-52-066, 220-52-069, and 220-52-071.

(8) It is unlawful to take or possess lingcod taken for commercial purposes with any gear from December 1 through April 14 in Coastal Marine Fish-Shellfish Management and Catch Reporting Area 59B.

AMENDATORY SECTION (Amending Order 91-12, filed 3/18/91, effective 4/18/91)

WAC 220-44-050 COASTAL BOTTOMFISH CATCH LIMITS. It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated. All weights are in round pounds:

(1) The following definitions apply to this section:

(a) Fixed two-week fishing period. Each of the following is defined as a fixed, two-week fishing period (hours given are on a 24-hour basis):

0001 hours January 1 to 2400 hours January 14;
0001 hours January 15 to 2400 hours January 28;
0001 hours January 29 to 2400 hours February 11;
0001 hours February 12 to 2400 hours February 25;
0001 hours February 26 to 2400 hours March 10;
0001 hours March 11 to 2400 hours March 24;
0001 hours March 25 to 2400 hours April 7;
0001 hours April 8 to 2400 hours April 21;
0001 hours April 22 to 2400 hours May 5;
0001 hours May 6 to 2400 hours May 19;
0001 hours May 20 to 2400 hours June 2;
0001 hours June 3 to 2400 hours June 16;
0001 hours June 17 to 2400 hours June 30;
0001 hours July 1 to 2400 hours July 14;
0001 hours July 15 to 2400 hours July 28;
0001 hours July 29 to 2400 hours August 11;
0001 hours August 12 to 2400 hours August 25;
0001 hours August 26 to 2400 hours September 8;
0001 hours September 9 to 2400 hours September 22;
0001 hours September 23 to 2400 hours October 6;
0001 hours October 7 to 2400 hours October 20;
0001 hours October 21 to 2400 hours November 3;
0001 hours November 4 to 2400 hours November 17;
0001 hours November 18 to 2400 hours December 1;
0001 hours December 2 to 2400 hours December 15;
0001 hours December 16 to 2400 hours December 31;

(b) Fixed four-week periods. Each of the following is defined as a fixed, four-week fishing period (hours given are on a 24-hour basis):

0001 hours January 1 to 2400 hours January 28;
0001 hours January 29 to 2400 hours February 25;
0001 hours February 26 to 2400 hours March 24;
0001 hours March 25 to 2400 hours April 21;
0001 hours April 22 to 2400 hours May 19;
0001 hours May 20 to 2400 hours June 16;
0001 hours June 17 to 2400 hours July 14;
0001 hours July 15 to 2400 hours August 11;
0001 hours August 12 to 2400 hours September 8;
0001 hours September 9 to 2400 hours October 6;
0001 hours October 7 to 2400 hours November 3;
0001 hours November 4 to 2400 hours December 1;
0001 hours December 2 to 2400 hours December 31;

(c) Cumulative trip limit. A cumulative trip limit is the maximum amount of fish that may be taken and retained, possessed or landed in a specified period of time, without a limit on the number of landings or trips. Once a vessel has landed a cumulative trip limit, it may fish ahead into the next cumulative trip limit, provided that no landing is made until the next specified period of time. If a closure or reduction in cumulative trip limit of a species or species complex occurs while the vessel is fishing ahead, the vessel must cease fishing for that species or species complex and discard any catch or overage of the species or species complex on board. Such discard is not wastage pursuant to RCW 75.12.120.

(d) Vessel trip. A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(e) Vessel trip limit. The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(f) Daily trip limit. The maximum amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

(g) Week. Wednesday through the following Tuesday.

(2) Widow rockfish (*Sebastes entomelas*) - Cumulative trip limit of 10,000 pounds ((per vessel trip per calendar week, defined as Wednesday through the following Tuesday except that a fisherman having made a 1991 declaration of intent may make one landing of not more than 20,000 pounds biweekly, defined as Wednesday through the second Tuesday following. There is no limit on the number of landings of less than 3,000 pounds)) in a fixed four-week period. No minimum size.

((2)) (3) Shortbelly rockfish (*Sebastes jordani*) - no ((maximum poundage per)) cumulative or vessel trip limit; no minimum size.

((3)) (4) Pacific Ocean perch (*Sebastes alutus*) - No restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of total weight of fish on board per vessel trip. Under no circumstances may a vessel land more than 3,000 pounds of Pacific Ocean perch in any one vessel trip.

((4)) (5) All other species of rockfish (includes all *Sebastes* spp. except Pacific Ocean perch, widow rockfish, shortbelly rockfish and thornyhead or idiot rockfish) - ((25,000 pounds of all other species combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday)) cumulative trip limit of 55,000 pounds per fixed two-week period, of which no more than ((5,000)) 8,000 pounds may be yellowtail rockfish (*Sebastes flavidus*)(-except that a fisherman having made a 1991 declaration of intent may make either one landing of no more than 50,000 pounds of all other species combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following, of which no more than 10,000 pounds may be yellowtail rockfish, or two landings of not more than 12,500 pounds of all other species in any one calendar week of which not more than 2,500 pounds in any one landing may be yellowtail rockfish. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made)). No minimum size. The following limits apply to black rockfish (*Sebastes melanops*) taken with hook and line gear under this subsection:

(a) A vessel trip limit of 100 pounds or 30 percent of the total weight of fish aboard, whichever is greater, (including salmon, if the black rockfish are taken incidental to salmon trolling in Pacific Ocean waters), is established for those waters of the Strait of Juan de Fuca west of the mouth of the Sekiu River and Pacific Ocean waters south to Cape Alava (48°09'30" N. latitude) and Pacific Ocean waters between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude).

(b) Any vessel fishing in the waters set out in (a) of this subsection during any portion of a vessel trip is prohibited from retaining, possessing, or landing black rockfish in excess of 100 pounds or 30 percent of the total weight of fish on board, whichever is greater.

((5)) (6) Deepwater complex: Sablefish, Dover sole and thornyhead or idiot rockfish (*Sebastes* spp.) - ((Fishers are limited to 27,500 pounds of the deepwater complex)) cumulative trip limit of 50,000 pounds per fixed two-week period, of which no more than ((7,500)) 25,000 pounds can be thornyhead rockfish((-per vessel trip, per calendar week, defined as Wednesday through the following Tuesday, except that a fisherman having made a 1991 declaration of intent may make either one landing of no more than 55,000 pounds of the deepwater complex of which no more than 15,000 pounds can be thornyhead rockfish, per vessel trip biweekly, defined as Wednesday through the second Tuesday following or two landings of not more than 13,750 pounds of the deepwater complex of which no more than 3,750 pounds can be thornyhead rockfish, in any one calendar week. If no declaration of intent to land twice weekly has been made, then it is unlawful for any vessel to make more than one landing in excess of 4,000 pounds of the deepwater complex except sablefish landings are limited to 1,000 pounds)). No minimum size for Dover sole or thornyhead rockfish.

The following limits apply to sablefish taken under this subsection.

(a) Trawl vessels - No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent 25 percent or less of the total combined round weight of the deepwater complex on board. To convert sablefish to round weight

from dressed weight multiply the dressed weight by 1.6. Sablefish minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental sablefish catch less than the minimum size of ((1,000)) 5,000 pounds ((or 25 percent of the total combined round weight of the deepwater complex, but not to exceed 5,000 pounds per trip)). This undersize sablefish incidental allowance is inclusive in the trip limit for the deepwater complex.

(b) Nontrawl vessels - (i) March 1 through May 8 - 1,500 pound (round weight) daily trip limit.

(ii) May 9 through May 11 - no landings of sablefish allowed. Fishing gear may remain in the water during this period.

(iii) Beginning May 12, no trip limit. Minimum size 22 inches in length, unless dressed, in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Nontrawl vessels are allowed an incidental catch less than the minimum size of 1,500 pounds round weight or 3 percent of all sablefish aboard per trip. To convert to round weight from dressed weight multiply the dressed weight by 1.6.

((6)) 1991 Declarations of intent - A 1991 declaration must be made to make other than one vessel trip per week and land in excess of the minimum amounts as provided for in this section. The new declaration form must be completed as provided for in this subsection, and is binding for a minimum of four weeks after the first Wednesday following the declaration. The 1991 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which such fishing will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly with the department in the above manner once the four-week period has passed. The declaration to stop such fishing and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. The date of first landing will determine the beginning of biweekly periodicity. A calendar week is defined as Wednesday through the following Tuesday.)

(7) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative trip limit, vessel trip limit, or a daily trip limit.

(8) ((For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.)) The fishers copy of all fish receiving tickets showing landings of species provided for in this section must be retained aboard the landing vessel for 90 days after landing.

WSR 92-03-151

PROPOSED RULES

DEPARTMENT OF FISHERIES

[Filed January 22, 1992, 11:57 a.m.]

Original Notice.

Title of Rule: Personal use rules.

Purpose: Amend rules for taking personal use food fish and shellfish.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-56-116, allows use of barbed hooks while fishing from North Jetty in Columbia River. Makes year around use of barbed hooks permissible. This will reduce angler confusion as to when barbed hooks may be used; WAC 220-56-145, requires that identification of food fish species in the field can be determined. Currently only size, weight and sex identification is required, leaving the possibility of filleting bottom

fish, with attendant inability to determine if the fillet is from a species with a reduced catch limit. Requiring that the skin or part of the skin be retained allows discarding of the carcass; WAC 220-56-156, requires salmon landed from Canada meet port of landing size and possession limits unless proof of previous landing in Canada is possessed. This will reduce day trips into Canadian waters and overharvest of Washington stocks in those waters; WAC 220-56-160, prohibits taking lingcod by spearfishing. Lingcod numbers have been severely reduced, and protection measures are proposed to change the season, reduce the size, and allow only a single fish to be taken in Puget Sound waters. Since speared lingcod cannot be released unharmed, this form of taking lingcod is proposed to be eliminated; WAC 220-56-195, closes Washington waters in Conservation Zone 1 at the mouth of the Columbia River. It is anticipated that the Pacific Fisheries Management Council will recommend closing this area to salmon angling in 1992, and this proposal conforms state law with that recommendation; WAC 220-56-205, allows three hooks to be used in the lower Columbia River. This conforms Washington state rules with Oregon state rules; WAC 220-56-235, reduce bag limit for rockfish in coastal waters. This is a protection measure for black rockfish, and is a recommendation from the federal government. Reduce lingcod possession limit and set an upper size limit. See WAC 220-56-160; WAC 220-56-240, reduce upper size limit for sturgeon. This measure would further protect breeding sturgeon, which may occur in the current upper size limit. By reducing the size limit, only sub-adult sturgeon would be removed from the resource; WAC 220-56-250, move the Puget Sound lingcod season ahead 15 days. This would add protection for nest-guarding male lingcod, and reduce predation on lingcod eggs; WAC 220-56-282, allow three hooks. See WAC 220-56-205; WAC 220-56-285, establish a sturgeon sanctuary in the lower Columbia below Bonneville Dam during the period April 16 through June 15. This would add protection for breeding sturgeon, which may be inadvertently hooked during this season. Although these fish must be released, there may be hooking mortality or unwanted stress on the fish; WAC 220-56-310, reduce the abalone bag to 3 and increase the size limit to 4 inches. Abalone stocks are reduced, and this provides additional protection. Increase the coastal crab limit to 12. This provides additional recreational opportunity for stocks that are under utilized by recreational fishers; WAC 220-56-315, prohibit crab fishing from the railroad trestles at Swinomish Slough and March Point. A disorderly fishery has been documented at these points, and numerous violations occur. Prohibiting this fishery protects crab stocks in these waters; WAC 220-56-320, requires escape panels on all shellfish pots. This will allow crayfish to escape if a crayfish pot is lost; WAC 220-56-335, reduce size limit for coastal crab from 6 1/4 to 6 inches. This will allow greater harvest by recreational fishers. See WAC 220-56-310; WAC 220-56-350, close selected beaches to clam harvest. Clam stocks are currently being heavily utilized, and certain Puget Sound beaches need protection measure; WAC 220-56-360, close Twin Beaches razor clam sanctuary to razor

clam harvest. The sanctuary provides a breeding source for razor clam replacement; WAC 220-56-380, close selected beaches to oyster harvest. Oyster stocks are currently being heavily utilized, and certain Puget Sound beaches need protection measure; WAC 220-56-400, require use of a caliper when taking abalone. Abalone removed from the substrate may not reattach readily. Requiring determination that the abalone are of lawful size before detaching them reduces mortality. See WAC 220-56-310; WAC 220-57-160, prohibit taking sockeye salmon in those waters downstream of the mouth of the Snake River. This protects Redfish Lake sockeye. Increase bag limit after Labor Day in the Buoy 10 fishery. Additional fish may be taken as fishing pressure drops off after the holiday; WAC 220-57-175, change minimum size limits on Cowlitz River. This conforms salmon sizes with game fish size limits; WAC 220-57-205, provide for a chum fishery, but protect coho salmon. Wild stock coho salmon in Hood Canal streams are in need of protection, and a group of regulations are being proposed to protect these stocks; WAC 220-57-210, see WAC 220-57-205; WAC 220-57-255, allow a limited salmon harvest in the Green River. A harvestable surplus is expected in the Green River, and a limited fishery is proposed; WAC 220-57-385, provide for an earlier opening. This will allow additional harvest opportunity for chinook salmon; WAC 220-57-405, provide earlier opening. This allows additional opportunity for coho salmon; WAC 220-57-425, open lower river in June. This allows a harvest opportunity for summer run chinook, while providing protection for spring chinook; WAC 220-57-435, prohibit retention of pink salmon during even-numbered years. A very small run of even-year pink salmon returns to the Snohomish River system. This run cannot withstand fishing pressure, and release of all such fish is necessary; WAC 220-57-450, see WAC 220-57-435; WAC 220-57-460, provide for an earlier opening. This will allow additional harvest opportunity for chinook salmon; WAC 220-57-465, see WAC 220-57-435; WAC 220-57-490, see WAC 220-57-205; and WAC 220-57A-180, corrects omission of word "yards" in description of closure line.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, Mailstop AX-11, Olympia, 586-2429; Implementation: Gene DiDonato and Judith Freeman, Mailstop AX-11, Olympia, 753-6600; and Enforcement: Dayna Matthews, Mailstop AX-11, Olympia, 753-6585.

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

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

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

Proposal Changes the Following Existing Rules: See Summary above.

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

These proposals do not affect 10 percent of the businesses in any one three-digit industrial classification or 20 percent of all businesses.

Hearing Location: The department will hold four public hearings on these proposals at 10:00 a.m., Saturday, February 29, 1992, at the following locations: Shoreline Community College, Room 1602, 16101 Greenwood Avenue North, Seattle; at Kelso High School, Auditorium, 1904 Allen Street, Kelso; at Peninsula College, I-1 Lecture Hall, 1502 East Laurideen Boulevard, Port Angeles; and at Wenatchee Valley College, Room 3015 Eller-Fox, 1300 5th Street, Wenatchee.

Submit Written Comments to: Fisheries Hearings Officer, 115 General Administration Building, Olympia, WA 98504, by February 28, 1992.

Date of Intended Adoption: March 6, 1992.

January 22, 1992

Judith Merchant

Deputy

for Joseph R. Blum

Director

AMENDATORY SECTION (Amending Order 89-26, filed 4/27/89)

WAC 220-56-116 SALMON—BARBLESS HOOKS. (1) Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.

(2) It is unlawful to use barbed hooks while angling for salmon in all marine waters of Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of a line drawn true north-south through Buoy 10 except that it is lawful to use barbed hooks when fishing from the North Jetty at the mouth of the Columbia River.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-145 POSSESSION OF FOOD FISH OR SHELLFISH IN UNLAWFUL CONDITION. (1) It is unlawful to possess in the field for any purpose any (~~salmon~~) food fish in such a condition:

(a) That its (~~size or~~) species cannot be determined. Leaving the skin of a food fish fully or partially attached to a fillet satisfies this requirement.

(b) That its size, weight, or sex cannot be determined if a size, weight, or sex restriction is prescribed for said salmon.

(2) (~~It is unlawful to possess in the field for any purpose any food fish other than salmon in such a condition that its size, weight, or sex cannot be determined, if a size, weight, or sex restriction is prescribed for said food fish.~~)

(3) It is unlawful to possess in the field for any purpose any shellfish in such a condition that its size, weight, or sex cannot be determined, if a size, weight, or sex restriction is prescribed for said shellfish.

AMENDATORY SECTION (Amending Order 90-22, filed 3/22/90, effective 4/22/90)

WAC 220-56-156 LANDING CANADIAN ORIGIN FOOD FISH AND SHELLFISH. It is unlawful to land in any Washington state port shellfish or food fish taken for personal use from Canadian waters unless the person landing the shellfish or food fish possesses a Canadian sport fishing license and catch record, if one is required, valid for the period when the shellfish or food fish were taken. Salmon taken for personal use from Canadian waters and landed at a Washington port must meet current salmon regulations for that port unless the person landing the salmon possesses documentation of having previously landed in Canada.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-195 CLOSED AREAS—SALTWATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island,

northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 15.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

(4) Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April 16 through August 15.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulakala Point are closed to salmon angling April 16 through June 30.

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(7) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through August 31.

(8) Columbia River Mouth Conservation Zone 1: Washington waters within Conservation Zone 1, which Conservation Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Conservation Zone are open to salmon angling or the Buoy 10 fishery is open.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank except nonbuoyant lures used in the Columbia River downstream from Bonneville Dam may have up to three hooks, which may be single, double, or treble hooks. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank except in the Columbia River downstream from Bonneville Dam, natural bait lures may have up to three hooks in total on the combination of all terminal gear.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below or less than 12 inches above a lure.

(4) All hooks must be attached within three inches of the bait or lure.

(5) On the lower Columbia River (downstream from Bonneville Dam), single hooks may not measure more than 1 inch from point to shank, and multiple point hooks may not measure more than 9/16 inch from point to shank.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal ((Punch)) Catch Record Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in ((Punch)) Catch Record Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in ((Punch)) Catch Record Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish - ((+5)) 12 fish except 15 fish if taken from Catch Record Card Area 1.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) All other species - no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Catch Record Card Areas 5 through 7) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	10 fish
Surfperch	10 fish
Pacific cod	15 fish
Pollock	15 fish
Flatfish (except halibut)	15 fish
Lingcod	((2)) <u>1 fish ((+ fish if by spear fishing))</u>

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (Catch Record Card Areas 8-1 through 13) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	5 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	5 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish

(c) It is unlawful to possess lingcod less than ((22)) 26 inches in length ((taken by angling)) or greater than 40 inches in length.

(d) ((The daily bag limit)) It is unlawful to fish for or possess lingcod taken by spear fishing ((may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing)).

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-282 STURGEON—LAWFUL GEAR. It is unlawful to fish for sturgeon with other than natural bait and barbless hooks, and it is unlawful to use more than two single barbless hooks per natural bait, or to use more than two natural baits except in those waters of the Columbia River downstream from Bonneville Dam it is unlawful to use more than three hooks in total on the combination of all terminal gear and single hooks may not measure more than 1 inch from point to shank and multiple hooks may not measure more than 9/16 inch from point to shank.

AMENDATORY SECTION (Amending Order 88-14, filed 4/26/88)

WAC 220-56-285 SHAD AND STURGEON—AREAS AND SEASONS. It is lawful the entire year to fish for or possess sturgeon and shad taken for personal use except in the following closed waters:

(1) Waters lying one mile downstream below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except as provided in subsections (2) and (3) of this section.

(2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville powerline crossing, approximately 1-1/4 mile downstream from the dam, are closed to the fishing for or possession of sturgeon, except when fishing with hand-casted hook and line gear from the mainland shore in those waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island thence to the Oregon angling boundary marker on Bradford Island (located approximately 600 feet downstream from the fish ladder entrance).

(4) Columbia River waters between the upstream line of Bonneville Dam and fishing markers 4 miles below the dam are closed to sturgeon fishing April 16 through June 15.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 10 pounds or 5 quarts in the shell.

(9) Shrimp: 10 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): ((5)) 3 abalone, minimum size limit ((3-1/2)) 4 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs in all contiguous waters east of the Bonilla Tatoosh Line. 12 male crabs in all other state waters and waters of the Pacific Ocean.

(19) Red rock crabs: 12 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-315 CRABS, SHRIMP, CRAWFISH—UNLAWFUL ACTS. (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except that in Puget Sound waters it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp. One unit of gear is equivalent to one ring net or one shellfish pot.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use ((with shellfish pot or ring net gear)) from the waters of Fidalgo Bay

within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes (~~except from one hour before official sunrise to one hour after official sunset~~) or from the waters of Swinomish Slough within 25 yards of the Burlington Northern Railroad trestle crossing the northern end of the slough.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS.

(1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess (~~crab or shrimp~~) shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-335 CRAB—UNLAWFUL ACTS. (1) It is unlawful for any person to take or possess for personal use any female Dungeness crabs.

(2) It is unlawful to take or possess any male Dungeness crabs (~~(which measure less than 6-1/4 inches)~~) taken for personal use (~~(except for those waters of Hood Canal south of the Hood Canal Floating Bridge, when the minimum size is 6 inches)~~) which measure less than the following sizes:

(a) In Puget Sound (all contiguous waters east of the Bonilla-Tatoosh Line) except those waters of Hood Canal south of the Hood Canal Floating Bridge - 6 1/4 inch minimum size.

(b) In those waters of Hood Canal south of the Hood Canal Floating Bridge - 6 inch minimum size.

(c) In coastal waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay and the Columbia River - 6 inch minimum size.

(3) All measurement shall be made horizontally across the back (caliper measurement) immediately in front of the points.

(4) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-350 HARDSHELL CLAMS, COCKLES, MUSSELS—AREAS AND SEASONS. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams (~~(April 16, 1991)~~) through April 15, ~~((1992))~~ 1993.

(e) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed except county tidelands north of the county fishing pier are open January 1 to June 15 of even-numbered years and county tidelands south of the pier are open January 1 to June 15 of odd-numbered years.

(f) Point Whitney—All state-owned tidelands at Point Whitney are closed to clam digging July 16 through April 15.

(g) Camano Island—All state-owned tidelands at Camano Island State Park (~~(are closed to clam digging Sunday through Friday of each week)~~) open June 1 through June 30.

(h) Eagle Creek—All state-owned tidelands at Eagle Creek are closed to clam digging July 1 through April 15.

(i) Port Townsend Ship Canal—The state-owned tidelands along the east shore of the canal between Port Townsend Bay and Oak Bay are closed to clam digging through April 15, 1992.

(j) Sequim Bay State Park—All tidelands at Sequim Bay State Park south of the boat ramp are closed to clam digging through April 15, 1992.

(k) Brown Point State Park - open June 1 through June 30.

(l) Bywater Bay State Park - open June 1 through June 30.

(m) Fort Flagler State Park - open June 1 through June 30.

(n) Illahee State Park - open October 1 through July 15.

(o) Mystery Bay - open June 1 through June 30.

(p) Oak Bay West County Park - open June 1 through June 30.

(q) Penrose Point State Park - open June 1 through June 30.

(r) Point Hanon - open June 1 through June 30.

(s) Potlatch - open June 1 through June 30.

(t) North Sequim Bay State Park - open March 1 through March 30.

(u) Spencer Spit State Park - open January 1 through July 31.

(v) Puget Sound state oyster reserves are closed to clam digging the entire year except the following areas are open for personal use clam harvest:

(i) Oakland Bay—The state-owned oyster reserve tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

(ii) Case Inlet—The state-owned oyster reserve tidelands on the east side of North Bay at the north end of the inlet.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 16 through September 15. In addition, it is unlawful to take or possess oysters taken from the following areas except during the periods indicated:

(a) Hood Canal south of a line from Misery Point to Quatsap Point - October 1 through June 30.

(b) Bywater Bay State Tidelands - ~~((May 16))~~ June 1, 1992, through July 15, 1992.

(c) Point Whitney - ~~((Closed April 16, 1991, through April))~~ April 16, 1992, through July 15, 1992, except the lagoon at Point Whitney is closed through April 15, 1993.

(d) Kitsap Memorial State Park - May 16 through June 15.

(e) Scenic Beach State Park - April 16 through May 15.

(f) Department of fisheries tidelands at Hoodport Salmon Hatchery - closed year round.

(g) Eagle Creek - ~~((April 1 through April 30))~~ Open year around.

(h) Brown Point - ~~((Closed April 16, 1991, through April 15))~~ May 16, 1992, through June 30, 1992.

(i) Seal Rock Forest Service Camp tidelands - April 16, 1992, through September 7, 1992.

(j) Tuition Cove State Park Tidelands - May 16, 1992, through June 15, 1992.

(k) Potlatch State Tidelands - May 1, 1992, through July 15, 1992.

(3) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-400 ABALONE. (1) It is unlawful to remove undersized abalone from ~~((the water, and any undersized abalone must be replaced immediately with the shell outward to the site from which is [it] was removed))~~ an attachment. Persons fishing for abalone must possess a 4-inch caliper and use it to determine if the abalone is of legal size before it is removed from its attachment.

(2) The first ~~((five))~~ three legal size abalone taken must be retained, and it is unlawful to detach abalones once the daily bag limit has been taken.

(3) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

(4) Abalone harvest is limited to use of hands or abalone irons. Abalone irons must be less than 24 inches in length, straight, wider than 3/4 inch and thicker than 1/16 inch. All edges must be rounded. Use of curved irons, knives, or other sharp instruments is prohibited.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-160 SPEARFISHING. It shall be lawful to take, fish for and possess food fish taken for personal use in saltwater, except salmon ~~((and))~~, sturgeon, and lingcod, if such food fish are taken with underwater spearfishing gear commonly used in the sport of "skin diving."

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-240 BAG LIMITS—OTHER FOOD FISH. It is unlawful for any one person to fish for or possess in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon:

(a) 1 fish not less than 48 inches nor more than 66 or 60 inches in length in the Columbia River and tributaries upstream from the Dalles Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) Except as provided for in subsection (1)(a) of this section, the state-wide daily limit for sturgeon is two fish in total, with the following size restrictions:

(i) Minimum size is 40 inches in length;

(ii) Maximum size is 72 or 66 or 60 inches in length;

(iii) Not more than one of the two fish may be less than 48 inches in length; and

(iv) Not more than one of the two fish may equal or exceed 48 inches in length.

(c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(d) There is an annual personal use bag limit of 15 sturgeon.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (a) Catch Record Card Areas 1 through 3 - open the entire year, (b) Catch Record Card Area 4 - April 16 through November 30.

(2) Catch Record Card Areas 5 ~~((, 6, and 7 - April 16 through November 30:~~

~~((3) Catch Record Card Areas 8))~~ through 13 - ~~((April 16))~~ May 1 through ~~((May 31))~~ June 15.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-56-360 RAZOR CLAMS—AREAS AND SEASONS. (1) It is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, and 3 except as provided for by emergency regulation adopted by the director.

(2) It is unlawful to dig for razor clams at any time in the Long Beach, Twin Harbors, or Copalis Beach Razor Clam Sanctuaries as defined in WAC 220-56-372.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D - June 1 through December 31: Downstream from Chief Joseph Dam to Rocky Reach Dam. The following are closed waters:

(a) Chief Joseph Dam - waters between the west end of the tailrace deck downstream 400 feet to boundary markers in Okanogan County.

(b) Wells Dam - waters between the upstream line of Wells Dam to boundary markers 400 feet below the spawning channel discharge on the Chelan County side and the fish ladder on the Douglas County side.

(2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D - June 1 through September 15; Bag Limit A September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and boundary markers 400 feet downstream of the fish ladders at Rocky Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D – June 1 through August 15; Bag Limit A – August 16 through October 31; Bag Limit C – November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam – waters between the upstream line of Priest Rapids Dam and boundary markers 650 feet below the fish ladders.

(b) Jackson (Moran) Creek – All waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located 100 feet upstream and 400 feet downstream of the mouth of the hatchery outlet.

(4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D – June 16 through August 15; Bag Limit A – August 16 through October 22.

(5) Old Hanford townsite wooden power line towers to Highway 395 Bridge connecting Pasco and Kennewick: Bag Limit D – June 1 through August 15; Bag Limit A – August 16 through December 31. Additionally, Special Bag Limit: 2 salmon per day – April 1 through July 31: Bank fishing only from the hatchery side of the Columbia River from the WDF marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a WDF boundary marker approximately 1/4 mile downstream of Ringold waterway outlet.

(6) Highway 395 Bridge connecting Pasco and Kennewick to the Interstate 5 Bridge: Bag Limit A – January 1 through March 15; Bag Limit C – March 16 through March 31; Bag Limit D – June 16 through July 31; Bag Limit A – August 1 through December 31. It is unlawful to take or possess sockeye salmon taken downstream of the Highway 395 Bridge.

The following waters are closed to fishing for food fish at all times:

(a) McNary Dam – waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(d) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(e) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(7) Interstate 5 Bridge to the Megler–Astoria Bridge: Bag Limit A – January 1 through March 31; Bag Limit D – May 16 through July 31; Bag Limit A – August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek. It is unlawful to take or possess sockeye salmon taken downstream from the Interstate 5 Bridge to the Megler–Astoria Bridge.

(8) Megler–Astoria Bridge to the Buoy 10 Line:

(a) ~~((Bag Limit A – October 1 through March 31.~~

~~((b)))~~ Bag Limit F – August 1 through August 15 except waters westerly of the Light 26 Line are closed.

~~((c)))~~ (b) Bag Limit F – August 16 through Labor Day.

~~((c)))~~ (c) Special bag limit of 3 adult salmon – the day after Labor Day through December 31.

~~((d)))~~ (d) Bag Limit A – January 31 through March 31.

~~((e)))~~ (e) It is unlawful to take or possess sockeye salmon taken downstream from the Megler–Astoria Bridge to the Buoy 10 Line.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only when state waters north of the conservation zone are open to salmon angling. During such periods fishing from the north jetty is open 7 days per week and the bag limit shall be the same as for the ocean waters when open. Also open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery. It is unlawful to take or possess sockeye salmon taken from the North Jetty.

AMENDATORY SECTION (Amending Order 87–16, filed 4/21/87)

WAC 220–57–175 COWLITZ RIVER. (1) Special bag limit – April 1 through July 31: Downstream from fishing boundary markers approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam. Bag limit is six salmon per day not less than ~~((10))~~ 12 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag Limit A except minimum size of 12 inches – August 1 through March 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam structures except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the mouth of Blue Creek must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

(5) Bag Limit A except minimum size of 8 inches – open the entire year: From the confluence of the Muddy Fork and Ohanapecoh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 82–19, filed 3/18/82)

WAC 220–57–255 GREEN RIVER (COWLITZ COUNTY). ~~((Closed to salmon angling the entire year.))~~ Special bag limit – one salmon per day, except chinook salmon greater than 28 inches in length must be released – open September 1 through November 30: Downstream from fishing boundary markers located 1500 feet below the Toutle Hatchery temporary rack.

AMENDATORY SECTION (Amending Order 91–13, filed 4/2/91, effective 5/3/91)

WAC 220–57–385 QUILLAYUTE RIVER. Bag Limit A – ~~((May))~~ March 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters.

AMENDATORY SECTION (Amending Order 89–12, filed 3/16/89)

WAC 220–57–405 SAMISH RIVER. Bag Limit A – July 1 through October 15: Downstream from the Thomas Road Bridge to the Bayview–Edison Road Bridge. Terminal gear is limited to a single bait or lure with one single-point hook measuring no more than 1/2 inch from point to shank. Bag Limit A – October 16 through December 31: Downstream from Interstate 5 Bridge to markers located approximately one-quarter mile downstream from Samish Island Bridge.

AMENDATORY SECTION (Amending Order 91–41, filed 6/27/91, effective 7/28/91)

WAC 220–57–425 SKAGIT RIVER. (1) Bag Limit A – July 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater than 24 inches in length must be released immediately. During the period July, August, and September, not more than one of the adult salmon may be a coho salmon. After September, all coho salmon greater than 20 inches in length must be released. During the period August 1 through September 15, up to six pink salmon allowed in the six salmon daily bag limit.

(2) Bag Limit A – ~~((July 1))~~ June 16 through December 31: Downstream from Gilligan Creek. Not more than one of the adult salmon may be a chinook salmon. During the period July, August, and September, not more than one of the adult salmon may be a coho salmon. After September, all coho salmon greater than 20 inches in length must be released. During the period August 1 through September 15, up to six pink salmon allowed in the six salmon daily bag limit.

AMENDATORY SECTION (Amending Order 89–12, filed 3/16/89)

WAC 220–57–435 SKYKOMISH RIVER. Bag Limit A – July 1 through December 31: Downstream from the confluence of north and south forks. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-450 SNOHOMISH RIVER. Bag Limit A - July 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-455 SNOQUALMIE RIVER. Bag Limit A - July 1 through December 31. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-57-460 SOLEDUCK RIVER. Bag Limit A - ~~((May))~~ March 1 through November 30: Downstream from the concrete pump station at the Soleduck Hatchery.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag Limit A - ~~((August 16))~~ October 1 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. It is unlawful to take or possess chinook salmon.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-205 DOSEWALLIPS RIVER. ~~((Closed to salmon angling the entire year))~~ Special Bag Limit - 2 adult chum salmon - November 1 through January 31: Downstream from the Highway 101 Bridge. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-210 DUCKABUSH RIVER. ~~((Closed to salmon angling the entire year.))~~ Special Bag Limit - 2 adult chum salmon - November 1 through January 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-430 SKOKOMISH RIVER. Special Daily Bag Limit of two ~~((chinook))~~ salmon not less than 12 inches in length. ~~((All chinook salmon less than 12 inches in length and all other species of salmon must be released immediately - July))~~ August 1 through ~~((September 15))~~ January 31: Downstream from the mouth of Vance Creek. Terminal gear on the Skokomish River is limited to one bait or lure with one single-pointed hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 91-41, filed 6/27/91, effective 7/28/91)

WAC 220-57-490 UNION RIVER. ~~((Closed to salmon angling the entire year.))~~ Special Bag Limit: Two adult chum salmon - November 1 through January 31: Downstream from the North Shore Road Bridge. Coho salmon must be released immediately.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). Bag Limit A - August 1 through December 31: West of University Bridge, to a north-south line located 400 yards east of the eastern end of the north wingwall of the Chitenden Locks. Sockeye salmon must be released immediately. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge are closed to salmon angling at all times.

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 #
4-25-190	REP-W	92-03-062			
16-228-010	AMD-P	92-03-133			
16-228-180	AMD-P	92-03-133			
16-228-400	NEW-P	92-03-133			
16-228-410	NEW-P	92-03-133			
16-228-420	NEW-P	92-03-133			
16-228-430	NEW-P	92-03-133			
16-230-810	AMD-P	92-03-134			
16-230-813	NEW-P	92-03-134			
16-230-825	AMD-P	92-03-134			
16-230-835	AMD-P	92-03-134			
16-230-840	AMD-P	92-03-134			
16-230-845	AMD-P	92-03-134			
16-230-850	AMD-P	92-03-134			
16-230-855	AMD-P	92-03-134			
16-230-860	AMD-P	92-03-134			
16-230-861	AMD-P	92-03-134			
16-230-862	NEW-P	92-03-134			
16-230-863	NEW-P	92-03-134			
16-230-864	NEW-P	92-03-134			
16-230-865	REP-P	92-03-134			
16-230-866	NEW-P	92-03-134			
16-230-867	NEW-P	92-03-134			
16-230-868	NEW-P	92-03-134			
16-230-870	NEW-P	92-03-134			
16-231-001	REP-P	92-03-134			
16-231-005	REP-P	92-03-134			
16-231-010	REP-P	92-03-134			
16-231-015	REP-P	92-03-134			
16-231-020	REP-P	92-03-134			
16-231-025	REP-P	92-03-134			
16-231-030	REP-P	92-03-134			
16-470-900	NEW-P	92-03-104			
16-470-905	NEW-P	92-03-104			
16-470-910	NEW-P	92-03-104			
16-470-915	NEW-P	92-03-104			
16-470-920	NEW-P	92-03-104			
16-622-050	AMD-P	92-03-069			
16-622-050	AMD-E	92-03-070			
16-622-060	NEW-P	92-03-069			
16-622-060	NEW-E	92-03-070			
16-752-500	NEW-P	92-03-105			
16-752-505	NEW-P	92-03-105			
16-752-510	NEW-P	92-03-105			
16-752-515	NEW-P	92-03-105			
16-752-520	NEW-P	92-03-105			
16-752-525	NEW-P	92-03-105			
16-752-600	NEW-P	92-03-106			
16-752-610	NEW-P	92-03-106			
16-752-620	NEW-P	92-03-106			
16-752-630	NEW-P	92-03-106			
16-752-640	NEW-P	92-03-106			
16-752-650	NEW-P	92-03-106			
16-752-660	NEW-P	92-03-106			
50-30-010	NEW	92-02-105			
50-30-020	NEW	92-02-105			
50-30-030	NEW	92-02-105			
50-30-040	NEW	92-02-105			
50-30-050	NEW	92-02-105			
50-30-060	NEW	92-02-105			
50-30-070	NEW	92-02-105			
50-30-080	NEW	92-02-105			
50-30-090	NEW	92-02-105			
50-30-100	NEW	92-02-105			
50-30-110	NEW	92-02-105			
132K-12-001	REP	92-03-031			
132K-12-010	REP	92-03-031			
132K-12-020	REP	92-03-031			
132K-12-030	REP	92-03-031			
132K-12-040	REP	92-03-031			
132K-12-050	REP	92-03-031			
132K-12-060	REP	92-03-031			
132K-12-070	REP	92-03-031			
132K-12-080	REP	92-03-031			
132K-12-090	REP	92-03-031			
132K-12-100	REP	92-03-031			
132K-12-110	REP	92-03-031			
132K-12-120	REP	92-03-031			
132K-12-130	REP	92-03-031			
132K-12-140	REP	92-03-031			
132K-12-150	REP	92-03-031			
132K-12-160	REP	92-03-031			
132K-12-170	REP	92-03-031			
132K-12-180	REP	92-03-031			
132K-12-190	REP	92-03-031			
132K-12-200	REP	92-03-031			
132K-12-220	REP	92-03-031			
132K-12-230	REP	92-03-031			
132K-12-232	REP	92-03-031			
132K-12-234	REP	92-03-031			
132K-12-236	REP	92-03-031			
132K-12-238	REP	92-03-031			
132K-12-240	REP	92-03-031			
132K-12-242	REP	92-03-031			
132K-12-244	REP	92-03-031			
132K-12-246	REP	92-03-031			
132K-12-248	REP	92-03-031			
132K-12-250	REP	92-03-031			
132K-12-252	REP	92-03-031			
132K-12-254	REP	92-03-031			
132K-12-256	REP	92-03-031			
132K-12-258	REP	92-03-031			
132K-12-268	REP	92-03-031			
132K-12-270	REP	92-03-031			
132K-12-272	REP	92-03-031			
132K-12-274	REP	92-03-031			
132K-12-276	REP	92-03-031			
132K-12-278	REP	92-03-031			
132K-12-280	REP	92-03-031			
132K-12-282	REP	92-03-031			
132K-12-284	REP	92-03-031			
132K-12-286	REP	92-03-031			
132K-12-288	REP	92-03-031			
132K-12-290	REP	92-03-031			
132K-12-300	REP	92-03-031			
132K-12-310	REP	92-03-031			
132K-12-320	REP	92-03-031			
132K-12-330	REP	92-03-031			
132K-12-340	REP	92-03-031			
132K-12-350	REP	92-03-031			
132K-12-360	REP	92-03-031			
132K-12-370	REP	92-03-031			
132K-12-380	REP	92-03-031			
132K-12-390	REP	92-03-031			
132K-12-400	REP	92-03-031			
132K-12-410	REP	92-03-031			
132K-12-420	REP	92-03-031			
132K-12-430	REP	92-03-031			
132K-12-440	REP	92-03-031			
132K-12-450	REP	92-03-031			
132K-12-460	REP	92-03-031			
132K-12-470	REP	92-03-031			
132K-12-480	REP	92-03-031			
132K-12-490	REP	92-03-031			
132K-12-500	REP	92-03-031			
132K-12-510	REP	92-03-031			
132K-12-520	REP	92-03-031			
132K-12-530	REP	92-03-031			
132K-12-540	REP	92-03-031			
132K-12-550	REP	92-03-031			
132K-12-560	REP	92-03-031			
132K-12-570	REP	92-03-031			
132K-12-580	REP	92-03-031			
132K-12-590	REP	92-03-031			
132K-12-600	REP	92-03-031			
132K-12-620	REP	92-03-031			
132K-12-630	REP	92-03-031			
132K-12-640	REP	92-03-031			
132K-12-650	REP	92-03-031			

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
132K-12-660	REP	92-03-031	220-57-460	AMD-P	92-03-151	246-215-240	NEW-P	92-03-142
132K-12-670	REP	92-03-031	220-57-465	AMD-P	92-03-151	246-215-250	NEW-P	92-03-142
132K-12-680	REP	92-03-031	220-57-490	AMD-P	92-03-151	246-215-260	NEW-P	92-03-142
132K-12-690	REP	92-03-031	220-57A-180	AMD-P	92-03-151	246-215-270	NEW-P	92-03-142
132K-12-700	REP	92-03-031	222-16-010	AMD	92-03-028	246-215-280	NEW-P	92-03-142
132K-12-710	REP	92-03-031	232-12-021	AMD-P	92-02-086	246-215-290	NEW-P	92-03-142
132K-12-720	REP	92-03-031	232-12-074	AMD-P	92-02-086	246-215-300	NEW-P	92-03-142
132K-12-725	REP	92-03-031	232-12-077	AMD-P	92-02-086	246-215-500	REP-P	92-03-142
132K-12-730	REP	92-03-031	232-12-267	AMD-P	92-02-086	246-215-900	REP-P	92-03-142
132K-12-740	REP	92-03-031	232-12-277	AMD-P	92-02-086	246-762-010	AMD-P	92-02-096
132K-12-750	REP	92-03-031	232-28-022	AMD-P	92-02-085	246-762-020	AMD-P	92-02-096
132K-12-760	REP	92-03-031	232-28-228	AMD-P	92-02-087	246-762-040	AMD-P	92-02-096
132K-12-770	REP	92-03-031	232-28-61825	NEW-E	92-03-013	246-806-990	AMD-P	92-03-140
132K-12-780	REP	92-03-031	232-28-61901	NEW-P	92-02-088	246-815-031	AMD	92-03-006
132K-12-790	REP	92-03-031	232-28-61902	NEW-P	92-02-089	246-815-115	NEW	92-03-126
132K-12-800	REP	92-03-031	232-28-61903	NEW-P	92-02-090	246-816-160	NEW-P	92-02-098
132K-12-810	REP	92-03-031	232-28-61904	NEW-P	92-02-091	246-830-401	AMD-P	92-03-139
132K-12-820	REP	92-03-031	232-28-61905	NEW-P	92-02-092	246-830-410	AMD-P	92-03-139
132K-12-830	REP	92-03-031	232-28-61906	NEW-P	92-02-093	246-830-420	AMD-P	92-03-139
132K-12-840	REP	92-03-031	232-28-714	REP-P	92-02-094	246-830-430	AMD-P	92-03-139
173-19-1701	AMD	92-03-132	246-205	AMD-S	92-03-143	246-830-440	AMD-P	92-03-139
173-19-2515	AMD-P	92-03-128	246-205-001	AMD-S	92-03-143	246-830-450	AMD-P	92-03-139
173-19-2602	AMD-P	92-03-129	246-205-520	NEW-S	92-03-143	246-836-210	NEW-P	92-02-097
173-19-4205	AMD-P	92-03-130	246-205-530	NEW-S	92-03-143	246-851-030	REP-P	92-02-095
173-224-015	AMD	92-03-131	246-205-540	NEW-S	92-03-143	246-851-050	REP-P	92-02-095
173-224-020	AMD	92-03-131	246-205-550	NEW-S	92-03-143	246-851-090	AMD-P	92-02-095
173-224-030	AMD	92-03-131	246-205-560	NEW-S	92-03-143	246-851-270	PREP	92-03-032
173-224-040	AMD	92-03-131	246-205-570	NEW-S	92-03-143	246-851-360	PREP	92-03-032
173-224-050	AMD	92-03-131	246-205-580	NEW-S	92-03-143	246-851-440	NEW-P	92-02-095
173-224-090	AMD	92-03-131	246-215-001	AMD-P	92-03-142	246-851-450	NEW-P	92-02-095
173-224-100	AMD	92-03-131	246-215-009	REP-P	92-03-142	246-851-460	NEW-P	92-02-095
173-224-120	AMD	92-03-131	246-215-010	NEW-P	92-03-142	246-851-470	NEW-P	92-02-095
173-303-145	AMD-P	92-03-127	246-215-019	REP-P	92-03-142	246-851-480	NEW-P	92-02-095
178-01-010	NEW-C	92-03-055	246-215-020	NEW-P	92-03-142	246-851-490	NEW-P	92-02-095
178-01-010	NEW-E	92-03-056	246-215-029	REP-P	92-03-142	246-861-010	NEW	92-03-029
182-12-111	AMD	92-03-040	246-215-030	NEW-P	92-03-142	246-861-020	AMD	92-03-029
192-12-300	AMD-P	92-03-145	246-215-039	REP-P	92-03-142	246-861-030	AMD	92-03-029
192-12-305	AMD-P	92-03-145	246-215-040	NEW-P	92-03-142	246-861-040	AMD	92-03-029
192-12-310	AMD-P	92-03-145	246-215-049	REP-P	92-03-142	246-861-050	AMD	92-03-029
192-12-320	AMD-P	92-03-145	246-215-050	NEW-P	92-03-142	246-861-060	AMD	92-03-029
192-12-370	NEW-P	92-03-145	246-215-059	REP-P	92-03-142	246-861-070	REP	92-03-029
220-32-057001	NEW-E	92-03-022	246-215-060	NEW-P	92-03-142	246-861-080	REP	92-03-029
220-44-030	AMD-P	92-03-150	246-215-069	REP-P	92-03-142	246-861-090	AMD	92-03-029
220-44-040	AMD-P	92-03-150	246-215-070	NEW-P	92-03-142	246-861-095	NEW	92-03-029
220-44-05000R	REP-E	92-03-030	246-215-079	REP-P	92-03-142	246-861-100	REP	92-03-029
220-44-05000S	NEW-E	92-03-030	246-215-080	NEW-P	92-03-142	246-861-110	REP	92-03-029
220-56-116	AMD-P	92-03-151	246-215-089	REP-P	92-03-142	246-861-120	AMD	92-03-029
220-56-145	AMD-P	92-03-151	246-215-090	NEW-P	92-03-142	246-863-080	AMD-P	92-03-124
220-56-156	AMD-P	92-03-151	246-215-099	REP-P	92-03-142	246-869-095	NEW-P	92-03-095
220-56-160	AMD-P	92-03-151	246-215-100	NEW-P	92-03-142	246-883-020	AMD-P	92-03-096
220-56-195	AMD-P	92-03-151	246-215-109	REP-P	92-03-142	246-883-030	AMD-P	92-03-096
220-56-205	AMD-P	92-03-151	246-215-110	NEW-P	92-03-142	246-883-050	NEW-P	92-03-096
220-56-235	AMD-P	92-03-151	246-215-119	REP-P	92-03-142	246-907-020	AMD-P	92-03-124
220-56-240	AMD-P	92-03-151	246-215-120	NEW-P	92-03-142	246-907-030	AMD-P	92-03-124
220-56-250	AMD-P	92-03-151	246-215-129	REP-P	92-03-142	246-924-991	NEW-E	92-03-107
220-56-282	AMD-P	92-03-151	246-215-130	NEW-P	92-03-142	246-924-991	NEW-P	92-03-141
220-56-285	AMD-P	92-03-151	246-215-139	REP-P	92-03-142	246-924-992	NEW-E	92-03-107
220-56-310	AMD-P	92-03-151	246-215-140	NEW-P	92-03-142	246-924-992	NEW-P	92-03-141
220-56-315	AMD-P	92-03-151	246-215-149	REP-P	92-03-142	246-933-250	AMD	92-03-074
220-56-320	AMD-P	92-03-151	246-215-150	NEW-P	92-03-142	246-933-280	AMD	92-03-074
220-56-335	AMD-P	92-03-151	246-215-159	REP-P	92-03-142	246-933-300	NEW	92-03-074
220-56-350	AMD-P	92-03-151	246-215-160	NEW-P	92-03-142	246-933-305	NEW	92-03-074
220-56-360	AMD-P	92-03-151	246-215-169	REP-P	92-03-142	246-933-980	AMD-P	92-03-125
220-56-380	AMD-P	92-03-151	246-215-170	NEW-P	92-03-142	246-933-990	AMD-P	92-03-125
220-56-400	AMD-P	92-03-151	246-215-179	REP-P	92-03-142	246-935-125	NEW-P	92-03-125
220-57-160	AMD-P	92-03-151	246-215-180	NEW-P	92-03-142	246-935-990	AMD-P	92-03-125
220-57-175	AMD-P	92-03-151	246-215-189	REP-P	92-03-142	248-14-120	AMD-P	92-03-015
220-57-205	AMD-P	92-03-151	246-215-190	NEW-P	92-03-142	248-14-250	AMD-P	92-03-015
220-57-210	AMD-P	92-03-151	246-215-199	REP-P	92-03-142	248-14-285	AMD-P	92-03-015
220-57-255	AMD-P	92-03-151	246-215-200	NEW-P	92-03-142	250-25-010	NEW	92-03-002
220-57-385	AMD-P	92-03-151	246-215-209	REP-P	92-03-142	250-25-020	NEW	92-03-002
220-57-405	AMD-P	92-03-151	246-215-210	NEW-P	92-03-142	250-25-030	NEW	92-03-002
220-57-425	AMD-P	92-03-151	246-215-219	REP-P	92-03-142	250-25-040	NEW	92-03-002
220-57-430	AMD-P	92-03-151	246-215-220	NEW-P	92-03-142	250-25-045	NEW	92-03-002
220-57-435	AMD-P	92-03-151	246-215-229	REP-P	92-03-142	250-25-050	NEW	92-03-002
220-57-450	AMD-P	92-03-151	246-215-230	NEW-P	92-03-142	250-25-060	NEW	92-03-002
220-57-455	AMD-P	92-03-151	246-215-239	REP-P	92-03-142	250-25-070	NEW	92-03-002

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
250-25-080	NEW	92-03-002	315-11-752	NEW-P	92-03-146	388-86-09601	AMD	92-03-120
250-25-090	NEW	92-03-002	315-11-760	NEW-P	92-03-146	388-88-001	AMD-P	92-03-015
250-67-010	REP	92-03-002	315-11-761	NEW-P	92-03-146	388-88-075	AMD-P	92-03-015
250-67-020	REP	92-03-002	315-11-762	NEW-P	92-03-146	388-88-080	AMD-P	92-03-015
250-67-030	REP	92-03-002	315-11-770	NEW-P	92-03-146	388-88-081	AMD-P	92-03-015
250-67-040	REP	92-03-002	315-11-771	NEW-P	92-03-146	388-88-082	REP-P	92-03-015
250-67-050	REP	92-03-002	315-11-772	NEW-P	92-03-146	388-88-083	REP-P	92-03-015
250-67-060	REP	92-03-002	315-33B-010	NEW-P	92-03-146	388-88-084	REP-P	92-03-015
250-68-001	REP	92-03-002	315-33B-020	NEW-P	92-03-146	388-88-095	AMD-P	92-03-015
250-68-010	REP	92-03-002	315-33B-030	NEW-P	92-03-146	388-88-097	AMD-P	92-03-015
250-68-020	REP	92-03-002	315-33B-040	NEW-P	92-03-146	388-88-098	AMD-P	92-03-015
250-68-030	REP	92-03-002	315-33B-050	NEW-P	92-03-146	388-88-099	AMD-P	92-03-015
250-68-035	REP	92-03-002	315-33B-060	NEW-P	92-03-146	388-88-100	REP-P	92-03-015
250-68-040	REP	92-03-002	315-33B-070	NEW-P	92-03-146	388-88-101	REP-P	92-03-015
250-68-050	REP	92-03-002	315-34-040	AMD-P	92-03-146	388-88-102	AMD-P	92-03-015
250-68-060	REP	92-03-002	315-40-010	NEW	92-03-048	388-88-125	NEW-P	92-03-015
250-68-070	REP	92-03-002	315-40-020	NEW	92-03-048	388-88-130	NEW-P	92-03-015
250-75-010	REP	92-03-002	315-40-030	NEW	92-03-048	388-88-135	NEW-P	92-03-015
250-75-020	REP	92-03-002	315-40-040	NEW	92-03-048	388-88-140	NEW-P	92-03-015
250-75-030	REP	92-03-002	315-40-050	NEW	92-03-048	388-88-145	NEW-P	92-03-015
250-75-040	REP	92-03-002	315-40-060	NEW	92-03-048	388-95-337	AMD	92-03-088
250-75-050	REP	92-03-002	315-40-070	NEW	92-03-048	388-95-360	AMD-P	92-03-147
250-75-060	REP	92-03-002	315-40-080	NEW	92-03-048	388-95-360	AMD-E	92-03-149
250-75-070	REP	92-03-002	315-41-50100	NEW	92-03-048	388-99-030	AMD-P	92-03-111
250-75-080	REP	92-03-002	315-41-50110	NEW	92-03-048	388-99-030	AMD-E	92-03-122
251-01-255	AMD-W	92-03-079	315-41-50120	NEW	92-03-048	388-330-030	AMD-P	92-02-101
251-01-395	AMD-W	92-03-079	315-41-50200	NEW	92-03-048	388-330-030	AMD-E	92-03-148
296-14-015	NEW	92-03-053	315-41-50210	NEW	92-03-048	390-12-040	AMD-W	92-03-005
296-46-915	AMD-P	92-03-136	315-41-50220	NEW	92-03-048	392-100	AMD	92-03-138
296-62	PREP	92-03-135	315-41-50300	NEW	92-03-048	392-100-100	NEW	92-03-138
296-62-08001	NEW-P	92-03-137	315-41-50310	NEW	92-03-048	392-100-101	NEW	92-03-138
296-62-08050	NEW-P	92-03-137	315-41-50320	NEW	92-03-048	392-100-102	NEW	92-03-138
296-116-110	AMD-E	92-03-108	315-41-50400	NEW-P	92-03-146	392-122-201	NEW	92-03-045
296-155-110	AMD-P	92-03-137	315-41-50410	NEW-P	92-03-146	392-122-202	NEW	92-03-045
296-401-175	AMD-P	92-03-136	315-41-50420	NEW-P	92-03-146	392-122-205	AMD	92-03-045
308-56A-140	AMD	92-03-077	315-41-50500	NEW-P	92-03-146	392-122-206	AMD	92-03-045
308-56A-470	NEW	92-03-077	315-41-50510	NEW-P	92-03-146	392-122-207	NEW	92-03-045
308-93-050	AMD	92-03-075	315-41-50520	NEW-P	92-03-146	392-122-210	AMD	92-03-045
308-93-070	AMD	92-03-075	315-41-50600	NEW-P	92-03-146	392-122-211	NEW	92-03-045
308-93-290	AMD	92-03-075	315-41-50610	NEW-P	92-03-146	392-122-212	NEW	92-03-045
308-96A-005	AMD	92-02-100	315-41-50620	NEW-P	92-03-146	392-122-213	NEW	92-03-045
308-96A-040	AMD	92-02-100	318-04-030	AMD	92-03-061	392-122-214	NEW	92-03-045
308-96A-046	AMD	92-02-100	332-130-010	AMD	92-03-007	392-122-220	NEW	92-03-045
308-96A-100	AMD	92-03-076	332-130-020	AMD	92-03-007	392-122-221	NEW	92-03-045
308-96A-136	AMD	92-02-100	332-130-025	NEW	92-03-007	392-122-225	NEW	92-03-045
308-96A-201	NEW	92-02-100	356-05-214	NEW	92-03-099	392-122-230	AMD	92-03-045
308-96A-205	AMD	92-02-100	356-18-060	AMD	92-03-098	392-122-255	AMD	92-03-045
308-96A-206	NEW	92-02-100	356-18-116	AMD	92-03-101	392-122-260	AMD	92-03-045
308-96A-207	NEW	92-02-100	356-47-040	AMD	92-03-100	392-122-265	AMD	92-03-138
308-96A-208	NEW	92-02-100	365-180-030	AMD	92-03-019	392-122-270	AMD	92-03-045
308-96A-210	AMD	92-02-100	365-180-060	AMD	92-03-019	392-122-275	AMD	92-03-045
308-96A-220	AMD	92-02-100	365-180-090	AMD	92-03-019	392-122-300	NEW	92-03-138
308-96A-260	AMD	92-02-100	388-24-250	AMD-P	92-03-113	392-122-301	NEW	92-03-138
308-96A-275	AMD	92-02-100	388-24-252	NEW-P	92-03-114	392-122-302	NEW	92-03-138
308-96A-300	AMD	92-02-100	388-24-253	AMD-P	92-03-115	392-122-303	NEW	92-03-138
308-96A-306	AMD	92-03-076	388-24-254	AMD-P	92-03-116	392-122-304	NEW	92-03-138
308-96A-310	AMD	92-03-076	388-24-255	AMD-P	92-03-117	392-122-320	NEW	92-03-138
308-96A-315	AMD	92-03-076	388-24-265	AMD-P	92-03-118	392-122-321	NEW	92-03-138
308-96A-320	AMD	92-03-076	388-28-535	AMD	92-03-090	392-122-322	NEW	92-03-138
308-96A-325	AMD	92-03-076	388-33-460	AMD	92-03-089	392-123-054	AMD	92-03-024
308-96A-330	AMD	92-03-076	388-33-480	REP	92-03-085	392-123-071	AMD	92-03-024
308-96A-335	AMD	92-03-076	388-37-038	AMD-P	92-02-102	392-123-072	AMD	92-03-024
308-96A-340	NEW	92-03-076	388-37-135	AMD	92-03-047	392-123-074	AMD	92-03-024
314-20-020	AMD	92-03-109	388-49-470	AMD	92-03-119	392-123-079	AMD	92-03-024
314-24-040	AMD	92-03-110	388-49-520	AMD	92-03-086	392-123-115	AMD	92-03-024
315-11-691	AMD	92-03-048	388-81-038	NEW	92-03-084	392-123-120	AMD	92-03-024
315-11-710	NEW	92-03-048	388-81-047	AMD-P	92-03-112	392-140-067	NEW	92-03-023
315-11-711	NEW	92-03-048	388-81-047	AMD-E	92-03-121	392-140-068	NEW	92-03-023
315-11-712	NEW	92-03-048	388-81-050	AMD-P	92-03-042	392-140-069	NEW	92-03-023
315-11-730	NEW	92-03-048	388-81-050	AMD-E	92-03-044	392-140-070	NEW	92-03-023
315-11-731	NEW	92-03-048	388-82-115	AMD	92-03-046	392-140-071	NEW	92-03-023
315-11-732	NEW	92-03-048	388-83-013	AMD	92-03-087	392-140-072	NEW	92-03-023
315-11-740	NEW	92-03-048	388-83-033	AMD	92-03-083	392-140-075	REP	92-03-023
315-11-741	NEW	92-03-048	388-86-005	AMD	92-03-084	392-140-076	REP	92-03-023
315-11-742	NEW	92-03-048	388-86-019	AMD	92-03-120	392-140-077	REP	92-03-023
315-11-750	NEW-P	92-03-146	388-86-080	AMD-P	92-03-041	392-140-078	REP	92-03-023
315-11-751	NEW-P	92-03-146	388-86-080	AMD-E	92-03-043	392-140-079	REP	92-03-023

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
392-140-080	REP	92-03-023	392-202-120	AMD-W	92-03-063	434-166-350	NEW-E	92-02-103
392-140-081	REP	92-03-023	399-30-030	AMD	92-03-052	434-166-350	NEW-P	92-02-104
392-140-082	REP	92-03-023	399-30-040	AMD	92-03-052	434-166-360	NEW-E	92-02-103
392-140-083	REP	92-03-023	399-30-042	AMD	92-03-052	434-166-360	NEW-P	92-02-104
392-140-160	REP	92-03-023	399-30-045	AMD	92-03-052	458-20-199	AMD	92-03-026
392-140-161	REP	92-03-023	399-30-050	AMD	92-03-052	458-20-228	AMD	92-03-025
392-140-162	REP	92-03-023	399-30-060	AMD	92-03-052	463-06-020	AMD-P	92-02-099
392-140-163	REP	92-03-023	399-30-065	AMD	92-03-052	463-06-030	AMD-P	92-02-099
392-140-165	REP	92-03-023	399-40-020	AMD	92-03-051	463-06-040	AMD-P	92-02-099
392-140-166	REP	92-03-023	434-166-010	NEW-E	92-02-103	463-06-050	AMD-P	92-02-099
392-140-167	REP	92-03-023	434-166-010	NEW-P	92-02-104	463-06-070	AMD-P	92-02-099
392-140-168	REP	92-03-023	434-166-020	NEW-E	92-02-103	463-06-150	AMD-P	92-02-099
392-140-169	REP	92-03-023	434-166-020	NEW-P	92-02-104	463-26-030	REP-P	92-02-099
392-140-170	REP	92-03-023	434-166-030	NEW-E	92-02-103	463-39-005	NEW-P	92-02-099
392-140-171	REP	92-03-023	434-166-030	NEW-P	92-02-104	463-39-010	AMD-P	92-02-099
392-140-172	REP	92-03-023	434-166-040	NEW-E	92-02-103	463-39-030	AMD-P	92-02-099
392-140-173	REP	92-03-023	434-166-040	NEW-P	92-02-104	463-39-040	REP-P	92-02-099
392-140-174	REP	92-03-023	434-166-050	NEW-E	92-02-103	463-39-050	REP-P	92-02-099
392-140-197	AMD	92-03-023	434-166-050	NEW-P	92-02-104	463-39-060	REP-P	92-02-099
392-140-198	AMD	92-03-023	434-166-060	NEW-E	92-02-103	463-39-080	REP-P	92-02-099
392-140-199	AMD	92-03-023	434-166-060	NEW-P	92-02-104	463-39-110	REP-P	92-02-099
392-140-201	AMD	92-03-023	434-166-070	NEW-E	92-02-103	463-39-115	AMD-P	92-02-099
392-140-431	NEW	92-03-023	434-166-070	NEW-P	92-02-104	463-39-120	AMD-P	92-02-099
392-140-432	NEW	92-03-023	434-166-080	NEW-E	92-02-103	463-39-150	REP-P	92-02-099
392-140-433	NEW	92-03-023	434-166-080	NEW-P	92-02-104	463-42-055	AMD-P	92-02-099
392-140-434	NEW	92-03-023	434-166-090	NEW-E	92-02-103	463-42-165	AMD-P	92-02-099
392-140-435	NEW	92-03-023	434-166-090	NEW-P	92-02-104	463-42-195	AMD-P	92-02-099
392-140-436	NEW	92-03-023	434-166-100	NEW-E	92-02-103	463-42-225	AMD-P	92-02-099
392-140-437	NEW	92-03-023	434-166-100	NEW-P	92-02-104	463-42-265	AMD-P	92-02-099
392-140-438	NEW	92-03-023	434-166-110	NEW-E	92-02-103	463-42-345	AMD-P	92-02-099
392-140-439	NEW	92-03-023	434-166-110	NEW-P	92-02-104	463-42-445	AMD-P	92-02-099
392-140-441	NEW	92-03-023	434-166-120	NEW-E	92-02-103	463-42-455	AMD-P	92-02-099
392-140-442	NEW	92-03-023	434-166-120	NEW-P	92-02-104	463-42-465	AMD-P	92-02-099
392-140-443	NEW	92-03-023	434-166-130	NEW-E	92-02-103	463-42-595	AMD-P	92-02-099
392-140-444	NEW	92-03-023	434-166-130	NEW-P	92-02-104	463-42-625	AMD-P	92-02-099
392-140-445	NEW	92-03-023	434-166-140	NEW-E	92-02-103	463-42-685	NEW-P	92-02-099
392-140-446	NEW	92-03-023	434-166-140	NEW-P	92-02-104	463-42-690	NEW-P	92-02-099
392-140-447	NEW	92-03-023	434-166-150	NEW-E	92-02-103	463-47-051	AMD-P	92-02-099
392-140-450	NEW	92-03-023	434-166-150	NEW-P	92-02-104	463-47-090	AMD-P	92-02-099
392-140-451	NEW	92-03-023	434-166-160	NEW-E	92-02-103	458-20-105	AMD-P	92-03-066
392-140-452	NEW	92-03-023	434-166-160	NEW-P	92-02-104	458-20-164	AMD-P	92-03-067
392-140-460	NEW	92-03-023	434-166-170	NEW-E	92-02-103	458-20-18601	NEW-P	92-03-065
392-140-461	NEW	92-03-023	434-166-170	NEW-P	92-02-104	458-30-262	AMD	92-03-068
392-140-462	NEW	92-03-023	434-166-180	NEW-E	92-02-103	480-70-350	AMD	92-03-082
392-140-463	NEW	92-03-023	434-166-180	NEW-P	92-02-104	480-92-011	NEW	92-03-050
392-140-464	NEW	92-03-023	434-166-190	NEW-E	92-02-103	480-92-021	NEW	92-03-050
392-140-465	NEW	92-03-023	434-166-190	NEW-P	92-02-104	480-92-031	NEW	92-03-050
392-140-466	NEW	92-03-023	434-166-200	NEW-E	92-02-103	480-92-050	NEW	92-03-050
392-140-470	NEW	92-03-023	434-166-200	NEW-P	92-02-104	480-92-060	NEW	92-03-050
392-140-471	NEW	92-03-023	434-166-210	NEW-E	92-02-103	480-92-070	NEW	92-03-050
392-140-472	NEW	92-03-023	434-166-210	NEW-P	92-02-104	480-92-080	NEW	92-03-050
392-140-473	NEW	92-03-023	434-166-220	NEW-E	92-02-103	480-92-090	NEW	92-03-050
392-140-474	NEW	92-03-023	434-166-220	NEW-P	92-02-104	480-92-100	NEW	92-03-050
392-140-475	NEW	92-03-023	434-166-230	NEW-E	92-02-103	480-92-110	NEW	92-03-050
392-140-476	NEW	92-03-023	434-166-230	NEW-P	92-02-104	480-120-340	NEW	92-03-049
392-140-477	NEW	92-03-023	434-166-240	NEW-E	92-02-103			
392-140-478	NEW	92-03-023	434-166-240	NEW-P	92-02-104			
392-140-480	NEW	92-03-023	434-166-250	NEW-E	92-02-103			
392-140-481	NEW	92-03-023	434-166-250	NEW-P	92-02-104			
392-140-482	NEW	92-03-023	434-166-260	NEW-E	92-02-103			
392-140-483	NEW	92-03-023	434-166-260	NEW-P	92-02-104			
392-140-485	NEW	92-03-023	434-166-270	NEW-E	92-02-103			
392-140-486	NEW	92-03-023	434-166-270	NEW-P	92-02-104			
392-140-490	NEW	92-03-023	434-166-280	NEW-E	92-02-103			
392-140-491	NEW	92-03-023	434-166-280	NEW-P	92-02-104			
392-140-492	NEW	92-03-023	434-166-290	NEW-E	92-02-103			
392-140-493	NEW	92-03-023	434-166-290	NEW-P	92-02-104			
392-140-494	NEW	92-03-023	434-166-300	NEW-E	92-02-103			
392-140-495	NEW	92-03-023	434-166-300	NEW-P	92-02-104			
392-140-496	NEW	92-03-023	434-166-310	NEW-E	92-02-103			
392-140-497	NEW	92-03-023	434-166-310	NEW-P	92-02-104			
392-153-005	AMD-P	92-03-138	434-166-320	NEW-E	92-02-103			
392-153-014	NEW-P	92-03-138	434-166-320	NEW-P	92-02-104			
392-153-015	AMD-P	92-03-138	434-166-330	NEW-E	92-02-103			
392-153-032	AMD-P	92-03-138	434-166-330	NEW-P	92-02-104			
392-202-110	AMD-W	92-03-063	434-166-340	NEW-E	92-02-103			
392-202-115	AMD-W	92-03-063	434-166-340	NEW-P	92-02-104			

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF		BLIND, WASHINGTON STATE SCHOOL	
Experience requirement for license	92-03-062	FOR THE	
AGRICULTURE, DEPARTMENT OF		Rules coordinator	92-01-021
Apple advertising commission		BUILDING CODE COUNCIL	
meetings	92-01-024	Barrier-free facilities	
Apples		regulations	92-01-130
apple ermine moth quarantine	92-02-071		92-01-145
apple maggot survey and detection		Energy code	92-01-140
program		Housing for indigent persons	
funds	92-02-069	building code exemptions	92-01-069
Aquatic and wetland weed quarantine	92-03-105	Indoor air quality maintenance	
Beef commission		requirements	92-01-129
meetings	92-03-034	Plumbing fixtures	
Bulb commission		water conservation performance	
meetings	92-01-017	standards	92-01-068
Corn		Uniform codes	
negotiating session between producers		building code	92-01-145
and processors, recordkeeping	92-03-069	fire code and fire code standards	92-01-065
	92-03-070	mechanical code	92-01-064
Egg commission	92-03-123	plumbing code	92-01-066
Eggs		plumbing code standards	92-01-067
grading and packing facilities,		Water conservation performance standards	92-01-068
standards	92-01-091	Wildland/urban interface areas	
Fees and charges for department		building and fire standards	92-01-128
services	92-03-104	CENTRAL WASHINGTON UNIVERSITY	
Fruits and vegetables		Affirmative action	
movement from production area		grievance procedure	92-02-006
inspection requirements	92-01-121	policy	92-02-006
Hop commission		Rules coordinator	92-01-107
meetings	92-01-063	CENTRALIA COLLEGE	
Livestock markets, public		Meetings	92-01-088
brand inspection work area		CLARK COLLEGE	
standards	92-01-111	Meetings	92-02-008
Noxious weed seed and plant quarantine	92-03-106	CLEMENCY AND PARDONS BOARD	
Pesticide penalty matrix schedule	92-03-064	Meetings	92-03-038
Pesticides		CODE REVISER'S OFFICE	
restrictions	92-03-134	Rules coordinator	92-01-001
Potatoes		COMMUNITY AND TECHNICAL COLLEGES,	
negotiating session between producers and		BOARD FOR	
processors, recordkeeping	92-03-069	Meetings	92-01-054
	92-03-070	COMMUNITY DEVELOPMENT, DEPARTMENT OF	
Strawberry commission		Development loan fund	
meetings	92-03-058	meetings	92-03-081
Tree fruit research commission		Energy matchmakers program	92-03-019
assessment rates	92-01-009	Low-income weatherization assistance	92-03-019
Varroa mite quarantine	92-01-013	Public hearings	
	92-02-070	natural resources of state-wide	
Weeds		significance	92-01-134
aquatic and wetland, quarantine	92-03-105	Public works board	
noxious weed seed and plant		loan and financing guarantees	92-03-052
quarantine	92-03-106	meetings	92-01-108
Weights and measures		State Environmental Policy Act compliance	92-03-051
National type evaluation program		CONVENTION AND TRADE CENTER	
uniform regulations	92-03-018	Meetings	92-01-025
Wetland and aquatic weed quarantine	92-03-105		92-02-078
Wine commission			92-03-009
meetings	92-02-048	COUNTY ROAD ADMINISTRATION BOARD	
Wood destroying organisms		Rules coordinator	92-02-047
inspection and reporting criteria	92-03-133	CRIMINAL JUSTICE TRAINING COMMISSION	
ASIAN AMERICAN AFFAIRS,		Firearms certification	
COMMISSION ON		instructor certification	92-02-042
Meetings	92-02-028	private detectives	92-02-041
ATTORNEY GENERAL'S OFFICE		private security guards	92-02-040
Opinions		records	92-02-042
school district real estate purchase		DEAF, WASHINGTON STATE SCHOOL	
(1991, No. 34)	92-02-005	FOR THE	
BATES TECHNICAL COLLEGE		Rules coordinator	92-01-020
Meetings	92-01-043	EASTERN WASHINGTON UNIVERSITY	
BELLEVUE COMMUNITY COLLEGE		Meetings	92-02-031
Meetings	92-02-037	Rules coordinator	92-02-030
BELLINGHAM TECHNICAL COLLEGE		Scholarships	92-02-052
Meetings	92-01-046	Student records, availability	92-02-053
	92-03-035		
	92-03-059		

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

ECOLOGY, DEPARTMENT OF		FISHERIES, DEPARTMENT OF	
Dangerous waste		<u>Commercial</u>	
spill and discharge reporting requirements	92-03-127	bottomfish	
Oil spills		coastal bottomfish catch limits	92-02-058 92-03-030
compensation schedule	92-01-095		92-03-150
natural resource damage assessment	92-01-095	coastal bottomfish gear	92-02-058
Rules coordinator	92-01-094		92-03-150
Shoreline master programs		crabs, seasons and areas	92-01-034 92-02-039
Bridgeport, city of	92-03-132		
Mercer Island, city of	92-03-128	salmon	
Normandy Park, city of	92-01-096	Puget Sound	
Pateros, city of	92-01-097	restrictions and closures	92-01-033
Port Orchard, city of	92-03-129	sturgeon	
Tumwater, city of	92-03-130	Columbia River above	
Solid fuel burning devices		Bonneville, seasons	92-03-022
masonry fireplaces, retail sales fee	92-01-098	<u>Personal use</u>	
retail sales fee	92-01-098	abalone	
Wastewater		bag limit	92-03-151
discharge permit		size limit	92-03-151
fee schedule	92-03-131	clams	
ECONOMIC DEVELOPMENT FINANCE AUTHORITY		areas and seasons	
Operations and procedures	92-03-055 92-03-056	hardshell	92-03-151
		razor	92-03-151
EDMONDS COMMUNITY COLLEGE		crabs, areas and seasons	92-01-035 92-03-151
Meetings	92-01-002	crayfish, gear	92-03-151
EDUCATION, STATE BOARD OF		food fish	
Certification		species identification	92-03-151
general requirements	92-01-126	lingcod, areas and seasons	92-03-151
vocational instructors	92-01-125	oysters	
Meetings	92-01-022	areas and seasons	92-03-151
School districts with restructuring plan		rockfish, areas and seasons	92-03-151
program hour requirements, waiver	92-01-124	salmon	
teacher contact hours requirements, waiver	92-01-124	areas and seasons	92-03-151
Special study activities		bag limits	92-03-151
state reimbursement	92-01-123	gear	92-03-151
Teachers		sturgeon	
certification requirements	92-01-126 92-01-127	Columbia River below Bonneville	
	92-01-126 92-01-127	sanctuary	92-03-151
teacher preparation programs	92-01-126 92-01-127	FOREST PRACTICES BOARD	
		(See NATURAL RESOURCES, DEPARTMENT OF)	
Vocational instructors		GAMBLING COMMISSION	
certification standards	92-01-125	Meetings	92-03-037
EMPLOYMENT SECURITY DEPARTMENT		Rules coordinator	92-03-036
Employer notice and separation determination	92-03-145	GENERAL ADMINISTRATION, DEPARTMENT OF	
Timber impact areas		Banking, division of	
dislocated workers	92-02-076	check cashiers and sellers	
ENERGY FACILITY SITE EVALUATION COUNCIL		regulation	92-02-105
Air pollution sources	92-02-099	investment in investment companies	92-01-092
Environmental regulations	92-02-099	mutual holding companies	
Organization and operation	92-02-099	establishment and operation	92-01-093
Site certification	92-02-099	Capitol grounds	
ENERGY OFFICE		parking fee payments	92-01-143
Energy efficiency services account	92-01-120	skateboarding prohibited on	92-01-144
ENGINEERS AND LAND SURVEYORS		traffic and parking regulations	92-01-142
Evaluation of license candidates	92-01-101	Skateboarding on state capitol grounds	92-01-144
Examinations	92-01-100 92-01-101	GOVERNOR, OFFICE OF THE	
	92-01-101	Electronic message systems	92-01-109
Experience records	92-01-101	GRAYS HARBOR COLLEGE	
Seals		Adjudicative proceedings	92-01-056
usage	92-01-099	Board of trustees	92-01-057
ENVIRONMENTAL HEARINGS OFFICE		Financial aid	92-01-058
Rules coordinator	92-03-008	Meetings	92-01-047 92-01-057
EVERETT COMMUNITY COLLEGE		Organization and operation	92-01-057
Meetings	92-01-133	Scholarships	92-01-058
FAMILY INDEPENDENCE PROGRAM		Tuition and fees	92-01-058
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		GREEN RIVER COMMUNITY COLLEGE	
		Meetings	92-02-033
		HEALTH, BOARD OF	
		(See HEALTH, DEPARTMENT OF)	

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

HEALTH CARE AUTHORITY

Eligible entities 92-03-040

HEALTH, DEPARTMENT OF

Cancer cases
identifying and reporting, criteria and procedures 92-01-050
information access standards 92-01-050

Chiropractic disciplinary board
meetings 92-03-097
peer review 92-01-070
rules coordinator 92-01-048

Chiropractic examiners, board of
chiropractic x-ray technicians
preceptorship program 92-02-022
reciprocity 92-02-022
regulation 92-02-022
temporary permits 92-02-022

fees 92-03-140
meetings 92-01-008
rules coordinator 92-01-048

Dental disciplinary board
amalgam restoration practice standards 92-02-044
92-02-098
rules coordinator 92-01-048

Dental examiners, board of
examinations 92-01-122
licensure 92-01-122
rules coordinator 92-01-048

Dental hygienists
expanded functions education program
application procedures 92-03-126
requirements 92-03-006

Drug manufacturing or storage sites,
illegal, contractor certification
for decontamination of 92-02-017

Health, board of
drug manufacturing or storage sites,
illegal, contractor certification
for decontamination of 92-02-017
92-03-143
food service rules and regulations 92-03-142
local health officers

drug manufacturing or storage sites,
contractor
certification for decontamination 92-03-143
responsibilities 92-03-143
rules coordinator 92-01-048
rules, housekeeping changes 92-02-019
92-02-021

water recreation facilities 92-02-020
water safety teaching stations 92-02-020

Health care information
acquisition, retention, and security 92-01-061
92-01-062

Hearing aid council
rules coordinator 92-01-048

Massage board
educational institutions
approval 92-03-139
curriculum 92-03-139
national educational institutions 92-03-139
educational requirements 92-03-139
rules coordinator 92-01-048

Medical disciplinary board
rules coordinator 92-01-048

Medical examiners, board of
meetings 92-02-045
physicians and surgeons
temporary permits
fees 92-01-072
issuance and duration 92-01-049
recognized jurisdictions 92-01-049
rules coordinator 92-01-048

Naturopathic physicians
medications, authority to use,
prescribe, dispense, and order 92-02-097

HEALTH, DEPARTMENT OF—cont.

Nursing, board of
catheterization in the schools 92-01-023
rules coordinator 92-01-048
supervision of care and
delegation of tasks 92-02-023

Nursing home administrators, board
of examiners for
rules coordinator 92-01-048

Nursing homes
ethnic minority nursing home beds
certificate of need review 92-01-110

Occupational therapy practice board
rules coordinator 92-01-048

Optometry board
contact lens
"prescription" defined 92-03-032
records retention 92-03-032
continuing education 92-02-095
prescriptions

identification 92-03-032
examination and licensure 92-02-095
fees 92-01-071
rules coordinator 92-01-048
substance abuse monitoring
programs 92-02-095
temporary practice permit 92-02-095

Osteopathic medicine and surgery,
board of
rules coordinator 92-01-048

Pharmacy, board of
continuing education requirements 92-03-029
facsimile prescription order
transmission 92-03-095

legend drugs
identification 92-03-096
restrictions 92-03-096

licenses
fees 92-03-124
renewal 92-03-124
rules coordinator 92-01-048

Physical therapy, board of
meetings 92-01-078
rules coordinator 92-01-048

Podiatric medical board
rules coordinator 92-01-048

Practical nursing board
approved substance abuse
monitoring program 92-02-046
curriculum standards in approved program 92-02-046
definitions 92-02-046
discipline, standards of conduct 92-02-046

documents indicating authorization to
practice 92-02-046
rules coordinator 92-01-048

Psychology, examining board of
health care information
acquisition and retention 92-03-107
92-03-141
release 92-03-107
92-03-141

meetings 92-03-144
rules coordinator 92-01-048

Rules coordinator 92-01-048
Rules, housekeeping changes 92-02-018
Scoliosis screening 92-02-096

Veterinary board of governors
animal technicians
applications 92-02-057
examination eligibility 92-02-056
post high school courses 92-02-056
registration

fees 92-03-125
renewal 92-03-125
supervision of 92-02-057
board investigations 92-02-056
92-03-074

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

HEALTH, DEPARTMENT OF—cont.		LABOR AND INDUSTRIES,	
examinations	92-03-074	DEPARTMENT OF—cont.	
licenses		fees	92-03-136
fees	92-03-125	Occupational health standards	
renewal	92-03-125	general standards	92-03-137
retired active	92-03-074	Prevailing wages	
speciality	92-03-074	terms and procedures used to determine,	
rules coordinator	92-01-048	for public works projects	92-01-104
Water recreation facilities	92-02-020	Workers' compensation	
Water safety teaching stations	92-02-020	labor/management cooperation program	92-03-053
HIGHER EDUCATION COORDINATING BOARD		LAKE WASHINGTON TECHNICAL COLLEGE	
Health professional loan repayment and		Meetings	92-02-034
scholarship program	92-03-002	LICENSING, DEPARTMENT OF	
HIGHER EDUCATION PERSONNEL BOARD		Aircraft fuel tax rules	
Appeal rights of applicants	92-02-062	mitigation of penalties and interest	92-01-015
Eligible lists	92-01-028	Architects, board of registration for	
	92-01-081	meetings	92-01-019
	92-02-025	Disabled persons	
Examination process	92-02-060	parking privileges	92-03-076
	92-02-063	Franchises	
Layoff options	92-02-061	accredited investor, defined	92-02-054
Lead employee, definition	92-02-059	selling agent record requirements	92-02-054
	92-02-064	uniform franchise offering circular	92-02-054
	92-03-079	Motor vehicles	
Leave of absence without pay,		disabled persons, parking privileges	92-03-076
excepted work period	92-02-066	gross weight license	92-02-100
Meetings	92-01-029	license fees	
Overtime	92-01-028	monthly abatement	92-02-100
	92-01-081	registration	92-02-100
	92-02-025	temporary permits, departmental	92-03-077
Position requirements	92-02-060	veterans	
Reemployment, reasonable accommodation	92-01-031	free license	92-02-100
Rules coordinator	92-01-030	Motorcycle safety advisory board	
Schedule changes	92-01-028	meetings	92-01-011
	92-01-081	Real estate commission	
	92-02-025	meetings	92-03-016
Supervisor, definition	92-01-028		92-03-033
	92-01-081		92-03-001
	92-02-024	Rules coordinator	
	92-02-065	Special fuel tax rules	
	92-03-079	mitigation of penalties and interest	92-01-016
		user license	92-01-014
HISPANIC AFFAIRS, COMMISSION ON		Vessel registration	
Meetings	92-03-014	exemptions	92-03-075
HUMAN RIGHTS COMMISSION		ownership transfer	92-03-075
Meetings	92-01-075	title or registration application	92-03-075
	92-01-076	LIQUOR CONTROL BOARD	
	92-02-077	Alcohol raffle permit	92-01-079
INFORMATION SERVICES, DEPARTMENT OF		Banquet permit functions	
Information services board meetings	92-02-004	liquor sources, purchase, and delivery	92-01-080
Rules coordinator	92-01-039	Beer	
INSURANCE COMMISSIONER, OFFICE OF		label approval	92-03-109
Medicare supplement insurance		Conduct on licensed premises, regulation	92-01-105
standardized policy forms	92-01-045	Rules coordinator	92-03-017
Rules coordinator	92-01-032	Wholesalers	
INTEREST RATES		stock movement	92-02-014
(See inside front cover)		Wine	
INVESTMENT BOARD		label approval	92-03-110
Meetings	92-01-090	LOTTERY COMMISSION	
JUDICIAL CONDUCT, COMMISSION ON		Beat the State	
Meetings	92-03-020	definitions	92-03-146
Rules coordinator	92-02-029	drawings	92-03-146
LABOR AND INDUSTRIES,		play	92-03-146
DEPARTMENT OF		price	92-03-146
Boiler rules, board of		prizes	92-03-146
meetings	92-01-006	purchases	92-03-146
Construction		suspension or termination	92-03-146
safety standards	92-03-137	Instant game number 69 – Gold Rush	
Indoor air quality standards		criteria	92-03-048
solicitation of preproposal comment	92-03-135	Instant game number 71 – Lucky 7's II	
Electrical inspections		criteria	92-03-048
fees	92-03-136	definitions	92-03-048
Electricians		ticket validation	92-03-048
contractor licensing fees	92-03-136	Instant game number 73 – Whirlwin	
		criteria	92-03-048
		definitions	92-03-048
		ticket validation	92-03-048

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

LOTTERY COMMISSION—cont.			
<u>Instant game number 74 – Grand Slam II</u>			
criteria	92-03-048		
definitions	92-03-048		
ticket validation	92-03-048		
<u>Instant game number 75 – Movie Mania</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
<u>Instant game number 76 – Gold & Glory</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
<u>Instant game number 77 – Wildcard</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
Lotto			
prizes	92-03-146		
<u>Paper scratch game number 501 – Jackpot</u>			
criteria	92-03-048		
definitions	92-03-048		
ticket validation	92-03-048		
<u>Paper scratch game number 502 – Lucky Charm</u>			
criteria	92-03-048		
definitions	92-03-048		
ticket validation	92-03-048		
<u>Paper scratch game number 503 – Jacks-R-Better</u>			
criteria	92-03-048		
definitions	92-03-048		
ticket validation	92-03-048		
<u>Paper scratch game number 504 – Treasure Hunt</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
<u>Paper scratch game number 505 – Rooster Tail</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
<u>Paper scratch game number 506 – Criss Cross</u>			
criteria	92-03-146		
definitions	92-03-146		
ticket validation	92-03-146		
Paper scratch games			
authorization	92-03-048		
criteria	92-03-048		
definitions	92-03-048		
retailer settlement	92-03-048		
ticket validation	92-03-048		
MARITIME COMMISSION			
Assessments			
rates and terms	92-03-061		
Meetings	92-02-027		
MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF			
Meetings	92-02-084		
NATURAL RESOURCES, DEPARTMENT OF			
Adjudicative proceedings	92-01-027		
Forest practices board			
"forest trees" defined	92-03-028		
meetings	92-01-117		
rules coordinator	92-01-118		
timber harvest rate monitoring	92-02-055		
watershed analysis system	92-01-119		
Land boundary surveys and geodetic control surveys, standards	92-03-007		
Land descriptions, guidelines	92-03-007		
Natural resources, board of meetings	92-03-054		
Rules coordinator	92-01-026		
OLYMPIC AIR POLLUTION CONTROL AUTHORITY			
Solid fuel burning devices			
requirements if failure to meet attainment	92-03-012		
OLYMPIC AIR POLLUTION CONTROL AUTHORITY—cont.			
Woodstoves			
requirements if failure to meet attainment		92-03-012	
OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR			
Meetings		92-01-005	
PARKS AND RECREATION COMMISSION			
Field operations			
staff dress standards		92-01-106	
Fort Worden			
reservation system		92-01-038	
Meetings		92-01-036	
Rules coordinator		92-01-037	
PERSONNEL APPEALS BOARD			
Rules coordinator		92-03-027	
PERSONNEL BOARD			
Career executive program			
position nomination procedures		92-03-100	
Certification			
errors and correction		92-02-009	
Family care requirements		92-03-098	
		92-03-101	
Leave			
family care needs		92-03-098	
		92-03-101	
"Manager" defined		92-03-099	
Paid sick leave		92-03-098	
Part-time employees, promotional rights		92-02-010	
Promotional rights, part-time employees		92-02-010	
Sick leave, paid			
family care requirements		92-03-098	
PERSONNEL, DEPARTMENT OF			
Rules coordinator		92-01-087	
PIERCE COLLEGE			
Meetings		92-01-003	
Personnel rules		92-01-085	
		92-03-031	
Rules coordinator		92-01-004	
PILOTAGE COMMISSIONERS, BOARD OF			
Licenses			
renewal		92-03-108	
retired pilots		92-03-108	
PUBLIC DISCLOSURE COMMISSION			
Contributions			
contribution and expenditure form		92-01-131	
Disclosure petition form		92-01-131	
Organization		92-03-005	
Reporting requirements			
hearing of modify		92-01-131	
suspension of		92-01-131	
PUBLIC INSTRUCTION, SUPERINTENDENT OF			
Allocations, 1991-93			
early intervention services		92-02-026	
special		92-03-023	
Budget extension, filing deadline		92-03-024	
Early intervention services			
allocations		92-02-026	
Excellence in education awards		92-03-063	
Institutional education program		92-03-045	
Teacher assistance program		92-01-082	
Traffic safety education program			
low-income student tuition assistance		92-03-138	
minimum hour requirements		92-03-138	
PUBLIC WORKS BOARD			
(See COMMUNITY DEVELOPMENT, DEPARTMENT OF)			
PUGET SOUND AIR POLLUTION CONTROL AGENCY			
Acceptable source impact levels		92-03-092	

Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

PUGET SOUND AIR POLLUTION CONTROL AGENCY—cont.		RULES COORDINATORS—cont.	
Aerators and sterilizers		County road administration board	92-02-047
ethylene oxide emission control	92-03-091	Deaf, Washington state school for the	92-01-020
Chromic acid plating and anodizing	92-03-091	Dental disciplinary board	92-01-048
Compliance dates	92-03-102	Dental examining board	92-01-048
Definitions	92-03-092	Eastern Washington University	92-02-030
	92-03-102	Ecology, department of	92-01-094
Fees	92-01-089	Environmental hearings office	92-03-008
Gasoline		Forest practices board	92-01-118
loading terminals	92-03-073	Gambling commission	92-03-036
stations	92-03-073	Health, board of	92-01-048
Perchloroethylene dry cleaner	92-03-092	Health, department of	92-01-048
Registration program, fee schedule	92-01-089	Hearing aids council	92-01-048
Sterilizers and aerators		Higher education personnel board	92-01-030
ethylene oxide emission control	92-03-091	Information services, department of	92-01-039
		Insurance commissioner, office of	92-01-032
PUGET SOUND WATER QUALITY AUTHORITY		Judicial conduct, commission on	92-02-029
Water quality management plan programs	92-01-141	Licensing, department of	92-03-001
		Liquor control board	92-03-017
RETIREMENT SYSTEMS, DEPARTMENT OF		Massage board	92-01-048
Rules coordinator	92-01-077	Medical disciplinary board	92-01-048
		Medical examiners, board of	92-01-048
REVENUE, DEPARTMENT OF		Natural resources, department of	92-01-026
Accounting		Nursing, board of	92-01-048
accrual method, tax reporting		Nursing home administrators, board	
duties	92-03-026	of examiners for	92-01-048
cash receipts reporting	92-03-026	Occupational therapy practice, board of	92-01-048
Agricultural land valuation	92-03-068	Optometry board	92-01-048
Business and occupation tax		Osteopathic medicine and surgery board	92-01-048
life insurance agents, brokers,		Parks and recreation commission	92-01-037
and solicitors, definition	92-02-002	Personnel appeals board	92-03-027
	92-03-067	Personnel, department of	92-01-087
Cigarette vendor licenses	92-02-003	Pharmacy, board of	92-01-048
	92-03-065	Physical therapy, board of	92-01-048
Computer software		Pierce college	92-01-004
definitions	92-01-132	Podiatric medical board	92-01-048
valuation and taxation	92-01-132	Practical nursing, board of	92-01-048
Cosmetologists, barbers, and manicurists		Psychology, examining board of	92-01-048
"engaging in business" defined	92-03-066	Retirement systems, department of	92-01-077
Employees distinguished from persons		Revenue, department of	92-01-055
engaging in business	92-02-001	Shoreline Community College	92-02-043
	92-03-066	Skagit Valley College	92-03-060
Hotels and motels		Social and health services,	
telephone service, taxation on	92-01-041	department of	92-03-072
Interest and penalties	92-03-025	Tax appeals, board of	92-01-060
Life insurance agents, brokers, and		Trade and economic development,	
solicitors		department of	92-03-071
"employee" defined	92-03-066	Transportation commission	92-03-003
	92-03-067	Transportation, department of	92-03-004
taxability of amounts received by	92-02-002	University of Washington	92-02-036
Lodging, persons selling		Utilities and transportation commission	92-01-113
services and other business		Veterinary board of governors	92-01-048
activities, taxation on	92-01-041	Washington state patrol	92-01-010
Penalties and interest	92-03-025	Whatcom Community College	92-03-011
Persons engaging in business, definition	92-02-001		
	92-03-066	SEATTLE COMMUNITY COLLEGES	
Rules coordinator	92-01-055	Meetings	92-02-032
Sales tax		SECRETARY OF STATE	
legend drugs, exemption	92-01-042	Archives and records management,	
prosthetic and orthotic devices,		division of	
ostomic items, and medically		public records, disposal methods	92-02-068
prescribed oxygen, exemption	92-01-042	recycling, disposal of records by	92-02-068
Timber excise tax		International student exchange agencies	
stumpage values	92-02-067	registration	92-02-103
Use tax			92-02-104
automobile dealers		SHORELINE COMMUNITY COLLEGE	
demonstrator and executive vehicles	92-01-044	Meetings	92-03-057
legend drugs, exemption	92-01-042	Rules coordinator	92-02-043
prosthetic and orthotic devices,		SKAGIT VALLEY COLLEGE	
ostomic items, and medically		Meetings	92-01-102
prescribed oxygen, exemption	92-01-042	Rules coordinator	92-03-060
RULES COORDINATORS		SOCIAL AND HEALTH SERVICES, DEPARTMENT OF	
Blind, Washington state school for the	92-01-021	Aid to families with dependent children	
Central Washington University	92-01-107	income assistance child care program	92-01-136
Chiropractic disciplinary board	92-01-048		
Chiropractic examining board	92-01-048		
Code reviser's office	92-01-001		

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

**SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF—cont.**

quarter of work, definition	92-02-072 92-02-074
Alcohol or drug addiction program eligibility referral criteria	92-03-047 92-03-047
Child care disqualification from authority to care for children providers criminal history inquiry	92-02-101 92-03-148
Child support obligations	92-02-049 92-02-050
Drug or alcohol addiction program eligibility referral criteria	92-03-047 92-03-047
Family independence program meetings	92-01-138
Food stamp program benefits, restoration of lost income exclusions	92-01-139 92-03-119
General assistance alcoholism or drug addiction program eligibility incapacity, waiver of medical documentation	92-03-047 92-02-102
Income assistance child care program consolidated emergency assistance program assistance units benefit amounts eligibility exempt income and resources income determination persons included in grant direct rental payments to landlords, pilot program earned income disregards prospective income budgeting	92-01-136 92-03-118 92-03-117 92-03-113 92-03-115 92-03-116 92-03-114 92-03-085 92-03-090 92-03-086
Medicaid children to eighteen years of age, eligibility cooperation in securing medical support restitution	92-03-083 92-03-087 92-03-042 92-03-044
Medical assistance allocation of excess income, spenddown allocation of income institutionalized recipient availability of resources categorically needy, eligibility medical care programs excluded resources services provided medical services requests medically indigent scope of care oxygen service recovery from estates	92-03-111 92-03-122 92-03-147 92-03-149 92-03-088 92-03-046 92-02-073 92-02-075 92-01-137 92-03-084 92-01-137 92-03-120 92-03-041 92-03-043 92-03-112 92-03-121
Nursing facilities admission and screening contract noncompliance placement resident assessment utilization review	92-03-015 92-03-015 92-03-015 92-03-015 92-03-015
Nursing homes pharmaceutical services	92-03-015

**SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF—cont.**

physician services	92-03-015
residential care units	92-03-015
Rules coordinator	92-03-072
Vendor payments	92-03-089
SOUTHWEST AIR POLLUTION CONTROL AUTHORITY	
Fee schedules	92-03-078
SUPREME COURT	
Cameras in the courtroom (GR 16)	92-01-040
TACOMA COMMUNITY COLLEGE	
Meetings	92-01-007
TAX APPEALS, BOARD OF	
Meetings	92-01-059
Rules coordinator	92-01-060
TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF	
Business assistance center meetings	92-03-080
Child care facility fund	92-02-015
Rules coordinator	92-03-071
TRANSPORTATION COMMISSION	
Meetings	92-01-018 92-01-103 92-02-011 92-02-012 92-03-003
Rules coordinator	92-03-003
TRANSPORTATION, DEPARTMENT OF	
Rules coordinator	92-03-004
TRANSPORTATION IMPROVEMENT BOARD	
Meetings	92-02-051
UNIVERSITY OF WASHINGTON	
Meetings	92-01-074 92-02-038 92-02-079 92-03-021 92-03-093 92-03-094 92-03-103 92-02-036
Rules coordinator	92-02-036
USURY RATES (See inside front cover)	
UTILITIES AND TRANSPORTATION COMMISSION	
Administrative hearing guidelines	92-01-135
Affiliated transactions, reporting of	92-02-080
Auto transportation companies	92-02-082
Contract carriers new contracts with shippers	92-01-053
Electrical companies affiliated transactions, reporting of	92-02-080
Gas companies affiliated transactions, reporting of	92-02-080
Local exchange companies affiliated transactions, reporting of	92-02-080
Log shipments, intrastate rates	92-01-051
Low-level radioactive waste disposal sites and site operators	92-03-050
Meetings	92-01-112
Motor carriers regulations	92-01-116 92-02-016
Passenger charter carriers	92-02-082
Public service companies construction budget	92-02-083
Refusal of service	92-01-115
Rules coordinator	92-01-113
Solid waste accounts, uniform system of annual reports collection companies	92-03-082 92-03-082 92-01-052 92-02-081

Subject/Agency Index
(Citations in **bold type** refer to material in this issue)

UTILITIES AND TRANSPORTATION COMMISSION—cont.		WINE COMMISSION	
Telecommunications		(See AGRICULTURE, DEPARTMENT OF)	
enhanced 911 services	92-03-049	WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD	
interexchange telecommunications		Meetings	92-03-039
companies deposit or security	92-01-114		
WALLA WALLA COMMUNITY COLLEGE			
Meetings	92-02-007		
WASHINGTON STATE PATROL			
Rules coordinator	92-01-010		
WASHINGTON STATE UNIVERSITY			
Meetings	92-01-086		
WESTERN WASHINGTON UNIVERSITY			
Bicycles			
dismount zone, enforcement	92-01-073		
WHATCOM COMMUNITY COLLEGE			
Meetings	92-03-010		
Rules coordinator	92-03-011		
WILDLIFE, COMMISSION AND DEPARTMENT			
Field identification			
game species and sex evidence	92-02-086		
taxidermists and furdealers, records	92-02-086		
Fishing			
game fish seasons and catch limits			
adoption of 1992-94			
regulations	92-01-084		
repeal of 1990-92 regulations	92-01-083		
game fish seasons and catch limits			
1990-92			
Cascade River	92-02-035		
Cedar River	92-02-013		
Green River	92-02-013		
Lake Sammamish	92-02-013		
Lake Washington	92-02-013		
Lake Washington Ship Canal	92-02-013		
Nisqually River	92-03-013		
Salmon Bay	92-02-013		
Samish River	92-02-013		
Sammamish River	92-02-013		
Sauk River	92-02-035		
Skagit River	92-02-035		
Skykomish River	92-02-013		
Tokul Creek	92-02-013		
Furdealers			
records	92-02-086		
Game			
import and retention of game			
and nonresident wildlife	92-02-086		
taxidermists and furdealers, records	92-02-086		
Game fish seasons and catch limits,			
1992-94			
Clear Lake	92-02-090		
Echo Lake	92-02-090		
Lake Desire	92-02-088		
Morton Lake	92-02-090		
Pipers Creek	92-02-089		
Serene Lake	92-02-090		
Skykomish River	92-02-092		
Tokul Creek	92-02-093		
Walleye	92-02-091		
Game management units			
boundary descriptions	92-02-085		
Hunting seasons			
Canada goose season, early closure	92-01-012		
turkey seasons			
1991 spring season	92-02-094		
1992-94 seasons	92-02-087		
Taxidermists			
identification of game species			
and sex	92-02-086		
import and retention of game			
and nonresident wildlife	92-02-086		
records	92-02-086		

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