Washington State Register

FEBRUARY 17, 1993

OLYMPIA, WASHINGTON

ISSUE 93-04

IN THIS ISSUE

(Subject/Agency index at back of issue)

This issue contains documents officially filed not later than February 3, 1993

STATE PRINTING PLANT OLYMPIA, WASHINGTON

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 1993 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

WASHINGTON STATE REGISTER

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POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER
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Legislative Building
Olympia, WA 98504

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

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

(a) **PROPOSED**-includes the full text of preproposal comments, original proposals, continuances, supplemental notices, and withdrawals.

(b) **PERMANENT**-includes the full text of permanently adopted rules.

(c) **EMERGENCY**-includes the full text of emergency rules and rescissions.

(d) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.

(e) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.

(f) **INDEX**-includes a combined subject matter and agency index.

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

(a) In amendatory sections—

(i) underlined material is new material;

(ii) deleted material is ((~~lined out between double parentheses~~));

(b) Complete new sections are prefaced by the heading NEW SECTION;

(c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE IF RULES

(a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.

(b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.

(c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

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

1992 - 1993
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates[1]			Distribution Date	First Agency Hearing Date[3]
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS[2] or 10 p. max. Non-OTS		
For Inclusion in--	*File no later than--*			*Count 20 days from--*	*For hearing on or after*
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
93-01	Nov 25	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 26
93-02	Dec 9	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 9
93-03	Dec 23, 1992	Jan 6, 1993	Jan 20	Feb 3	Feb 23
93-04	Jan 6	Jan 20	Feb 3	Feb 17	Mar 9
93-05	Jan 20	Feb 3	Feb 17	Mar 3	Mar 23
93-06	Feb 3	Feb 17	Mar 3	Mar 17	Apr 6
93-07	Feb 24	Mar 10	Mar 24	Apr 7	Apr 27
93-08	Mar 10	Mar 24	Apr 7	Apr 21	May 11
93-09	Mar 24	Apr 7	Apr 21	May 5	May 25
93-10	Apr 7	Apr 21	May 5	May 19	Jun 8
93-11	Apr 21	May 5	May 19	Jun 2	Jun 22
93-12	May 5	May 19	Jun 2	Jun 16	Jul 6
93-13	May 26	Jun 9	Jun 23	Jul 7	Jul 27
93-14	Jun 9	Jun 23	Jul 7	Jul 21	Aug 10
93-15	Jun 23	Jul 7	Jul 21	Aug 4	Aug 24
93-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
93-17	Jul 21	Aug 4	Aug 18	Sep 1	Sep 21
93-18	Aug 4	Aug 18	Sep 1	Sep 15	Oct 5
93-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
93-20	Sep 8	Sep 22	Oct 6	Oct 20	Nov 9
93-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994

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

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

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

Regulatory Fairness Act

The Regulatory Fairness Act, chapter 19.85 RCW, was adopted in 1982 to minimize the impacts of state regulations on small business. RCW 43.31.025 defines small business as "any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees." The act requires review and mitigation of proposed rules that have an economic impact on more than 20 percent of the businesses of all industries or more than 10 percent of the businesses in any one industry (as defined by any three-digit SIC code).

When the above criteria is met, agencies must prepare a small business economic impact statement (SBEIS) that identifies and analyzes compliance costs and determines whether proposed rules impact small businesses disproportionately when compared to large businesses. When a proportionately higher burden is imposed on small businesses, agencies must mitigate those impacts. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, are subject to review to determine if the requirements of the Regulatory Fairness Act apply. Impact statements are filed with the Office of the Code Reviser as part of the required notice of hearing.

AN SBEIS IS REQUIRED

When:

The proposed rule has any economic impact on more than 20 percent of all industries or more than 10 percent of any one industry; or

The proposed rule IMPOSES costs to business that are not minor and negligible.

AN SBEIS IS NOT REQUIRED

When:

The rule is proposed only to comply or conform with a Federal law or regulation;

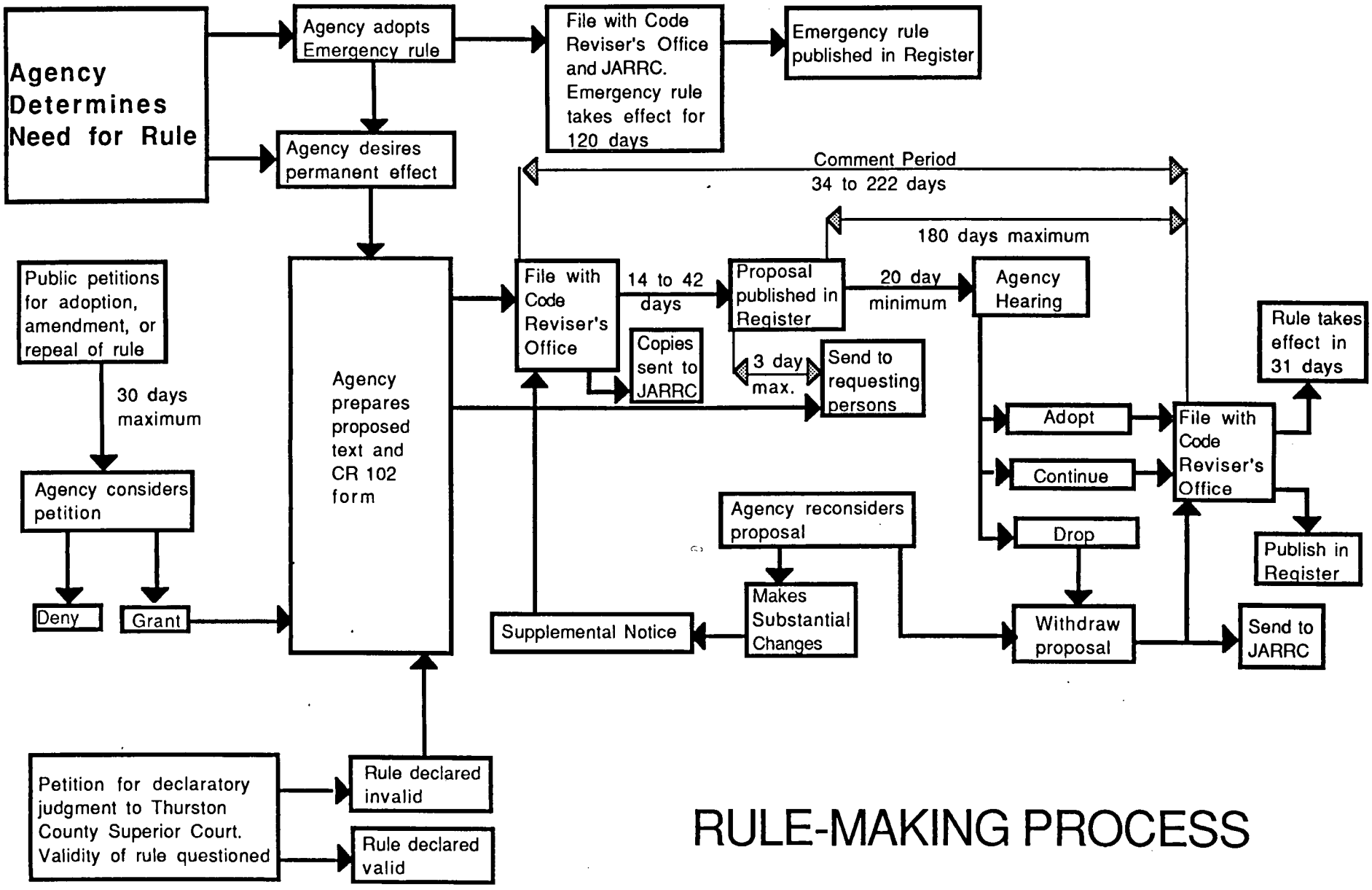
There is no economic impact on business;

The rule REDUCES costs to business;

There is only minor or negligible economic impact;

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

The rule is pure restatement of statute.


Agency Determines Need for Rule
Agency adopts Emergency rule
File with Code Reviser's Office and JARRC. Emergency rule takes effect for 120 days
Emergency rule published in Register
Agency desires permanent effect
Comment Period
34 to 222 days
180 days maximum
Public petitions for adoption, amendment, or repeal of rule
30 days maximum
Agency considers petition
Deny
Grant
Agency prepares proposed text and CR 102 form
File with Code Reviser's Office
14 to 42 days
Proposal published in Register
20 day minimum
Agency Hearing
Copies sent to JARRC
3 day max.
Send to requesting persons
Rule takes effect in 31 days
Adopt
Continue
Drop
File with Code Reviser's Office
Publish in Register
Agency reconsiders proposal
Makes Substantial Changes
Supplemental Notice
Withdraw proposal
Send to JARRC
Petition for declaratory judgment to Thurston County Superior Court. Validity of rule questioned
Rule declared invalid
Rule declared valid
RULE-MAKING PROCESS

WSR 93-04-009
PROPOSED RULES
NORTHWEST AIR POLLUTION AUTHORITY
[Filed January 22, 1993, 4:45 p.m.]

Original Notice.

Title of Rule: Northwest Air Pollution Authority regulation.

Purpose: To bring the Northwest Air Pollution Authority regulation up to date by amending, adding, and deleting to reflect changes in the Washington Clean Air Act, new Washington Administrative Codes, federal new source performance standards, and removing provisions that do not promote effective air pollution control.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Additions and deletions to the Northwest Air Pollution Authority regulation affect many sections. See Explanation of Rule and Proposal Changes Existing Rules below.

Reasons Supporting Proposal: Incorporation of the new statutory requirements and deletion of others will simplify enforcement and aid in reducing air pollution.

Name of Agency Personnel Responsible for Drafting: Jamie Randles, 302 Pine #207, Mt. Vernon, WA 98273, 428-1617; Implementation and Enforcement: Terry Nyman, 302 Pine #207, Mt. Vernon, WA 98273, 428-1617.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Section 104 Adoption of State and Federal Laws and Rules, this revised section specifically references all Washington Administrative Codes, federal new source performance standards and national emission standards for hazardous air pollutants. These changes will allow us to request federal delegation for new and modified federal laws; Section 132 Criminal Penalty and Section 133 Civil Penalty, these sections are updated to reflect changes in the Washington State Clean Air Act. The most significant change is the increase in maximum fines from $1,000 to $10,000 plus an annual adjustment for cost-of-living in civil penalties; Section 300, 301, 302 Notice of Construction Procedures, this section is now compatible with the state chapter 173-400 WAC and Board Resolution 174 regarding procedures for filing, public notice, public hearings, and information required for an application to be processed; Section 311 Conditional Approval to Operate, this section is deleted as now all sources whether temporary or experimental must fulfill the same requirements as other air pollution sources; Section 322 Exemptions from Registration, this section now exempts small used oil burners and retail food establishments. Does not exempt temporary activities of asphalt plants, rock crushers, and sand blasting operations; Section 323 Classes of Registration, this section creates a new classification, Class G, for gasoline stations; Section 324 Fees, this section adds provisions to allow NWAPA to collect interim fees for the operating permit program for NWAPA beginning July 1, 1994. All Class "G" sources shall pay a $100/year fee; Section 366 Instrument Calibration, this section requires that all monitoring instruments shall be calibrated according to established procedures before any data will be accepted. It also allows the authority to conduct unannounced audits on a monitoring system. Section 401 Suspended Particulate Standards (PM-10), this section now reflects the federal rules for particulate less than ten microns in diameter instead of total particulates; Section 428 Hazardous Air Pollutants, this section adds a new five minute standard for ambient chlorine concentrations; Section 480 Solid Fuel Burning Device Standards, this entirely new section deals with emission standards, certification standards, curtailment rules and fuel restrictions for solid fuel burning devices. This section closely mirrors the state rule for solid fuel burning devices; Section 501 Outdoor Burning, this section replaces the old section on outdoor fires. The new section now reflects the requirements of the State Clean Air Act and chapter 173-425 WAC, Open Burning, plus incorporating requirements on best available burning practices previously passed by the NWAPA Board; Section 550 Preventing Particulate Matter from Becoming Airborne, the section has added provisions to require vehicles to prevent material from being deposited on public roadways that may result in fugitive dust problems; and Section 580.6 Gasoline Stations, additions to this section require certain gasoline stations to install Stage II vapor control systems in accordance with state rules.

Proposal Changes the Following Existing Rules: The proposal would amend Section 133 Civil Penalty; Section 300 Notice of Construction When Required; Section 301 Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing; Section 302 Issuance of Approval or Order; Section 322 Exemptions from Registration; Section 323 Classes of Registration; Section 324 Fees; Section 366 Instrument Calibration; Section 550 Preventing Particulate Matter from Becoming Airborne; and Section 580.6 Gasoline Stations. The proposal would repeal Section 104 Adoption of State Law; Section 132 Criminal Penalty; Section 311 Conditional Approval to Operate; Section 401 Suspended Particulate Standards; and Section 501 Outdoor Fires - General. The proposal would add Section 104 Adoption of State and Federal Laws; Section 132 Criminal penalty; Section 401 Suspended Particulate Standards (PM-10); Section 480 Solid Fuel Burning Device Standards; and Section 501 Outdoor Burning.

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

Hearing Location: Skagit County Administration Building, Hearing Room A, Second and Kincaid Streets, Mt. Vernon, Washington 98273, on April 14, 1993, at 1:30 p.m.

Submit Written Comments to: Terry Nyman, 302 Pine #207, Mt. Vernon, WA 98273.

Date of Intended Adoption: April 14, 1993.

January 21, 1993
Terry Nyman
Control Officer

Reviser's note: The material contained in this filing will appear in the 93-06 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

PROPOSED

WSR 93-04-014
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 25, 1993, 2:50 p.m.]

Original Notice.

Title of Rule: Amending WAC 246-924-070 Psychologists—Written examination.

Purpose: Amend cut-off score to conform with the recommended national cut-off score as recommended by the Association of State and Provincial Psychology Boards.

Statutory Authority for Adoption: RCW 18.83.050(5).

Statute Being Implemented: Chapter 18.83 RCW.

Summary: This rule amendment will change the current cut-off rate from 75% to 70% which is now the recommended national cut-off rate.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry J. West, 1300 S.E. Quince Street, 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: Amend cut-off score from 75% to 70%.

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: West Coast Hotel, Cascade Room, 18220 Pacific Highway South, Sea-Tac, WA 98188, on March 12, 1993, at 9:15 a.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by March 11, 1993.

Date of Intended Adoption: March 12, 1993.

January 9, 1993
Kathleen O'Shaunessy, Chair
Examining Board of Psychology

AMENDATORY SECTION (Amending Order 117B, filed 1/28/91, effective 2/28/91)

WAC 246-924-070 Psychologists—Written examination. Written examination requirements: The written examination that is used in the state of Washington is the examination of professional practice of psychology. The examination consists of objective multiple choice questions covering the major areas of psychology. Each form of the examination contains between 150 and 200 items in the areas listed below:

(1) Background information, including physiological psychology and comparative psychology, learning, history, theory and systems, sensation and perception, motivation, social psychology, personality, cognitive processes, developmental psychology and psychopharmacology.

(2) Methodology including research design and interpretation, statistics, test construction and interpretation, scaling.

(3) Clinical psychology including test usage and interpretation, diagnosis, psychopathology, therapy, judgment in clinical situations, community mental health.

(4) Behavior modification including learning and applications.

(5) Other specialties including management consulting, industrial and human engineering, social psychology, t-groups, counseling and guidance, communication systems analysis.

(6) Professional conduct and ethics including interdisciplinary relations and knowledge of professional affairs.

The cutoff score which the Washington state board of examiners uses is ((~~75~~)) 70% of the raw score, or the national mean of all first time doctorates, whichever is the lowest.

WSR 93-04-018
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed January 25, 1993, 3:02 p.m.]

Please withdraw proposed changes to WAC 246-863-130 Authority to order medications for administration, filed under WSR 92-16-096.

Donald H. Williams
Executive Secretary

WSR 93-04-020
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed January 26, 1993, 3:28 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

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 1993.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Statute Being Implemented: RCW 84.34.065.

Summary: Amendments to update interest rate and "property tax component."

Reasons Supporting Proposal: Required by statute to be determined annually by the department.

Name of Agency Personnel Responsible for Drafting: Kim Qually, 711 Capitol Way, #205, Olympia, (206) 664-0086; Implementation and Enforcement: William Rice, 6004 Capitol Boulevard, Tumwater, (206) 753-5503.

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 amendments to this rule provide county assessors with the proper interest rate and "property tax component" necessary to value classified farm and agricultural land for assessment year 1993.

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): No economic impact. This rule adds no identifiable administrative costs to business. Negligible impact. This rule requires no actions on the part of any small business.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 10, 1993, at 1:30 p.m.

Submit Written Comments to: Kim Qually, Counsel, Department of Revenue, Legislation and Policy, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 586-7603, by March 10, 1993.

Date of Intended Adoption: March 17, 1993.

January 26, 1993
William N. Rice
Assistant Director

AMENDATORY SECTION (Amending WSR 92-03-068, filed 1/14/92)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((~~1992~~)) 1993, 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 ((~~10.55~~)) 10.26 percent; and

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

((

~~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~~))		

COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.43	Lewis	1.30
Asotin	1.56	Lincoln	1.49
Benton	1.50	Mason	1.43
Chelan	1.52	Okanogan	1.45
Clallam	1.29	Pacific	1.49
Clark	1.29	Pend Oreille	1.09
Columbia	1.33	Pierce	1.61
Cowlitz	1.19	San Juan	.93
Douglas	1.47	Skagit	1.16
Ferry	1.12	Skamania	1.05
Franklin	1.62	Snohomish	1.25
Garfield	1.47	Spokane	1.64
Grant	1.43	Stevens	1.21
Grays Harbor	1.40	Thurston	1.54
Island	0.91	Wahkiakum	1.13
Jefferson	1.11	Walla Walla	1.42
King	1.26	Whatcom	1.44
Kitsap	1.23	Whitman	1.55
Kittitas	1.31	Yakima	1.41
Klickitat	1.27		

WSR 93-04-023
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 27, 1993, 12:00 p.m.]

Continuance of WSR 93-01-030.

Title of Rule: WAC 388-15-202 Comprehensive assessment—Definitions; 388-15-203 Assessment; 388-15-204 Reassessment; and 388-15-205 Service plan development.

Purpose: New WAC 388-15-202, 388-15-203, 388-15-204, and 388-15-205 will provide understandable easy access to rules common to all aging and adult services administration programs regarding assessment and service plan development. These rules are currently located in WACs for specific programs.

Date of Intended Adoption: February 24, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

WSR 93-04-025
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 27, 1993, 12:02 p.m.]

Continuance of WSR 93-01-056.

Title of Rule: WAC 388-37-045 General assistance-unemployment—Determination of capacity to engage in gainful employment; and 388-37-050 General assistance-unemployment—Redetermination of eligibility.

Purpose: Clarifies the use of the "termination proviso" for department staff who administer the general assistance-unemployment program. Clarifies the capacity to engage in gainful employment.

Date of Intended Adoption: March 2, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

PROPOSED

WSR 93-04-026
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 27, 1993, 12:03 p.m.]

Original Notice.

Title of Rule: WAC 388-28-590 Alien sponsorship—Deeming of income and resources—Overpayments.

Purpose: To correct reference that was stated incorrectly in previous amendment. Changes the reference that states the value of the resources if the sponsor of an alien are to be determined as if the sponsor was applying for AFDC in the "sponsor's state of residence" to the "alien's state of residence."

Statutory Authority for Adoption: RCW 74.04.005.

Statute Being Implemented: RCW 74.04.005.

Summary: Corrects reference which currently states the value of the resources of the sponsor are to be determined as if the sponsor was applying for AFDC in the sponsor's state of residence. Statement changed to read the value is determined as if the sponsor was applying for AFDC in the alien's state of residence.

Reasons Supporting Proposal: To correct an error made when submitting the prior WAC amendment for WAC 388-28-590.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 438-8318.

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, 14th and Franklin, Olympia, Washington, on March 9, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 5, 1993.

Date of Intended Adoption: March 10, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3423, filed 7/23/92, effective 8/23/92)

WAC 388-28-590 Alien sponsorship—Deeming of income and resources—Overpayments. (1) The department shall apply the rules of this section to an alien applying for AFDC for the first time after September 30, 1981, and to the alien's sponsor.

(2) The department shall apply the rules of this section only for deeming of the resources of an alien's sponsor to an alien applying for general assistance.

(3) A sponsor is defined as any person or public or private organization executing an affidavit or affidavits of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

(4) Any alien whose sponsor is a public or private agency or organization shall be ineligible for assistance for three years from the date of entry into the United States, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs.

(5) For a period of three years following entry into the United States, an individually sponsored alien shall provide the state agency with any information and documentation necessary to determine the income and resources of the sponsor that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(6) For all subsections in this section, the department shall deem the income and resources of an individual sponsor (and the sponsor's spouse if living with the sponsor) ((~~shall be deemed~~)) to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

(7) Monthly income deemed available to the alien from the individual sponsor ((~~or~~)) and the sponsor's spouse not receiving AFDC or SSI shall be:

(a) The ((~~sponsor's~~)) total monthly unearned income, added to the sponsor's total monthly earned income of the sponsor and sponsor's spouse reduced by:

(i) Twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment((~~,~~)); plus

(ii) The full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subsection ((~~(6)~~)) (7)(a) of this section reduced by:

(i) The basic requirements standard for a family of the same size and composition as the sponsor and those other persons living in the same household as the sponsor claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability but who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to persons not living in the household claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to persons not living in the sponsor's household.

(8) The department shall deem as monthly resources ((~~deemed~~)) available to the alien from the sponsor ((~~shall be~~)) the total amount of the resources of the sponsor determined as if the sponsor was applying for AFDC in the ((~~sponsor's~~)) alien's state of residence, less one thousand five hundred dollars.

(9) In any case where a person is the sponsor of two or more aliens, The department shall divide the income and resources of the sponsor, to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section ((~~shall be divided~~)), equally among the aliens.

(10) The department shall not consider the income and resources which are deemed to a sponsored alien ((~~shall not~~

~~be considered~~)) in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(11) The department shall not apply the provisions of this section to any alien who:

(a) Meets the definition of refugee in WAC 388-55-010; or

(b) Is the dependent child of the sponsor or sponsor's spouse.

(12) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When the department finds a sponsor has good cause or is without fault for not providing information to the agency, the sponsor shall not be held liable for the overpayment and recovery will not be made.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

WSR 93-04-027
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 27, 1993, 12:04 p.m.]

Original Notice.

Title of Rule: WAC 388-28-575 Disregard of income and resources.

Purpose: The amendment exempts all Indian tribal judgment funds or funds in trust by the Secretary of the Interior, that are distributed on a per capita basis under certain public laws. Also eliminates obsolete WAC references to GA-U resource eligibility that were deleted when resource eligibility rules were made the same as AFDC resource rules.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Eliminates $2,000 limit for the disregard of Indian tribal judgment funds, or funds held in trust by the Secretary of the Interior, that are distributed on a per capita basis under certain public laws. Eliminates the WAC references to GA-U resource eligibility as they are now the same as for AFDC.

Reasons Supporting Proposal: Changes department policy on the disregard of Indian per capita payments for grant programs. Eliminates obsolete WAC references due to the change in GA resource eligibility.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 438-8318.

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, 14th and Franklin, Olympia, Washington, on March 9, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 5, 1993.

Date of Intended Adoption: March 10, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3365, filed 4/7/92, effective 5/8/92)

WAC 388-28-575 Disregard of income and resources. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

(a) The income of a Supplemental Security Income recipient;

(b) The monthly child support incentive payment from the office of support enforcement;

(c) AFDC benefits resulting from a court order modifying a department policy;

(d) Title IV-E, state and/or local foster care maintenance payments; and

(e) Adoption support payments if the adopted child is excluded from the assistance unit.

(2) For AFDC and general assistance-unemployable (GA-U), the department shall disregard as income and as a resource ((~~the following~~)):

(a) Bona fide loans as specified ((~~in~~)) under WAC 388-28-480(4). The department shall consider loans bona fide when the loan is a debt the borrower has an obligation to repay;

(b) Grants, loans, or work study to a student under Title IV-A of the Higher Education Amendments or Bureau of Indian Affairs (Public Law (P.L.) 99-498 amended by P.L. 100-50), or the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-391), for attendance costs as identified by the institution. For a student attending school:

(i) At least half-time, attendance costs include tuition, fees, books, supplies, transportation, and miscellaneous personal expenses; or

(ii) Less than half-time, attendance costs include tuition and fees.

(c) Grants or loans to an undergraduate student insured by the commissioner of education;

(d) Any remaining grants, work study, scholarships, or fellowships as allowed under WAC 388-28-578;

(e) The earned income disregards in WAC 388-28-570(6) for AFDC and WAC 388-37-025 for GA-U to any work study earnings received and not excluded in subsection (2)(b), (c), and (d) of this section;

(f) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(g) The food coupon allotment under Food Stamp Act of 1977;

(h) Compensation to volunteers under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(i) Benefits under women, infants, and children program (WIC);

(j) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(k) Energy assistance payments;

(l) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

(m) Per capita judgment funds under P.L. 97-408 to members of the:

(i) Blackfeet Tribe of the Blackfeet Indian Community, Montana;

(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

(iii) Assiniboine Tribe of the Fort Belknap Indian Community.

(n) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, 94-114, 97-458, or 98-64((~~, limited to the extent the per capita shares do not exceed two thousand dollars per individual~~)). In addition:

(i) "Initial investments" means real or personal property purchased directly with funds from the per capita payment up to the amount of the funds from the per capita payment ((~~hereafter referred to as the initial investments~~)).

(ii) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484((~~,~~));

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling valued as specified ((~~for the applicable program in WAC 388-28-430 (2)(a) or~~)) under WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) ((~~for AFDC and WAC 388-28-450(2) for GA-U~~)). The department shall determine appreciation in value at the time of eligibility review((~~,~~)); and

(iv) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(o) Two thousand dollars per ((~~individual~~)) person per calendar year received under the Alaska Native Claims Settlement Act (P.L. 92-203 and 100-241).

(p) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(q) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(r) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(s) A previous underpayment of assistance under WAC 388-33-195;

(t) Payment 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.

(i) "Initial investments" means real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment ((~~hereafter referred to as the initial investments~~)).

(ii) The department shall treat income derived either from the annuity fund payment or the initial investments ((~~shall be treated~~)) as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, the department shall apply appreciation in value ((~~shall be applied~~)) to the resource ceiling value as specified ((~~for the applicable program in WAC 388-28-430 (2)(a) or~~)) under WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) ((~~for AFDC and WAC 388-28-450(2) for GA-U~~)). The department shall determine appreciation in value at the time of eligibility review.

(iv) The department shall treat proceeds from the transfer of the initial investments ((~~are treated~~)) according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-440 (3) and (4) for GA-U.

(u) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(v) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). The effective date of the disregard is retroactive to January 1, 1989;

(w) Payments made under the Disaster Relief Act of 1974 (P.L. 93-288) as amended by Disaster Relief and Emergency Assistance amendments of 1988 (P.L. 100-707). This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(x) Payments from the Radiation Exposure Compensation Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(y) Income specifically excluded by any other federal statute from consideration as income or resource.

WSR 93-04-032
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 27, 1993, 12:11 p.m.]

Original Notice.

Title of Rule: WAC 388-95-337 Availability of resources.

Purpose: This section is amended to adjust the community spouse resource limit effective January 1, 1993, to comply with federal requirements.

Statutory Authority for Adoption: RCW 74.08.090.
Statute Being Implemented: RCW 74.08.090.
Summary: Adjusts community spouse resource limit.
Reasons Supporting Proposal: Meet federal requirements.
Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.
Name of Proponent: Department of Social and Health Services, governmental.
Rule is necessary because of federal law, State Agency Letter 93-03.
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, 14th and Franklin, Olympia, Washington, on March 9, 1993, at 10:00 a.m.
Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 9, 1993.
Date of Intended Adoption: March 10, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3313, filed 1/15/92, effective 2/15/92)

WAC 388-95-337 Availability of resources. (1) Resources are defined under WAC 388-92-005 for the SSI-related ((~~applicant or recipient~~)) client and under WAC 388-22-030 for an AFDC-related ((~~applicant or recipient~~)) client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer of resources are evaluated under WAC 388-95-395.

(3) The department shall determine ownership of resources following Washington state community property principles:

(a) For a person:

(i) Whose most recent period of institutionalization began before October 1, 1989; and

(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~~)) client 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) The department shall not consider 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 home or community-based waivered 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, the department shall:

(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-eight~~)) Seventy thousand seven hundred forty dollars effective January 1, ((~~1992~~)) 1993;

(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~~)) Ensure resources available to the community spouse ((~~shall be~~)) are in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) 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.

WSR 93-04-035
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 27, 1993, 12:16 p.m.]

Original Notice.
Title of Rule: WAC 388-24-253 Exempt income and resources for CEAP.
Purpose: Change department policy on the disregard of Indian per capita payments for the CEAP program based on policy clarification received from Department of Health and

Human Services. This change will exempt Indian tribal judgment funds, or funds held in trust by the Secretary of the Interior, that are distributed on a per capita basis under certain public laws.

Other Identifying Information: CFR 233.20.

Statutory Authority for Adoption: RCW 74.04.660.

Statute Being Implemented: RCW 74.04.660.

Summary: Will eliminate the $2,000 limit for the disregard of Indian tribal judgment funds, or funds held in trust by the Secretary of the Interior, that are distributed on a per capita basis under certain public laws.

Reasons Supporting Proposal: To change department policy on the disregard of Indian per capita payments for the CEAP program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 438-8318.

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

Rule is necessary because of federal law, CFR 233.20 (a)(4)(ii)(e).

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, 14th and Franklin, Olympia, Washington, on March 9, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 5, 1993.

Date of Intended Adoption: March 10, 1993.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3361, filed 4/6/92, effective 5/7/92)

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 and 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 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;

(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, or funds held in trust by the Secretary of the Interior, 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~~)) and any real or personal property purchased directly with these funds;

(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 93-04-044
PROPOSED RULES
GAMBLING COMMISSION
[Filed January 27, 1993, 4:16 p.m.]

Original Notice.

Title of Rule: WAC 230-40-120 Limits on wagers in card games—Exception—Washington blackjack.

Purpose: Card game wagering limitations with a provision for Washington blackjack.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0325.

Name of Agency Personnel Responsible for Drafting: Sharon M. Tolton, Rules Coordinator, Lacey, 438-7685; Implementation: Frank L. Miller, Director, Lacey, 438-7640; and Enforcement: Neal S. Nunamaker, Deputy Director, Lacey, 438-7690.

Name of Proponent: Washington State Licensed Beverage Association in conjunction with staff, public and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Limitations on card game wagers with a provision for Washington blackjack.

Proposal Changes the Following Existing Rules: Establish a wagering structure consistent with offered games and standard industry practice.

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

The agency has considered whether this rule change would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there is no economic impact to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Spokane Sheraton Hotel, North 322 Spokane Falls Court, Spokane, WA 99201, on March 12, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon M. Tolton, Rules Coordinator, P.O. Box 42400, Olympia, WA, by March 10, 1993.

Date of Intended Adoption: March 12, 1993.

January 27, 1993
Sharon M. Tolton
Rules Coordinator

AMENDATORY SECTION (Amending Order 205, filed 2/14/90, effective 3/17/90)

WAC 230-40-120 Limits on wagers in card games—Exception—Washington blackjack. The following limits shall not be exceeded in making wagers on any card game. For games in which the following method of wagering is allowed:

(1) Multiple wagers per player per hand during each round, each wager or raise shall not exceed $5.00. There shall be no more than a total of two raises per round irrespective of the number of players((~~: Provided, That in card games providing for three or more rounds of betting, the wager or raise for the last round of betting, shall not exceed $10.00~~)).

(2) Single wagers per player per hand during each round (no raises), each wager shall not exceed ((~~$5.00~~)) $10.00.

(3) Single wager per player per game, each wager shall not exceed ((~~$5.00~~)) $10.00.

(4) Amount per point, each point shall not equal more than five cents in value.

(5) An ante, except for panguingue (pan), shall not be more than ((~~$6.00~~)) $10.00. The ante may, by house rule, be made by one or more players but the total ante may not exceed ((~~$6.00~~)) $10.00. No one player can ante more than ((~~five~~)) ten dollars. An ante may be used as part of a players wager. ((~~The maximum betting on the first round when an ante is used may not exceed $15.00 per person, including the ante.~~))

(6) Panguingue (pan) - maximum value of a chip for payoff will not exceed ((~~$2.00~~)) $4.00. Ante will not exceed one chip. No doubling of conditions. Players going out, may collect not more than two chips from each participating player.

No licensee shall allow these wagering limits to be exceeded in a card game on his premises. Provided, Washington blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.

WSR 93-04-045
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed January 27, 1993, 4:32 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-17901 Public utility tax—Energy conservation and cogeneration deductions.

Purpose: To amend the rule to include the provisions of RCW 82.16.052.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: RCW 82.16.052 provides a tax deduction for amounts expended by utilities as part of energy efficiency programs if priority is given to senior citizens and low income citizens. The rule explains these provisions.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #205, Olympia, 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, 586-0257.

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: This rule explains various tax incentives to promote energy conservation.

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): No economic impact. This is a "housekeeping" rule correcting misconceptions and/or errors in the earlier rule adoption. The rule results in no substantive change over existing regulations or regulatory schemes.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 10, 1993, at 10:00 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458, FAX (206) 586-7603, by March 10, 1993.

Date of Intended Adoption: March 17, 1993.

January 27, 1993
Russell W. Brubaker
Legislation & Policy Manager

AMENDATORY SECTION (Amending Order 85-7, filed 12/18/85)

WAC 458-20-17901 Public utility tax—Energy conservation and cogeneration deductions. (1) Introduction. This section explains certain deductions from the public utility tax which are intended to be an incentive to promote conservation and efficiency of energy. The question of the deductibility of any expenditures not expressly covered in this rule must be submitted to the department in writing for a ruling before the deduction may be taken.

(2) Deductions under RCW 82.16.055. In chapter 149, Laws of 1980 (RCW 80.28.024, 80.28.025, and 82.16.055), the legislature finds and declares that the potential for meeting future energy needs through conservation measures, including energy conservation loans, energy audits, and the use of renewable resources, such as solar energy, wind energy, wood, wood waste, municipal waste, agricultural products and wastes, hydroelectric energy, geothermal energy, and end-use waste heat, may not be realized without incentives to public and private utilities. The deductions under this law apply only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end-use on which construction or installation was begun after June 12, 1980, and before January 1, 1990.

(a) The legislature has implemented its intent by adding a new section to chapter 82.16 RCW, codified as RCW 82.16.055, for deductions relating to energy conservation or production from renewable resources((~~, as follows:~~

~~(1)~~)). The law states that in computing tax under this chapter there shall be deducted from the gross income:

(((~~a~~))) (i) An amount equal to the cost of production at the plant for consumption within the state of Washington of((~~:~~

~~(i)~~)) electrical energy produced or generated from cogeneration as defined in RCW 82.35.020; and

(ii) An amount equal to the cost of production at the plant for consumption within the state of Washington of electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat((~~; and~~)).

(b) The law also contained a deduction for those amounts expended to improve consumers' efficiency of energy end-use or to otherwise reduce the use of electrical energy or gas by the consumer, provided the installation of the measures to improve the efficiency was begun prior to January 1, 1990.

(((~~(2) This section applies only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end-use on which construction or installation is begun after June 12, 1980, and before January 1, 1990.~~

~~(3)~~)) (c) Deductions under subsection (((~~(1)~~))) (2)(a) of this section shall be allowed for a period not to exceed thirty years after the project is placed in operation.

(((~~(4)~~))) (d) Measures or projects encouraged under subsection (2) of this section shall at the time they are placed in service be reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end-use which is less than or equal to the incremental system cost per unit of energy delivered to end-use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(((~~(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities, and the governing bodies of locally regulated utilities, shall determine the eligibility of individual projects and measures for deductions under this section.~~

~~The department of revenue has complied with the consultation requirements of RCW 82.16.055(5).~~))

(e) The provisions of subsection (((~~(1)~~))) (2)(a)(i) through (ii) of this section, deal with new facilities designed and intended for the production of energy. The department will rule upon eligibility of such facilities and the attendant cost of energy production for purposes of determining deductibility from the public utility tax upon an individual project basis using the cost figures reported on the appropriate Federal Energy Regulatory Commission (FERC) schedules that are required to be filed by public and private electric utilities and by private gas utilities. The allowable deductions consist of production expenses, eligible fuel costs and book depreciation of capital costs. Eligible fuel costs are all fuels if used for cogeneration or nonfossil fuel costs if not a cogeneration facility. Plans for the construction of such facilities and pertinent details, including energy production and production costs projections relative to the planned facility or construction details and energy production costs for facilities already in service must be submitted to the department for determination of eligibility for tax deductions.

((~~Subsection (1)(b) and (4) of this section are applicable to projects conducted by utilities which are designed and projected to result in a reduction in the amount of electrical energy or gas used by the consumer.~~

~~Pursuant to subsection (5) of this section,~~)) (3) Deductions under RCW 82.16.052. This law provides a deduction from the public utility tax for certain energy efficiency programs. The law took effect on March 1, 1990, and expires on January 1, 1996.

(a) The law provides for a deduction from the gross income in computing tax under the public utility tax for payments made under RCW 19.27A.035. RCW 19.27A.035 requires that electric utilities make payments to owners at the time of construction of residential buildings if certain energy code requirements are met.

(b) Until July 1, 1992, utilities could deduct from the amount of tax paid under the public utility tax fifty percent of the payments made under RCW 19.27A.055, excluding any federal funds that are passed through to a utility for the purpose of retraining local code officials. RCW 19.27A.055 provides a training account for the purpose of providing training for the enforcement by local governments of the Washington state energy code.

(c) RCW 82.16.052 provides a deduction for amounts expended on additional programs that improve the efficiency of energy end-use if priority is given to senior citizens and low-income citizens in the course of carrying out such programs. The department of revenue has determined the eligibility of individual measures to improve consumers' efficiency of energy end-use or otherwise reduce the use of electrical energy or gas by the consumer. Such measures include residential and commercial buildings weatherization programs as well as energy end-user conservation programs, however designated and however funded or financed.

(i) "Senior citizens" means those persons who are sixty-two years of age or older.

(ii) "Low-income citizens" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family

income of those families within the area served by the utility service provider. (See RCW 43.185A.010.)

(iii) Priority is considered given to senior and low-income citizens when the utility can show that these citizens are given preference for participation in programs that improve the efficiency of energy end-use when program resources are limited and all applicants are not able to receive assistance in a timely manner and the utility communicates to senior and low-income citizens the availability of energy efficiency programs through fliers, brochures, posters, newspaper announcements, and billing inserts.

(d) Under the general rules of statutory construction, tax exemption provisions must be strictly construed against the person claiming the exemption and in favor of imposing tax. Also, under such general rules the words and terms used in statutes must be given their common and ordinary meaning. By the terms of RCW ((~~82.16.055~~)) 82.16.052 (1)(b) deductions are restricted to amounts expended for programs and measures which have as their purpose some reduction of energy use by utilities' customers. Some incidental and generally related costs which may be incurred in the development and implementation of energy conservation measures may be too remote from the purpose of improving energy efficiency or reducing consumers' energy consumption. For these reasons and pursuant to RCW ((~~82.16.055(5)~~)) 82.16.052(2) the department has consulted with publicly and privately operated utilities to determine the kinds of costs which will satisfy the statutory intent by achieving the purpose of reducing energy consumption.

(e) Accordingly, the term "amounts expended to improve consumers' efficiency of energy end-use" means the costs incurred by public and private utilities which are exclusively attributable to the development and implementation of energy end-use conservation projects and measures. This term does not include the costs attributable to the operation of a public or private utility business which were incurred before, or are incurred separate from the development and implementation of energy conservation programs. A portion of expenditures for personnel and facilities serving both energy conservation purposes and other utility purposes may be deducted if the portion attributable to energy conservation is supported by direct cost accounting records prepared during the tax reporting period for which such energy conservation expenditures are claimed for deduction. However, merely estimating an allocable portion of costs or apportioning some percentage of total overhead expense claimed to be related to energy conservation projects or measures will not support a deduction. The accounting should be based on actual experience. For example, expenditures for personnel or such facilities as computers could be accounted for on a time-use basis. However the expenses are accounted for, the burden rests upon the utility company to clearly show the direct relationship between any costs claimed for deduction and the energy conservation projects or measures claimed to have generated such costs.

(f) **Eligible costs.** Under the remoteness test, the department has determined the following specific costs to be eligible for tax deduction:

((~~1.~~)) (i) **Construction and installation**. All costs actually incurred by a utility representing the value of materials and labor applied or installed in any facility of or for an energy end-user, whether provided by the utility itself or by third party prime or subcontractors. Such eligible costs include, but are not limited to:

((~~a.~~)) (A) Insulation for floors, ceilings, walls, water pipes and the complete installation thereof.

((~~b.~~)) (B) Weatherstripping, caulking, batting, and any similar materials applied for weatherization of facilities and the complete installation thereof.

((~~c.~~)) (C) Storm windows, insulated and other weather resistant glass or similar materials and installation.

((~~d.~~)) (D) Electric or gas thermostatic controls and installation.

((~~e.~~)) (E) Water heater wraps, shower head restrictors, and all similar devices installed to reduce heat loss or reduce the actual units of energy consumed, and the installation thereof.

((~~f.~~)) (F) Energy efficient lighting, lighting controls, and installation.

(G) Energy efficient motors and adjustable speed drives.

(H) Improved energy efficient heating, ventilation, and air conditioning systems.

((~~2.~~)) (ii) **Energy audits and post installation inspection**. All direct costs actually incurred for providing:

((~~a.~~)) (A) Energy audit training.

((~~b.~~)) (B) Auditor payroll.

((~~c.~~)) (C) Auditor uniforms.

((~~d.~~)) (D) Special tools and equipment specifically needed for carrying out audit programs.

((~~e.~~)) (E) Auditor and inspector private vehicle mileage allowance.

((~~f.~~)) (F) Post installation inspection, labor, and materials costs.

((~~3.~~)) (iii) **Administration**. All administrative, clerical, professional, and technical salary and payroll costs actually and directly incurred for:

((~~a.~~)) (A) Conservation program management and supervision including but not limited to audit, BPA buyback, commercial, solar, and loan programs.

((~~b.~~)) (B) Secretarial and clerical expense.

((~~c.~~)) (C) Data entry and information processing operators.

((~~d.~~)) (D) Engineering.

((~~e.~~)) (E) Outside legal expense and inhouse legal expense which is directly cost accounted.

((~~f.~~)) (F) General energy conservation employee training.

((~~g.~~)) (G) Conservation programs accounting and auditing.

((~~h.~~)) (H) Separate telephone and third party provided services separately billed.

((~~4.~~)) (iv) **Consumable supplies and equipment**. The cost of consumable materials and equipment utilized in energy conservation programs and directly cost accounted or separately billed, including but not limited to:

((~~a.~~)) (A) Equipment rental.

((~~b.~~)) (B) Custom software programs.

((~~c.~~)) (C) Computer lease time.

((~~d.~~)) (D) Computer print-out paper.

((~~e.~~)) (E) Special conservation program stationery, program instruction and installation manuals and office clerical supplies.

((~~f.~~)) (F) Periodic costs of capital equipment and rolling stock if((~~:~~

((~~(i)~~)) such equipment and rolling stock are attributable to an energy end-user conservation program; and

((~~(ii)~~)) such costs are incurred during the duration of such program.

((~~g.~~)) (G) Direct costs of repair and maintenance of the above items.

((~~5.~~)) (v) **Financing**. Deduction is allowed for all direct financing and loan expenses relative to:

((~~a.~~)) (A) Loan manager, supervisor, inspectors, secretaries, and clerks payroll which is directly cost accounted.

((~~b.~~)) (B) Net interest differential (loans to consumers at lower than the utilities' interest rates on such acquired funds).

((~~6.~~)) (vi) **Advertising and education**.

((~~a.~~)) (A) Information, dissemination, and advertising charges for radio, television, newspaper services, bill stuffers, brochures, handouts, displays, and related costs of producing and presenting such advertising materials, which are exclusively dedicated to promoting energy conservation projects and measures.

((~~b.~~)) (B) Community education and outreach efforts conducted for the exclusive purpose of promoting energy conservation and achieving reduction of end-user energy consumption.

(g) **Ineligible costs**. The department has determined the following specific costs as being ineligible for tax deduction for the reason that they are too remote from the purpose of improving energy efficiency and reducing end-user's consumption:

((~~a.~~)) (i) Legislative services.

((~~b.~~)) (ii) Dues, memberships and subscriptions.

((~~c.~~)) (iii) Information, dissemination, and advertising charges for radio, television, newspaper services, bill stuffers, brochures, handouts, displays, and related costs of producing advertising materials which are not exclusively for the purpose of encouraging or promoting energy conservation.

((~~d.~~)) (iv) Experimental programs. Caveat: If and when experimental programs and the facilities, projects, or measures developed through such experimentation, research, and development are actually placed in service or placed in the rate base, and upon written approval of eligibility by the department, the total of expenditures for such facilities, projects, or measures including experimental stage costs may be allowed for deduction.

((~~e.~~)) (v) Community education and outreach efforts which are not exclusively dedicated to energy conservation projects and measures.

((~~f.~~)) (vi) Allocated facility costs which are not directly cost accounted.

((~~g.~~)) (vii) Allocated vehicle rolling stock costs which are not directly cost accounted.

((~~h.~~)) (viii) Convention, meals, and entertainment expense.

((~~i.~~)) (ix) Out-of-state travel expenses, except that the percentage of such expenses allocable to miles traveled within this state will be allowed for deduction.

(4) Timing of the deduction. Utilities may deduct from the measure of public utility tax deductible expenses as set forth in this rule at the time such costs are actually incurred and may include such deductions on excise tax returns covering the period during which the costs were actually incurred. For purposes of reporting public utility tax liability, utilities must include and report Bonneville Power Administration (BPA) and other providers' cash grants, reimbursements, and buy-back payments attributable to energy conservation programs as gross income of the business when it is received. "Gross income of the business" shall also include the value of electrical energy units from BPA for performing approved energy conservation services. Any recurring costs determined to be eligible for deduction under this rule shall cease to be eligible in whole or in part at time of termination of any energy conservation measure or project which originally authorized the deduction under RCW ((~~82.16.055~~)) 82.16.052.

((~~The question of the deductibility of any expenditures not expressly covered in this rule must be submitted to the department in writing for an express ruling before deduction may be taken.~~))

WSR 93-04-060
PROPOSED RULES
DEPARTMENT OF COMMUNITY DEVELOPMENT
[Filed January 28, 1993, 2:43 p.m.]

Continuance of WSR 92-20-071.

Title of Rule: Chapter 212-12 WAC, Fire marshal standards.

Date of Intended Adoption: March 1, 1993.

January 28, 1993
Barbara B. Gooding
Director

WSR 93-04-062
PROPOSED RULES
OFFICE OF INSURANCE COMMISSIONER
[Filed January 28, 1993, 3:46 p.m.]

Continuance of WSR 93-01-159.

Title of Rule: Statement of actuarial opinion to accompany annual statements of Washington domestic property and casualty insurance companies.

Other Identifying Information: Insurance Commissioner Matter No. R 93-1.

Date of Intended Adoption: February 26, 1993.

January 28, 1993
Deborah Senn
Insurance Commissioner
by John B. Woodall
Deputy Insurance Commissioner

WSR 93-04-064
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 92-50—Filed January 28, 1993, 4:02 p.m.]

Continuance of WSR 92-20-089.

Title of Rule: WAC 173-19-3503 City of Dupont shoreline master program.

Purpose: To change the adoption date from February 2, 1993, to March 24, 1993.

Date of Intended Adoption: March 24, 1993.

January 26, 1993
Terry Husseman
Acting Director

WSR 93-04-065
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 92-57—Filed January 28, 1993, 4:05 p.m.]

Continuance of WSR 92-22-103.

Title of Rule: WAC 173-19-410 Stevens County shoreline master program.

Purpose: To change the adoption date from February 2, 1993, to March 24, 1993.

Date of Intended Adoption: March 24, 1993.

January 26, 1993
Terry Husseman
Acting Director

WSR 93-04-079
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed February 1, 1993, 3:47 p.m.]

Original Notice.

Title of Rule: WAC 246-933-010 Definitions, 246-933-180 Responsibility for maintaining mailing address on file with the board, 246-933-980 Renewal of licenses, 246-935-070 Examination for registration as animal technician, 246-935-080 Grading of examinations, and 246-935-125 Renewal of registration.

Purpose: To implement initiatives of the Veterinary Board of Governors.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

Summary: Wac 246-933-010, this amendment is a housekeeping change that deletes reference to "nonnarcotic Schedule II controlled substances" which is no longer addressed in the WAC; WAC 246-933-180, requires licensees to maintain a current mailing address on file with the board. This address will be used for mailing all official matters from the board. Formalizes an existing policy; WAC 246-933-980, provides for prorating of the initial license fee based upon the number of months until birthdate renewal and provides for a penalty if late renewal; WAC 246-935-070, changes the state animal technician examination from a clinical focus to a test of knowledge of the practice act and duties of animal technicians. This change mirrors changes previously made for veterinary licensees; WAC 246-935-080, repeals redundant information that has been consolidated in WAC 246-935-070; and WAC 246-935-125, provides for proration of the initial registration fee based upon the number of months until renewal and provides for penalty if late renewal.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jackson D. Melton, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 586-6350.

Name of Proponent: Veterinary Board of Governors, 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: [No information supplied by agency.]

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

Hearing Location: Holiday Inn-SeaTac, LaGuardia Room, 17338 Pacific Highway South, on March 15, 1993, at 9:00 a.m.

Submit Written Comments to: Veterinary Board of Governors, P.O. Box 47869, Olympia, WA 98504-7869, by March 12, 1993.

Date of Intended Adoption: March 22, 1993.

December 17, 1992
Jackson D. Melton
Program Manager

AMENDATORY SECTION (Amending Order 221B, filed 12/4/91, effective 1/4/92)

WAC 246-933-010 Definitions. For the purposes of this chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise. Unless stated, words used in the singular may be read in the plural.

(1) "Advertise" means to announce publicly by any form of media in order to aid directly or indirectly in the sale of a commodity or service.

(2) "Animal" means any species normally recognized as treatable by veterinary medicine.

(3) "Controlled substances" as defined in RCW 69.50.101.

(4) "Department" means the department of health.

(5) "Drugs" as defined in RCW 69.50.101.

(6) "Health certificate" means a ((~~written testimony~~)) document prepared pursuant to law and which attests to the fact that an animal is in a certain state of health.

(7) ((~~"Nonnarcotic Schedule II controlled substance" means: Amphetamine, its salts, optical isomers, and salts of its optical isomers; phenmetrazine and its salts; any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of its isomers; and methyl phenidate.~~

~~(8)~~)) "Patient" means any animal under the care and treatment of a veterinarian.

(((~~(9)~~))) (8) "Secretary" means the secretary of the department of health.

(((~~(10)~~))) (9) "Veterinary board of governors" is that board appointed by the governor pursuant to chapter 18.92 RCW.

NEW SECTION

WAC 246-933-180 Responsibility for maintaining mailing address on file with the board. It is the responsibility of each licensee to maintain a current mailing address on file with the board. The mailing address on file with the board shall be used for mailing of all official matters from the board to the licensee. If charges against the licensee are

mailed by certified mail to the address on file with the board and returned unclaimed or are unable to be delivered for any reason, then the board shall proceed against the licensee by default under RCW 34.05.440.

AMENDATORY SECTION (Amending Order 252, filed 3/10/92, effective 4/10/92)

WAC 246-933-980 ((~~Renewal of licenses~~)) Licensing/ renewal/late Penalty. (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)~~)) An initial license shall expire on the licensees next birth anniversary date. The secretary may prorate the licensure fee based upon 1/12th of the annual renewal fee for each full calendar month between the initial issue date and the next anniversary of the applicant's birthdate.

(2) A veterinarian's license shall be renewed annually on the veterinarian's birth anniversary date. Any renewal that is postmarked or presented to the department after midnight on the expiration date is late and subject to a late renewal penalty fee.

(3) Failure to timely renew a license shall invalidate the license and all privileges granted by the license. Any licensee subject to the Uniform Disciplinary Act who submits a late renewal which is postmarked or presented to the department more than thirty days after the license expiration date, will be subject to investigation for unprofessional conduct in accordance with RCW 18.130.180(7) for unlicensed practice.

(4) 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.

(5) 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 221B, filed 12/4/91, effective 1/4/92)

WAC 246-935-070 Examination for registration as animal technician. (1) All applicants shall be required to complete ((~~an examination consisting of a written and practical test.~~

~~(2) The written test shall consist of questions on any of the following subjects as they pertain to the animal health care services technicians may perform:~~

~~(a) Anatomy~~

~~(b) Physiology~~

~~(c) Chemistry~~

~~(d) Obstetrics~~

~~(e) Bacteriology~~

~~(f) Histology~~

~~(g) Radiology~~

~~(h) Nursing techniques~~

~~(i) Hygiene~~

~~(j) Dental prophylaxis~~

~~(k) Laboratory procedures~~

~~(l) Other subjects prescribed by the board.~~

~~The questions shall be divided equally between large and small animal health care problems and shall be sufficient in number to satisfy the board of governors that the applicant has been given adequate opportunity to express his or her knowledge relating to these subjects.~~

~~(3) The practical examination shall be supervised by the board of governors or their designees. Each applicant may be required to perform or demonstrate basic animal health care techniques as directed by the board. During the practical examination, each applicant may be required to demonstrate the ability to:~~

~~(a) Take accurate case histories;~~

~~(b) Prepare patient instruments;~~

~~(c) Perform dental prophylaxis;~~

~~(d) Monitor anesthesia or oxygen equipment;~~

~~(e) Apply wound and surgical dressings;~~

~~(f) Administer innoculations or vaccinations;~~

~~(g) Properly analyze laboratory specimens;~~

~~(h) Restrain animals;~~

~~(i) Other animal health care services authorized by the board.~~)) the veterinary technician national examination and the Washington state veterinary technician examination

(a) The national examination shall consist of questions on the following areas: Basic sciences, animal care and management/husbandry (including farm, pet, and research animals) and clinical sciences (including small and large animal patient care). The examination is designed to measure essential job-related knowledge at the entry level.

(b) The Washington state examination shall consist of questions pertaining to laws regulating animal technicians and to laws regulating animal health care in the state.

(2) In order to pass examination for registration as an animal technician, the applicant shall attain a minimum grade of:

(a) 1.5 standard deviation below the national mean of the criterion population on the national examination.

(b) Ninety percent on the Washington state examination.

AMENDATORY SECTION (Amending Order 252, filed 3/10/92, effective 4/10/92)

WAC 246-935-125 ((~~Renewal of registrations~~)) Registration/renewal/late penalty. ((~~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.~~)) (1) A registration certificate shall be renewed annually. The date of renewal shall be the registrant's birth anniversary date. An initial registration shall expire on the registrant's next birthdate. The secretary may prorate the registration fee based upon 1/12th of the annual renewal fee for each full calendar month between the initial issue date and the next anniversary of the registrant's birthdate.

(2) Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a late renewal penalty fee. Failure to timely renew a registration shall invalidate the registration and all privileges granted by the registration. Any registrant who submits a late renewal which is postmarked or presented to the department more than thirty days after the registration's expiration date, will be subject to investigation for unprofessional conduct in accordance with RCW 18.130.180(7).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-935-080 Grading of examinations.

WSR 93-04-082
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Physical Therapy)
[Filed February 1, 1993, 3:55 p.m.]

WAC 246-915-085 Continuing competency, 246-915-140 Supportive personnel—Supervision and 246-915-145 Supervision of the physical therapy aide under indirect supervision, filed under WSR 92-20-099, were rejected by the Board of Physical Therapy at its November 16, 1992, meeting. These rules can be withdrawn. The board will be redrafting these amendments and/or new sections and preparing for a hearing in November of 1993.

Carol Neva, Program Manager
Board of Physical Therapy

WSR 93-04-089
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed February 1, 1993, 4:52 p.m.]

Original Notice.

Title of Rule: WAC 388-99-055 Base period.

Purpose: Provides reasons for a base period to be shortened from the standard three months. Deletes reference to notification already covered under WAC 388-84-110. Deletes reference to change of circumstances already covered under WAC 388-85-105. Deletes redundant language.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Provides reasons for a base period to be shorter than three months. Deletes redundant language.

Reasons Supporting Proposal: Allow staff to shorten a base period when a client is eligible for a higher priority program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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, 14th and Franklin, Olympia, Washington, on March 23, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 19, 1993.

Date of Intended Adoption: March 24, 1993.

February 1, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2206, filed 2/13/85)

WAC 388-99-055 ((~~Certification~~)) Base period. (1) ((~~Applicants~~)) Clients in their own homes shall have a choice of a three-month or a six-month ((~~certification~~)) base period((~~. Once certified the applicant may not change the chosen certification period~~)) which shall begin with the month of application. The department shall use a complete base period unless:

(a) A previous certification period overlaps; or

(b) The client is not resource eligible for the full base period; or

(c) The client is not categorically related for the full base period; or

(d) The client becomes eligible for categorically needy Medicaid.

PROPOSED

(2) ((~~An applicant~~)) A client shall not be certified for ((~~no~~)) more than six months.

(3) ((~~An applicant~~)) When countable income is greater than the appropriate medically needy income level (MNIL), the department shall require the client to spenddown the excess countable income for the base period.

(4) The department shall certify a client who is required to spenddown ((~~shall be certified~~)) from the day the client meets the spenddown requirement ((~~is met~~)) through the last day of the ((~~three month or six month~~)) chosen base period ((~~which began with the month of application~~)).

((~~(4) If~~)) (5) The department shall certify a client who is required to spenddown from the first day of the month spenddown is met when the client has incurred hospital expenses equal to the spenddown liability.

(6) When the client requests retroactive medical coverage ((~~is requested~~)) at the time of application, the department shall certify a ((~~spenddown applicant shall be certified~~)) client with spenddown from the day the spenddown requirement was met through the last day of the ((~~three month~~)) period which ((~~began~~)) may begin up to three months ((~~prior to~~)) before the application month ((~~of application~~)). The department shall certify a client unless exceptions in subsections (1)(a), (b), (c), or (d) of this section exist.

((~~(5)~~)) (7) The department shall require an application ((~~is required~~)) for any subsequent period of eligibility for ((~~LCP-MN~~)) the medically needy program.

((~~(6) Full month coverage is not available during the first month of eligibility for persons who must establish eligibility by deducting incurred medical expense from countable income.~~

~~(7) All medically needy applicants shall receive individual notification of the disposition of their application.~~

~~(8) Any change in circumstances shall be reported within twenty days to the local community service office.~~

~~(9) Any recipient, aged, blind or disabled who has been terminated from SSI/SSP shall have their eligibility for LCP-MN determined in accordance with chapter 388-85 WAC.~~))

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 93-04-090
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed February 1, 1993, 4:55 p.m.]

Original Notice.

Title of Rule: WAC 388-99-020 Eligibility determination—Medically needy in own home.

Purpose: Adjust the medically needy income level (MNIL) effective January 1, 1993. Adds as an income exemption: A child's allowance for SSI-ineligible children of an SSI-related client; and the MNIL less the spouse's income when the spouse of a person receiving home- and community-based waivered service program applies.

Other Identifying Information: 1902 r of the Social Security Act.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: A change to state plan allows an income deduction for a spouse receiving home- and community-based waivered service and has income less than the MNIL. Adjusts the MNIL and adds child allowance as income exemption.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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

Rule is necessary because of federal law, 1902 r of the Social Security Act.

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, 14th and Franklin, Olympia, Washington, on March 9, 1993, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Mailstop 5805, Department of Social and Health Services, Olympia, 98504, FAX 664-0118 or SCAN 366-0118, by March 8, 1993.

Date of Intended Adoption: March 10, 1993.

February 1, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3467, filed 10/7/92, effective 11/7/92)

WAC 388-99-020 Eligibility determination—Medically needy in own home. (1) Effective January 1, ((~~1991~~)) 1993, the department shall set the medically needy income level (MNIL) at:

(a) One person	$((~~458~~)) 467
(b) Two persons	$((~~575~~)) 592
(c) Three persons	$((~~650~~)) 667
(d) Four persons	$((~~725~~)) 742
(e) Five persons	$((~~833~~)) 858
(f) Six persons	$((~~942~~)) 975
(g) Seven persons	$((~~1,092~~)) 1,125
(h) Eight persons	$((~~1,208~~)) 1,242
(i) Nine persons	$((~~1,325~~)) 1,358
(j) Ten persons and above	$((~~1,433~~)) 1,483

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children in a nondesignated FIP geographic area. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except for families described under WAC 388-83-130 (2)(a);

(b) SSI/SSP eligibility for aged, blind, or disabled persons; and

(c) FIP eligibility for families and children.

(3) The department shall allow the following income ((~~disregards~~)) exemptions:

(a) Health insurance premiums, except Medicare, the person expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse of an SSI-related client not to exceed the one-person medically needy income level; ((~~and~~))

(c) A child's allowance up to one-half of the Federal Benefit Rate (FBR) for each SSI-ineligible child of an SSI-related client;

(d) Child care payment amounts allowed as if the person was a FIP enrollee; and

(e) When the spouse of a client applying for medically needy receives a home and community based waivered service program, the department shall allow the medically needy client an income exemption equal to the one-person MNIL minus the income of the institutionalized spouse.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or person eligible.

(5) Effective August 1, 1992, when countable income for any month or months of the base period is less than the appropriate MNIL but above the CNIL, the department shall deduct the difference between the countable income and the MNIL from the total excess countable income for the base period.

(6) If countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The department shall determine the base period ((~~shall be the three-month or six-month period which corresponds to the certification period~~)) under WAC 388-99-055.

(7) The department shall consider the income and resources of the spouse or of the parent of an applicant under ((~~eighteen~~)) nineteen years of age:

(a) In the same household, available to the applicant, whether or not actually contributed; and

(b) Not in the same household, only to the extent of what is actually contributed.

(8) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under chapter 388-92 WAC.

(9) In mixed households, where more than one assistance unit exists, the department shall determine income for the:

(a) AFDC-related assistance unit according to subsections (2)(a) and (3) of this section;

(b) SSI-related assistance unit according to subsections (2)(b) and (3) of this section; and

(c) FIP-related assistance unit according to subsections (2)(c) and (3) of this section.

WSR 93-04-091
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(By the Code Reviser's Office)
[Filed February 2, 1993, 8:10 a.m.]

WAC 246-316-020, 246-316-040, 246-316-045, 246-316-050, 246-318-040, 246-318-042, 246-321-018, 246-323-022, 246-325-022, 246-327-090, 246-329-035, 246-331-100, 246-336-100, 246-340-085, 246-388-070 and 246-388-072, proposed by the Department of Health in WSR 92-15-085, appearing in issue 92-15 of the State Register, which was distributed on August 5, 1992, 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 93-04-094
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 2, 1993, 11:16 a.m.]

Original Notice.

Title of Rule: (1) Provide for board members or their agents to participate in proceedings concerning the regulation of agricultural chemicals affecting strawberries; (2) expand affected area to entire state; and (3) correct a typographical error in the definition of producer-handler.

Purpose: (1) Self-explanatory; and (2) affected area expanded from Western Washington to entire state to include Eastern Washington producers.

Statutory Authority for Adoption: Chapter 15.65 RCW.

Statute Being Implemented: Chapter 15.65 RCW and RCW 15.65.375.

Summary: (1) Provides for board members, their agents or designees to participate in proceedings concerning the regulation of production, distribution or sales of chemicals used in producing strawberries.

Reasons Supporting Proposal: (1) Allows commission to participate in these hearings; and (2) all producers in the state will be included.

Name of Agency Personnel Responsible for Drafting: Roger L. Roberts, Washington State Department of Agriculture, NRB, Olympia, Washington 98504-2560, (206) 902-1928; Implementation and Enforcement: Washington Strawberry Commission, Olympia, Washington, (206) 491-6567.

Name of Proponent: Producers of strawberries in Washington state by petition, as provided for in RCW 15.65.050, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) Rule is self-explanatory. Will allow commis-

PROPOSED

sion funds to be spent for this purpose; and (2) rule will expand the affected area and include all strawberry producers in the state.

Proposal Changes the Following Existing Rules: Adds the provisions as described.

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

Hearing Location: Chicano Room, Western Washington Research and Extension Center, 7612 Pioneer Way East, Puyallup, WA, on March 12, 1993, at 1:15 p.m.

Submit Written Comments to: Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by March 12, 1993.

Date of Intended Adoption: April 21, 1993.

February 2, 1993
Arthur C. Scheunemann
Assistant Director

AMENDATORY SECTION (Amending Order 2038, filed 5/3/90, effective 6/3/90)

WAC 16-555-010 Definition of terms. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association, or corporation.

(5) "Affected producer" means any person who produces strawberries in commercial quantities in ((~~that portion of~~)) the state of Washington ((~~located west of the summit of the Cascade Mountains~~)), for fresh market, for processing, or for sale to processors.

(6) "Commercial quantity" means any strawberries produced for a market, by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing strawberries not produced by him.

(8) "Strawberry commodity board," hereinafter referred to as "board," means the commodity board formed under the provisions of WAC 16-555-020.

(9) "Strawberries" means and includes all kinds, varieties, and hybrids of "FRAGARIA-X-ANANASSA" grown and marketed in the state of Washington.

(10) "Marketing season" or "fiscal year" means the twelve-month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(11) "Producer-handler" means any person who acts both as a producer and as a handler with respect to strawberries. A producer-handler shall be deemed to be a producer with respect to the strawberries which he/she ((~~[produces and a handler with respect to the strawberries which he/she]~~)) produces and a handler with respect to the strawberries which he/she handles, including those produced by himself/herself.

(12) "Affected area" means ((~~that portion of~~)) the state of Washington ((~~located west of the summit of the Cascade Mountains~~)).

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(14) "Affected unit" means one pound net of strawberries.

AMENDATORY SECTION (Amending WSR 92-12-006, filed 5/21/92, effective 6/21/92)

WAC 16-555-020 Strawberry commodity board. (1) **Administration.** The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of six members. Five members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Island, San Juan, Skagit, and Whatcom.

(ii) District II shall have two board members, being Positions 3 and 4, and shall include the counties of King, Clallam, Jefferson, Kitsap, Pierce, and Snohomish.

(iii) District III shall have one board member, being Position 5, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, Wahkiakum, Grays Harbor, Mason, and Thurston.

(3) **Board membership qualifications.** The affected producer members of the board shall be practical producers of strawberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing strawberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his/her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through five and the member appointed by the director, position six.

(c) The term of office for the initial board members shall be as follows:

Position one - shall terminate on August 31, 1986;

Positions three and five - shall terminate on August 31, 1987;

Positions two and four - shall terminate on August 31, 1988.

(5) **Nomination and election of board members**. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this marketing order, nominations may be made at the issuance hearing.

When only one nominee is nominated for any position on the board, the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

(6) **Election of board members**.

(a) Members of the board shall be elected by secret mail ballot within the month of May under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) **Vacancies prior to election**. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum**. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation**. No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) **Powers and duties of the board**. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the marketing order and effectuate the declared policies of the act.

(d) To pay from moneys collected as assessments, contributions, or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the marketing order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in marketing order to defray the costs of formulating the marketing order.

(f) To establish a "strawberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, shall be deposited each day or as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor: Such books and accounts shall be closed as of the last day of each calendar year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each calendar year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the marketing order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who

violates or refuses to perform the obligations or duties imposed upon him by the act or the marketing order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To authorize the members of the board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing strawberries, and may authorize the expenditure of commission funds for this purpose.

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) **Procedures for board.**

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news services.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: *Provided,* That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

WSR 93-04-095
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed February 2, 1993, 2:02 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend coastal bottomfish harvest rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sets limits on amounts of coastal bottomfish that can be harvested.

Reasons Supporting Proposal: Coastal bottomfish are managed on a sustained yield basis. This will allow for a yearly harvest meeting recommendations of the Pacific Fisheries Management Council.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, P.O. Box 43147, Olympia, WA 98504-3147, 902-2930; Implementation: Mary Lou Mills, P.O. Box 43144, Olympia, WA 98504-3147, 902-2834; and Enforcement: Dayna Matthews, P.O. Box 43147, Olympia, WA 98504-3147, 902-2927.

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: Sets bottomfish limits to conserve resource, provide for an orderly fishery and extend harvest throughout year.

Proposal Changes the Following Existing Rules: Harvestable amounts.

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

This rule effects only coastal bottomfish fishers. It does not effect ten percent of the businesses in any one three-digit industrial classification nor twenty percent of all small businesses.

Hearing Location: Conference Room, 5th Floor Natural Resources Building, 1111 Washington Street S.E., Olympia, on March 15, 1993, at 1:00 p.m.

Submit Written Comments to: Hearings Officer, Department of Fisheries, P.O. Box 43147, Olympia, WA 98504-3147, by March 12, 1993.

Date of Intended Adoption: March 19, 1993.

February 1, 1993
Judith Freeman
Deputy
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 97-07, filed 3/6/92, effective 4/16/92)

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 Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29 or 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~~)) 12;

0001 hours January ((~~15~~)) 13 to 2400 hours January ((~~28~~)) 26;

0001 hours January ((~~29~~)) 27 to 2400 hours February ((~~11~~)) 9;

0001 hours February ((~~12~~)) 10 to 2400 hours February ((~~25~~)) 23;

0001 hours February ((~~26~~)) 24 to 2400 hours March ((~~10~~)) 9;

0001 hours March ((~~11~~)) 10 to 2400 hours March ((~~24~~)) 23;

0001 hours March ((~~25~~)) 24 to 2400 hours April ((~~7~~)) 6;

0001 hours April ((~~8~~)) 7 to 2400 hours April ((~~21~~)) 20;

0001 hours April ((~~22~~)) 21 to 2400 hours May ((~~5~~)) 4;

0001 hours May ((~~6~~)) 5 to 2400 hours May ((~~19~~)) 18;

0001 hours May ((~~20~~)) 19 to 2400 hours June ((~~2~~)) 1;

0001 hours June ((~~3~~)) 2 to 2400 hours June ((~~16~~)) 15;

0001 hours June ((~~17~~)) 16 to 2400 hours June ((~~30~~)) 29;

0001 hours ((~~July 1~~)) June 30 to 2400 hours July ((~~14~~)) 13;

0001 hours July ((~~15~~)) 14 to 2400 hours July ((~~28~~)) 27;

0001 hours July ((29)) 28 to 2400 hours August ((11)) 10;

0001 hours August ((12)) 11 to 2400 hours August ((25)) 24;

0001 hours August ((26)) 25 to 2400 hours September ((8)) 7;

0001 hours September ((9)) 8 to 2400 hours September ((22)) 21;

0001 hours September ((23)) 22 to 2400 hours October ((6)) 5;

0001 hours October ((7)) 6 to 2400 hours October ((20)) 19;

0001 hours October ((21)) 20 to 2400 hours November ((3)) 2;

0001 hours November ((4)) 3 to 2400 hours November ((17)) 16;

0001 hours November ((18)) 17 to 2400 hours ((December 1)) November 30;

0001 hours December ((2)) 1 to 2400 hours December ((15)) 14;

0001 hours December ((16)) 15 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)) 26;

0001 hours January ((29)) 27 to 2400 hours February ((25)) 23;

0001 hours February ((26)) 24 to 2400 hours March ((24)) 23;

0001 hours March ((25)) 24 to 2400 hours April ((21)) 20;

0001 hours April ((22)) 21 to 2400 hours May ((19)) 18;

0001 hours May ((20)) 19 to 2400 hours June ((16)) 15;

0001 hours June ((17)) 16 to 2400 hours July ((14)) 13;

0001 hours July ((15)) 14 to 2400 hours August ((11)) 10;

0001 hours August ((12)) 11 to 2400 hours September ((8)) 7;

0001 hours September ((9)) 8 to 2400 hours October ((6)) 5;

0001 hours October ((7)) 6 to 2400 hours November ((3)) 2;

0001 hours November ((4)) 3 to 2400 hours ((December 1)) November 30;

0001 hours December ((2)) 1 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 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 limit may begin to fish on the cumulative limit for the next four-week period, provided that the fish are not landed until the next four-week period has commenced. If a closure or reduction in cumulative limit for widow rockfish occurs while a vessel is fishing, the vessel must cease fishing for widow rockfish and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120.

(3) Shortbelly rockfish *(Sebastes jordani)* - no cumulative or vessel trip limit; no minimum size.

(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.

(5) All other species of rockfish (includes all *Sebastes* spp. except Pacific Ocean perch, widow rockfish, shortbelly rockfish and thornyhead or idiot rockfish) - cumulative ((trip)) limit of 50,000 pounds per fixed two-week period, of which no more than 8,000 pounds may be yellowtail rockfish *(Sebastes flavidus)*. No minimum size. Unless the fishery for the Sebastes complex or yellowtail rockfish is closed, a vessel which has landed its two-week cumulative limit may begin to fish on the cumulative limit for the next two-week period, provided that the fish are not landed until the next two-week period has commenced. If a closure or reduction in cumulative limit for the Sebastes complex or yellowtail rockfish occurs while a vessel is fishing, the vessel must cease fishing for the Sebastes complex or yellowtail rockfish, and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120. 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.

(6) Deepwater complex: Sablefish, Dover sole and thornyhead or idiot rockfish *(Sebastolobus* spp.) - cumulative ((~~trip~~)) limit of ((~~55,000~~)) 45,000 pounds per fixed two-week period, of which no more than ((~~25,000~~)) 20,000 pounds can be thornyhead rockfish. No minimum size for Dover sole or thorneyhead [thornyhead] rockfish. Unless the fishery for the deepwater complex is closed, a vessel which has landed its two-week cumulative limit may begin to fish on the cumulative limit for the next two-week period, provided that the fish are not landed until the next two-week period has commenced. If a closure or reduction in cumulative limit for the deepwater complex occurs while a vessel is fishing, the vessel must cease fishing for the deepwater complex and discard any catch or overage. Such discard is not wastage pursuant to RCW 75.12.120.

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 5,000 pounds. 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~~)) 250 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.

(7) Pacific Whiting - 0001 hours January 1 through 2400 hours April 14, no landings of more than 10,000 pounds (round weight) per vessel trip. No limit on the number of vessel trips.

(8) 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)~~)) (9) 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 93-04-096
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed February 2, 1993, 2:06 p.m.]

Original Notice.

Title of Rule: General definitions and personal use rules.

Purpose: Amend definitions and personal use rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-16-460 Bonilla-Tatoosh Line, this definition is moved from personal use rules to general definitions and modified to provide a clearer understanding of the line. There is no change in the basic definition; WAC 220-55-010 Razor clam license, the razor clam license was changed by legislation in 1989. These amendments reflect the legislative change and current method of administering the license; WAC 220-56-100 Definitions—Personal use, the Bonilla-Tatoosh Line definition is deleted and removed to general definitions; WAC 220-56-105 River mouth definitions, the mouths of Germany and Mill creeks are redefined as the downstream side of the Highway 4 Bridge in order to provide protection for fish underneath the bridge. The mouth of the Lewis River is clarified since boundary markers have been installed; WAC 220-56-116 Barbless hooks, barbless hooks are proposed for all Puget Sound fisheries except for bait fish. Many species of bottomfish are now under reduced bag limits, and reduction of hooking mortality and release of nontargeted species is facilitated through the use of barbless hooks; WAC 220-56-124 Unlawful provisions—Hoodsport Hatchery, a special fishery is proposed to provide an orderly fishery during the chum salmon return to Hoodsport Hatchery in the fall. This fishery has grown extremely popular, and gear and age separation are proposed to alleviate crowding and provide recreational opportunity to persons who might otherwise not be able to fish; WAC 220-56-126 Unlawful provisions—Duwamish Waterway, the gear restriction period on the Duwamish waterway is extended to provide protection from snagging during the summer and fall; WAC 220-56-128, a food fish closure at the Sund Rock net pens is proposed for a nonconsumptive use of the resource; WAC 220-56-131 Elliott Bay public fishing pier, the closed area to fishing other than from the pier is changed from within boundary markers to a distance 100 yards from the pier. This will eliminate the necessity to maintain the boundary markers; WAC 220-56-132 Les Davis public fishing pier, the closed area to fishing other than from the pier is changed from within boundary markers to a distance 100 yards from the pier. This will eliminate the necessity to maintain the boundary markers; WAC 220-56-180 Bag limit codes, retention of the adult portion of the bag limit will end fishing. This will open access to fishing while retaining incidental by-catch of jack salmon; WAC 220-56-190 Coastal salmon—Saltwater seasons and bag limits, the general format of the 1992 rules in ocean waters is used as an example of proposals that will result from Pacific Fisheries Management Council recommendations to the Secretary of the Interior. This section is opened for review

and comment on the 1992 rules and possible actions to be taken in 1993. Specific proposals are made for Grays Harbor and Willapa Bay based on preseason forecasts; WAC 220-56-191 Puget Sound salmon—Saltwater seasons and bag limits, this new section is distinguished from coastal salmon in order to provide clarity. The general format of the 1992 rules is used as examples of proposals that will result from constraints established by ocean season recommendations from the Pacific Fisheries Management Council to the Secretary of the Interior, and user recommendations for inside waters discussed in the North of Falcon Process. This section is opened for review and comment on the 1992 rules and possible actions to be taken in 1993; WAC 220-56-195 Closed areas—Saltwater salmon angling, the closure at Port Susan is extended through October in order to protect coho salmon returning to the Stillaguamish River. A closure is proposed for Commencement Bay to protect spring chinook during a period of rebuilding chinook stock levels; WAC 220-56-220 Salmon eggs—Unlawful acts, the salmon egg rule is changed to continue to allow use of fresh eggs as bait, but to eliminate the requirement to prove removal or intent to use as bait in order to prevent stripping eggs from carcasses; WAC 220-56-235 Possession limits—Bottomfish, the catch limits of wolf eel and cabezone are reduced. These species are over utilized and in need of protection; WAC 220-56-240 Bag limits—Other food fish, sturgeon size limits are conformed with Oregon size limits in concurrent waters of the Columbia River, while protective measures are continued for other state waters; WAC 220-56-245 Halibut—Bag and possession limits, the general format of the 1992 rules is used as an example of proposals that will result from federal action taken in lieu of action by the International Pacific Halibut Fishery Commission. This section is opened for review and comment on the 1992 rules and possible actions to be taken in 1993; WAC 220-56-255 Halibut—Season, the general format of the 1992 rules is used as an example of proposals that will result from federal action taken in lieu of action by the International Pacific Halibut Fishery Commission. This section is opened for review and comment on the 1992 rules and possible actions to be taken in 1993; WAC 220-56-270 Smelt—Areas and seasons, Fidalgo and Padilla bays are closed to smelt fishing during the winter to protect spawning smelt. Winter smelt have shown a marked decrease while a summer smelt fishery is warranted based on stock availability; WAC 220-56-285 Shad and sturgeon—Areas and seasons, the closure in waters four miles below Bonneville Dam is rescinded in order to conform Washington and Oregon sturgeon rules; WAC 220-56-307 Shellfish—Closed areas, a closure at the Sund Rock net pens is proposed to provide a nonconsumptive use of the resource; WAC 220-56-310 Shellfish—Daily bag limits, a reduction in the daily bag limit of Hood Canal shrimp is proposed as one of the options to reduce effort and extend the season in the Hood Canal shrimp fishery; WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts, a gear reduction for Hood Canal shrimp fishing is proposed as one of a series of options to reduce effort and extend the season in the Hood Canal shrimp fishery; WAC 220-56-320 Shellfish gear—Unlawful acts, the crab escape ring is modified to require two escape rings 4-1/4 inches in diameter in Puget Sound other than Hood Canal and two escape rings 4-1/8 inches in diameter in other waters. This proposal will allow greater chance for escape of undersize crabs. If adopted, this proposal will take effect in 1996; WAC 220-56-325 Shrimp—Areas and seasons, a series of alternate proposals is made to reduce effort and extend the season in the Hood Canal shrimp fishery. The harvestable quota is being taken so rapidly that little recreational opportunity exists. By reducing the hours of fishing more shrimp fishers will have opportunity to participate. A minimum size limit is proposed for spot shrimp from catch record card area 6. This proposal will recruit more female shrimp into the population. WAC 220-56-330 Crab—Areas and seasons, crabbing in Hood Canal would be closed on those days that the Hood Canal shrimp fishery is open. This will stop "pulse" fishing and provide more opportunity for a year-round Hood Canal crab fishery; WAC 220-56-335 Crab—Unlawful acts, the crab measurement rule is modified for clarity. There is no change in the basic rule; WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons, intertidal clam closures are proposed for various beaches based on stock assessments; WAC 220-56-380 Oysters—Areas and seasons, intertidal oyster closures are proposed for various beaches based on stock assessments; WAC 220-56-382 Oysters and clams on private tidelands—Personal use, the rule on personal use shellfish from private tidelands is modified to permit land owners and immediate family to take up to the presumptive commercial amount for personal use. The requirement not to remove the shellfish from tidelands or immediate adjacent uplands is deleted; WAC 220-56-390 Squid, octopus, retention of octopus taken incidentally in a hook and line fishery is permitted; WAC 220-57-137 Carbon River, adjust season and area opening. This proposal offers additional opportunity while protecting milling fish at Voight Creek; WAC 220-57-160 Columbia River, changes closed for protection of chinook and sockeye salmon are Highway 395 Bridge to I-5 Bridge closed January 1 through July 31 and I-5 Bridge to Megler-Astoria Bridge closed April 1 through July 31. Upriver bright chinook stocks are depresses, while Snake River chinook and sockeye have been listed under the Endangered Species Act. Buoy 10 waters afford additional fishing opportunity through an earlier opening on August 1 and the ability to retain jack salmon after Labor Day; WAC 220-57-175 Cowlitz River, increase coho bag limit to 4 fish, October 16 through December 31, in order to provide opportunity to harvest hatchery origin fish; WAC 220-57-210 Duckabush River, provide pink salmon fishing opportunity based on strong 1991 escapement; WAC 220-57-235 Elochoman River, increase coho bag limit to 4 fish, October 16 through December 31, in order to provide opportunity to harvest hatchery origin fish; WAC 220-57-255 Green River (Cowlitz County), increase coho bag limit because of better hatchery escapement; WAC 220-57-270 Hoh River, open the Hoh River two weeks earlier, May 1, in order to increase harvest of recreational allotment of chinook; WAC 220-57-310 Kalama River, increase coho bag limit to 4 fish, October 16 through December 31, in order to provide opportunity to harvest hatchery origin fish; WAC 220-57-315 Klickitat River, increase coho bag limit to 4 fish, October 16 through December 31, in order to provide opportunity to harvest hatchery origin fish; WAC 220-57-319 Lewis River, increase coho bag limit to 4 fish, October 16 through December 31, in the mainstem Lewis River in order to provide opportunity

to harvest hatchery origin fish. Restrict gear in the North Fork, September 1 through November 30, to reduce snagging; WAC 220-57-350 Nooksack River, close pink salmon fishery to protect weak stocks; WAC 220-57-380 Quilcene River, close salmon angling to protect chum stocks; WAC 220-57-400 Salmon River, close chum fishing and require lures and flies only. The chum salmon rue is depressed and in need of escapement to rebuild. The Olympia National Park has instituted a no-bait policy to rebuild stocks in the river; WAC 220-57-425 Skagit River, close sockeye fishing, but allow up to six pink salmon in the daily bag limit. Allow two adult salmon above Gilligan Creek, which may be 1/1 coho and chum or 2 chum, but release all adult chinook. Below Gilligan Creek allow two adult salmon, not more than on of which may be a coho or a chinook. Allow up to six pink salmon in the daily bag limit. Chinook, coho and sockeye protective measures continue to be needed to rebuild stocks in the river, but sufficient pink salmon are available for an increased bag limit; WAC 220-57-430 Skokomish River, close river 15 days earlier, on September 15. This provides additional protection for chinook salmon, while protective measures remain in place for naturally spawning coho; WAC 220-57-445 Snake River, closed to salmon fishing. Snake River salmon stocks have recently been listed under the Endangered Species Act, and fishing activity is warranted where accidental hooking mortality of listed species could occur; WAC 220-57-460 Sol Duc River, change spelling of name of river; WAC 220-57-465 Stillaguamish River, allow chum salmon only fishery, October 16 through December 31. Coho and pink stocks have been determined in need of protection, while chinook stocks remain so. Only chum stocks are available for harvest; WAC 220-57-495 Washougal River increase coho bag limit to 4 fish, October 16 through December 31, in order to provide opportunity to harvest hatchery origin fish; and WAC 220-57A-183 Lake Wenatchee, reduce season length and bag limits. Sockeye fishing efforts in the lake have increased and protective measures are needed to assure escapement levels are met.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, P.O. Box 43147, Olympia, 98504-3147, 902-2930; Implementation: Gene DiDonato, and Mary Lou Mills, P.O. Box 43145, Olympia, 902-2200; and Enforcement: Dayna Matthews, P.O. Box 43147, Olympia, WA 98504-3147, 902-2927.

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 rules concern recreational fishing. They do not affect 10 percent of the businesses in any one three-digit industrial classification nor 20 percent of all businesses.

Hearing Location: Beginning at 10:00 a.m., Saturday, March 13, 1993, the department will hold four simultaneous hearings at the following locations: Room Baker 120, Everett Community College, 801 Wetmore Avenue, Everett, WA; Founder's Hall, Lower Columbia College, 1600 Maple, Longview, WA; Little Theater, Peninsula College, 1502 East Lauridsen Boulevard, Port Angeles, WA; and Davis KIVA, Davis High School, 212 South 6th Avenue, Yakima, WA.

Submit Written Comments to: Regulations Hearings Officer, Washington State Department of Fisheries, P.O. Box 43147, Olympia, WA 98504-3147, by March 12, 1993.

Date of Intended Adoption: March 24, 1993.

January 27, 1993
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-16-460 Bonilla-Tatoosh Line. The "Bonilla-Tatoosh Line" is defined as a line running from the western end of Cape Flattery to Tatoosh Island Lighthouse, then to red buoy "2D" adjacent to Duntz Rock, then in a straight line to Bonilla Point on Vancouver Island.

AMENDATORY SECTION (Amending Order 89-05, filed 3/20/89)

WAC 220-55-010 Razor clam license ((~~and razor clam tag~~)). (((~~(1)~~))) A personal-use razor ((~~clamming license, hereinafter designated "razor~~)) clam license((~~," shall consist of a razor clam license stamp printed by the department of fisheries which has been affixed to a recreational license form and on which recreational license form is written the licensee's razor clam tag number. The license shall be invalid unless the angler identification information on the recreational license form has been completed and the licensee has signed the recreational license form.~~

~~(2) A razor clam tag~~)) shall consist of a tag printed and issued by the department on which is printed the razor clam ((~~tag~~)) license number. The razor clam ((~~tag~~)) license shall be provided with an opening for attachment or display on outer clothing and shall be color-coded to designate resident, nonresident, or ((~~juvenile~~))senior citizen. The license shall be invalid unless the razor clam digger information on the license has been completed and the digger has signed the license.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-100 Definitions—Personal use. (1) "Personal-use possession" and "daily bag limits" are defined as the numbers or pounds of food fish or shellfish which may be taken in a single day or held in possession at one time, unless otherwise provided.

(2) A "single hook" is defined as a hook having a single point or barb; a "double hook" as a hook having two points or barbs on a common shank; and a "treble hook" as a hook having three points or barbs on a common shank.

(3) A "lure" is defined as any object made of animal, vegetable or mineral materials which has attached thereto one or more hooks and is used as bait while angling for food fish.

(4) The term "processed" as it applies in this chapter is defined as food fish or shellfish which have been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(5) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(6) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with one lure in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than one lure. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(7) The term "snag or snagging" is defined as any method of taking or attempting to take food fish with one or more hooks in such a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(8) The term "underwater spearfishing" is defined as any method of taking or attempting to take food fish by using any object or objects to impale or hook fish while the fisherman is swimming or floating in the water.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisherman is above the surface of the water.

(10) The term "natural bait," unless otherwise provided, is defined as a lure consisting of an animal or part of an animal with one single hook.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

(12) ((~~The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island.~~

~~(13)~~)) The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 near the mouth of the Columbia River.

(((~~(14)~~))) (13) The term "Buoy 10 Fishery" is defined as a fishery between the down stream side of the Megler-Astoria Bridge and the Buoy 10 Line.

(((~~(15)~~))) (14) The term "Channel Marker 13 Line" is defined as a true north-south line through Grays Harbor Channel Marker 13.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-105 River mouth definitions. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.
Bear River - Highway 101 Bridge.
Bone River - Highway 101 Bridge.
Chehalis River - U.P. Railway Bridge in Aberdeen.
Chinook River - The tide gates at the Highway 101 Bridge.
Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.
Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.
Duwamish River - First Avenue South Bridge.
Elk River - Highway 105 Bridge.
Entiat River - Highway 97 Bridge.
Germany Creek - Downstream side of the Highway 4 Bridge.
Hoquaim River - Highway 101 Bridge.
Humptulips River - Mouth of Jessie Slough.
Johns River - Highway 105 Bridge.
Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.
Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.
Lewis River - A straight line running from a boundary marker on a piling at Austin Point ((~~south~~)) southerly across the Lewis River to a boundary marker on the opposite shore.
Methow River - Highway 97 Bridge.
Mill Creek - Downstream side of the Highway 4 Bridge.
Naselle River - Highway 101 Bridge.
North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.
Niawiakum River - Highway 101 Bridge.
North River - Highway 105 Bridge.
Palix River - Highway 101 Bridge.
Puyallup River - 11th Street Bridge.
Samish River - The Samish Island Bridge (Bayview-Edison Road).
Sammamish River - Kenmore Highway Bridge.
Skagit River - A line projected from the terminus of the jetty with McGlinn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.
Skamokawa Creek - Highway 4 Bridge.
Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.
South Nemah River - Lynn Point 117 degrees true to the opposite shore.
Tucannon River - State Highway 261 Bridge.
Wallace River - The furthest downstream railroad bridge.
Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.
Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.
White Salmon River - Highway 14 Bridge.
Little White Salmon River - At boundary markers on river bank downstream from the federal salmon hatchery.
Willapa River - Highway 101 Bridge.
Yakima River - Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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.

(3) It is unlawful to use barbed hooks while angling for food fish in all marine waters of Puget Sound east of the Bonilla-Tatoosh line, except that it is lawful to use barbed hooks with baitfish jigger gear.

NEW SECTION

WAC 220-56-124 Unlawful provisions—Hoodsport Hatchery. During the period October 16 through November 30, those waters of Catch Record Card Area 12 within a 1,000 foot arc seaward of yellow buoys at the mouth of Finch Creek at the Hoodsport Salmon Hatchery are regulated as provided for in this section:

(1) These waters are open to salmon angling regardless of the status of the surrounding waters of Area 12.

(2) If the surrounding waters are open to salmon angling, the bag and possession limit are the same as in the surrounding waters. If the surrounding waters are closed, there is a special daily bag limit of three chum salmon.

(3) During the period October 16 through November 30 it is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

OPTION 1

(4) Lawful gear is limited to fly fishing gear only, except as otherwise provided.

OR

(4) On odd-numbered days lawful gear is limited to fly fishing gear only, except as otherwise provided.

OPTION 2

(5) On the first and third Saturdays in November, the fishery provided for in this section is designated a juvenile-only fishery, and open only to persons fourteen years of age and under. On juvenile-only Saturdays, general saltwater gear restrictions apply, and juveniles do not have to use fly fishing gear. Adults may assist juveniles, but the juvenile angler must have control of the fishing rod at all times.

OR

(5) On the first and third Saturdays in November, those waters north of the mouth of Finch Creek are designated a juvenile-only fishery, and open only to persons fourteen years of age and under. On juvenile-only Saturdays, general saltwater gear restrictions apply in waters north of the mouth of Finch Creek, and juveniles do not have to use fly fishing gear. Adults may assist juveniles, but the juvenile angler must have control of the fishing rod at all times.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-126 Unlawful provisions—Duwamish Waterway. During the period ((~~September~~)) July 1 through ((~~October 15~~)) November 30, in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that gear that meets the requirements of this subsection:

(a) 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. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-128 Food fish fishing—Closed areas. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Bayview Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Bayview Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal within a radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery are closed December 1 through October 31. Those waters within 50 feet of the confluence are closed from November 1 through November 30.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of the Burlington Northern Railroad Bridge are closed to salmon angling. For food fish other than salmon, those waters easterly of the Burlington Northern Railroad Bridge are closed June 1 through September 30. During the period October 1 through May 31 it is lawful to fish for food fish other than salmon up to the mouth of the Lake Washington Ship Canal.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittendon Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31.

(14) Waters within 200 yards of the salmon net pens located near Sund Rock in Hood Canal are closed to the taking of food fish at all times.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-131 Elliott Bay public fishing pier underwater artificial reef area. (((~~(1)~~))) It is unlawful to ((~~take,~~)) fish for or possess food fish or shellfish taken ((~~by any means from~~)) within ((~~the boundaries~~)) 100 yards of the ((~~underwater artificial reef surrounding the~~)) Elliott Bay public fishing pier ((~~as described in subsection (2) of this section,~~)) except while fishing from the Elliott Bay public fishing pier.

(((~~(2) Elliott Bay public fishing pier underwater artificial reef area includes those waters lying inside connecting lines projected from:~~

~~(a) The northwesterly white fishing boundary marker on the shore to the most westerly reef marker buoy;~~

~~(b) The most westerly reef marker buoy to the most easterly reef marker buoy;~~

~~(c) The most easterly reef marker buoy to the southeasterly white fishing boundary marker on the shore; and~~

~~(d) Along the shoreline from the southeasterly white fishing boundary marker to the northwesterly white fishing boundary marker.~~))

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-132 Les Davis public fishing pier underwater artificial reef area. (((~~(1)~~))) It is unlawful to ((~~take,~~)) fish for or possess food fish or shellfish taken ((~~by any means from~~)) within ((~~the boundaries~~)) 100 yards of the ((~~underwater artificial reef described in subsection (2) of this section~~)) Les Davis public fishing pier except while fishing from the Les Davis public fishing pier.

(((~~(2) The Les Davis public fishing pier underwater artificial reef area includes those waters lying inside lines projected from the southeasterly white fishing boundary marker on the shore to the easterly reef marker buoy thence to the westerly reef marker buoy thence to the northwesterly white fishing boundary marker on shore.~~)))

AMENDATORY SECTION (Amending Order 91-40, filed 6/27/91, effective 7/28/91)

WAC 220-56-180 Bag limit codes. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 12 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length
Coho over 20 inches in length
Pink, chum or sockeye over 12 inches in length
Atlantic salmon (no minimum length).

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 12 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon including Atlantic salmon not less than 12 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater

than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon including Atlantic salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(5) Code G: In waters having this code designation, the bag limit is four salmon including Atlantic salmon, not more than two of which may be chinook salmon and the minimum size for chinook salmon is 22 inches in length.

(6) Code H: In waters having this code designation, the bag limit in any one day is three salmon including Atlantic salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 16 through June 15 in Catch Record Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except the daily bag limit in Catch Record Card Area 12 is three salmon of any species.

(d) During the period July 1 through September 30 the daily bag limit is 2 salmon of any species in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, and 9.

(7) Code I: In waters having this code designation, the bag limit, size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington wildlife commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

(8) The possession limit in all waters regulated under Bag Limits A, C, D, F, G, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the possession limit for gamefish as regulated under Title 77 RCW by the Washington wildlife commission.

(9) In all freshwater areas where the bag limit allows adult salmon to be taken, it is unlawful to continue to fish for salmon after the adult portion of the bag limit has been retained.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 McGlinn 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~~)) October 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.

(9) Commencement Bay: Those waters within one nautical mile of the outermost entrance to the Puyallup waterway are closed to salmon angling April 16 through June 30.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-220 Salmon eggs—Unlawful acts. It shall be unlawful to ((~~remove~~)) possess more than one pound of fresh salmon eggs ((~~from any salmon for the purpose of using or preserving them for bait~~)) in the field without retaining the carcass of the fish from which they were ((~~removed~~)) taken.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 (Catch Record Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Catch Record Card Areas 1 through 3 and Area 4 west of ((a)) the Bonilla-Tatoosh line ((~~projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point~~));

(ii) 2 fish in Catch Record Card Area 4 east of ((a)) the Bonilla-Tatoosh line ((~~projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point~~)).

(b) Rockfish - 12 fish except 15 fish if taken from Catch Record Card Area 1.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) Wolfeel - 2 fish east of the Bonilla-Tatoosh line.

(e) Cabezone - 2 fish east of the Bonilla-Tatoosh line.

(f) All other species - no limit.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(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	1 fish
Wolfeel	2 fish
Cabezone	2 fish

(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
Wolfeel	0 fish
Cabezone	2 fish

(c) It is unlawful to possess lingcod taken by angling less than 26 inches in length or greater than 40 inches in length.

(d) The daily bag limit 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.

(e) It is unlawful to use a gaff to land lingcod taken in Catch Record Card Areas 5 through 13.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-270 Smelt—Areas and seasons. (1) Smelt fishing is permitted the entire year on Pacific Ocean beaches and in all rivers.

(2) Except as provided in subsection (3) of this section, smelt fishing is open in Puget Sound and the Strait of Juan de Fuca ((~~are open~~)) the entire year except they are closed weekly from 8:00 a.m. Wednesday to 8:00 a.m. Friday for all types of gear except jigger gear.

(3) That portion of Catch Record Card Area 7 south of a line projected true east from the south tip of the Cap Sante Peninsula and north of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough is closed to the taking of smelt for personal use from October 16 through April 15.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 red or 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, if being fished in Puget Sound outside Hood Canal is equipped with not less than two escape rings not less than 4-1/4 inches inside diameter located in the upper half of the crab pot, and if being fished in Hood Canal, the Columbia River, Willapa Bay, Grays Harbor, or the Pacific Ocean is equipped with not less than ((~~one~~)) two escape rings 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 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 89-12, filed 3/16/89)

WAC 220-56-325 Shrimp—Areas and seasons. (1) The following areas shall be defined as personal use shrimp fishing Districts 1 through 6:

(a) Shrimp District 1 - All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay;

(b) Shrimp District 2 - All waters of Griffin Bay south of a line projected east-west through Turn Rock Light from San Juan Island to Lopez Island, and north of a line projected east from Cattle Point on San Juan Island to Lopez Island;

(c) Shrimp District 3 - All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT-Rayonier dock;

(d) Shrimp District 4 - All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula;

(e) Shrimp District 5 - All waters of Hood Canal south of the Hood Canal Floating Bridge;

(f) Shrimp District 6 - All waters of Carr Inlet north of a line from Penrose Point to Green Point.

(2) It shall be unlawful to fish for or possess shrimp taken for personal use from the following areas, except as provided in this subsection:

(a) District 1 - May 16 through September 15;

(b) District 2 - May 16 through September 15;

(c) District 3 - May 16 through September 15;

(d) District 4 - Closed to all shrimp fishing;

(e) District 5 - 9:00 a.m. on the third Saturday in May until closed by emergency regulation. Open 9:00 a.m. to 1:00 p.m. each day during the season set by emergency regulation. All shrimp gear must be removed from the water by 1:00 p.m. each day;

-or-

. Open 9:00 a.m. to 5:00 p.m., Monday through Friday each week during the season set by emergency regulation. All shrimp gear must be removed from the water by 1:00 p.m. each day;

-or-

. Open 9:00 a.m. to 2:00 p.m., Tuesday through Saturday each week during the season set by emergency regulation. Shrimp pots may be left in the water, but all shrimp gear must be removed from the water from 2:00 p.m. Saturday through 9:00 a.m. Tuesday of each week;

(f) District 6 - Closed to all shrimp fishing;

(g) All other areas - April 16 through October 15.

(3) It is unlawful to possess spot shrimp taken for recreational purposes from Catch Record Card Area 6 that are less than 6 inches in length and it is unlawful to land spot shrimp that are less than 6 inches in length in any port in Catch Record Card Area 6. The length of spot shrimp is measured from the tip of the rostrum to the tip of the tail.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-330 Crab—Areas and seasons. (1) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear except during the open shellfish pot gear season. The open shellfish pot gear season for crab in Puget Sound waters may open by emergency regulation prior to July 16, but if not previously opened by emergency regulation will open July 16 through April 15. The open shellfish pot gear season in waters of the Pacific Ocean, Grays Harbor, Willapa Harbor, and waters of the Columbia River is December 1 through September 15.

(2) Except as provided in subsection (1) of this section and except when waters of Hood Canal are open to recreational shrimp fishing, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters. Recreational crabbing by any means in Hood Canal is closed on those days that Hood Canal is open to recreational shrimp fishing.

(3) Except as provided in subsection (1) of this section and except when waters of Hood Canal are open to recreational shrimp fishing, it is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters. Recreational crabbing by any means is closed on those days that Hood Canal is open to recreational shrimp fishing.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 taken for personal use 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~~)) at the widest part of the shell (caliper measurement) immediately in front of the points (tips).

(4) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-56-350 Clams other than razor clams, cockles, borers, 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~~)) Brown Point - DNR beach 57-B is closed June 1 through April 15.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park ((~~shall be~~)) are closed ((~~to the personal use harvest of all species of clams through April 15, 1993~~)) year around.

(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~~)) April 16 to ((~~June~~)) May 15 of even-numbered years and county tidelands south of the pier are open ((~~January 1~~)) April 16 to ((~~June~~)) May 15 of odd-numbered years.

(f) Point Whitney—All state-owned tidelands at Point Whitney are closed to clam digging May 16((~~, 1992,~~)) through April 15((~~, 1993~~)).

(g) Point Whitney Lagoon((—)) - closed April 16 through ((~~August~~)) June 15, ((~~1992~~)) 1993, and September 16, ((~~1992~~)) 1993, through April 15, ((~~1993~~)) 1993.

(h) ((~~Camano Island—All state-owned tidelands at Camano Island State Park are closed to clam digging April 16 through May 31, 1992, and July 1, 1992, through April 15, 1993~~)) Point White - closed October 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 April 16 through May 31, 1992, and January 1 through April 15, 1993~~)) West Dewatto Bay - DNR beach 44-A is closed June 1 through April 15.

(j) Sequim Bay State Park((—)) - all tidelands at Sequim Bay State Park south of the boat ramp are closed ((~~May~~)) July 16((~~, 1992,~~)) through April 15((~~, 1993~~)).

(k) Fort Flagler State Park - closed ((~~July 1~~)) June 16 through ((~~September 30, 1992~~)) April 15.

(l) Illahee State Park - closed ((~~August 1, 1992,~~)) July 16 through April 15((~~, 1993~~)).

(m) Penrose Point State Park - closed ((~~August 1~~)) May 1 through ((~~September 30, 1992~~)) April 15.

(n) Spencer Spit State Park - closed August 1 through ((~~December 31~~)) April 15.

(o) Hoodsport - department of fisheries tidelands at Hoodsport Salmon Hatchery ((-)) are closed year round.

(p) 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.

(q) Hope Island State Park - closed July 1 through April 15.

(r) Oak Bay East - closed May 16 through April 15.

(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 92-19, filed 5/12/92, effective 6/12/92)

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 lawful to take and possess oysters taken for personal use from public tidelands the entire year, except it is unlawful to take or possess oysters taken from the following areas during the periods indicated:

(a) Brown Point - closed ((~~April 16 through May 15, 1992, and July 1, 1992, through April 15, 1993~~)) year round.

(b) ((~~Bywater Bay State Tidelands—closed April 16 through May 31, 1992, and July 16, 1992, through April 15, 1993~~)) Eagle Creek - closed July 16 through April 15.

(c) ((~~Point Whitney—closed July 16, 1992, through April 15, 1993~~)) Illahee - closed May 1 through April 15.

(d) Point Whitney Lagoon - closed ((~~April 16~~)) August 1 through July 15((~~, 1992. Closed Saturdays and Sundays, July 16 through July 31, 1992. Closed August 1, 1992, through April 15, 1993~~)).

(e) Kitsap Memorial State Park - closed ((~~April 16~~)) July 1 through May 15((~~, 1992, and June 16, 1992, through April 15, 1993~~)).

(f) ((~~Scenic Beach State Park—closed May 16, 1992, through April 15, 1993~~)) Potlatch - Potlatch State Park and Potlatch beach east (beach #270444) - closed July 16 through April 15.

(g) Hoodsport - department of fisheries tidelands at Hoodsport Salmon Hatchery - closed year round.

(h) ((~~Seal Rock Forest Service Camp Tidelands—closed September 1, 1992, through April 15, 1993~~)) Rendsland Creek - closed May 16 through April 15.

(i) ((~~Triton Cove State Park Tidelands—closed April 16 through May 15, 1992, and June 16, 1992, through April 15, 1993~~)) West Dewatto Bay - DNR beach 44-A is closed June 16 through April 15.

(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 Order 83-16, filed 3/17/83)

WAC 220-56-390 Squid, octopus. It is unlawful to take, fish for or possess squid taken for personal use with more than one line. A maximum of four squid lures may be used. If gear utilizes conventional hooks, it shall not exceed a total of nine points. Herring rakes and hand dip net gear may be used to take squid. Octopus may be taken by hand or by any instrument which will not penetrate or mutilate the body except that it is lawful to retain octopus taken while angling with hook and line gear.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-190 Coastal salmon—Saltwater seasons and bag limits((~~—Salmon~~)). It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) ((~~Puget Sound:~~

~~(a) Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, and 12 - Bag Limit H - open the entire year.~~

~~(b) Catch Record Card Areas 10, 11, and 13 - Bag Limit G - open the entire year.~~

~~(c) In the above waters there are specified closures as provided for in WAC 220-56-128, 220-56-130, and 220-56-195.~~

~~(2)~~)) Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla-Tatoosh Line - Bag Limit F except during the period April 16 through June 15 maximum size limit of 30 inches on chinook salmon if the waters described in this subsection are open - open concurrently with ((~~the~~)) adjacent ocean waters, and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.

(3) Pacific Ocean coastal waters: All waters west of ((a)) the Bonilla-Tatoosh Line ((~~from Tatoosh Island Light to Bonilla Point~~)), Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 ((~~—Bag Limit F—when opened by emergency regulation~~)).

(a) U.S. - Canada border to Cape Alava - May 1 through May 31 - Special bag limit of 2 chinook salmon per day. This subunit will close when the chinook quota is taken.

(b) U.S. - Canada border to Queets River - July 6 through October 1 - Open Sunday through Thursday only - Bag Limit F. This subunit will close when either the chinook or coho quota is taken.

(c) Queets River to Leadbetter Point - July 6 through October 1 - Open Sunday through Thursday - Bag Limit F. This subunit will close when either the coho or chinook quota is taken.

(d) Leadbetter Point to Washington - Oregon Boundary - June 27 through October 1 - Open Sunday through Thursday - Bag limit F. This subunit will close when either the chinook or coho quota for waters from Leadbetter Point to Cape Falcon is taken.

(4) Grays Harbor (Catch Record Card Area 2-2) (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2). Lawful to fish from the bank only of the north and south jetties 7 days per week when the recreational season is in progress in adjacent ocean waters, (b) Bag Limit A - ((~~August~~)) September 16

through January 31: Waters of Catch Record Card Area 2-2 east of the Channel Marker 13 Line.

- or -

Bag Limit A - August 16 through January 31: In the Westport and Ocean Shores boat basins only.

(5) Willapa Bay (Catch Record Card Area 2-1) (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2), (b) Bag Limit A - August ((~~16~~)) 1 through January 31.

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

NEW SECTION

WAC 220-56-191 Puget Sound salmon—Saltwater seasons and bag limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, sizes, and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters as provided for in WAC 220-56-190.

(1) Catch Record Card Areas 5 and 6 - Bag Limit H - open May 1 through August 31, September 4 through September 6 and November 1 through April 30.

(2) Catch Record Card Area 7 - Bag Limit G - Bag Limit H - Open the entire year.

(3) Catch Record Card Areas 8-1, 8-2, and 9 - Bag Limit G - open May 1 through September 6 and November 1 through April 30.

(4) Catch Record Card Areas 10, 11, and 13 - Bag Limit G - open the entire year.

(5) Catch Record Card Area 12 - Bag Limit G - May 1 through September 6 and November 1 through April 30.

(6) In the above waters there are specified closures as provided for in WAC 220-56-128 and 220-56-195. Additionally, there are gear and area restrictions at Shilshole Bay, the Duwamish Waterway, and Budd Inlet, and at the Edmonds underwater park and the Elliott Bay, Les Davis, and Des Moines public fishing piers. See specific sections in chapter 220-56 WAC for salmon angling restrictions at these locations.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-245 Halibut—Bag and possession limits. (1) It is unlawful to fish for or possess more than:

(a) 1 halibut of any size taken from Catch Record Card Areas 1 or 2 in any one day.

(b) 2 halibut taken from those waters of Catch Record Card Areas 3 ((~~through 13~~)) and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh Line in any one day. Of the two halibut, there is no minimum size for one halibut, but the second halibut - must be greater than 40 inches in length.

(c) 2 halibut of any size taken from those waters of Catch Record Card 4 east of the Bonilla-Tatoosh Line and Catch Record Card Areas 5 through 13.

(2) The possession limit shall not exceed one daily bag limit of fresh halibut.

(3) All halibut taken for personal use must be landed either in the round or, if filleted, accompanied by the carcass with the head and tail intact.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-255 Halibut—Season. It is unlawful to fish for or possess halibut taken for personal use except from:

(1) Catch Record Card Areas 1 and 2: ((~~April~~)) May 1 through September 30 - open seven days per week.

(2) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: May ((~~6~~)) 1 through June ((~~27~~)) 30 - ((~~Tuesday through Saturday~~)) 7 days per week until the quota has been taken; ((~~June 30~~)) July 3 through July ((~~29~~)) 31 - Friday and Saturday; ((~~September~~)) August 1 through September ((~~10~~)) 30 - open seven days per week until the quota has been taken.

(3) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: ((~~April 8~~)) May 9 through ((~~June~~)) July 15 - open seven days per week((~~; June 16 through August 11 - Fridays only~~)).

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-382 Oysters and clams on private tidelands—Personal use. (1) WAC 220-56-340 through 220-56-355, ((~~and~~)) 220-56-375 through 220-56-380 and 220-56-385 shall not apply to private tideland owners or lessees of state tidelands taking or possessing oysters, clams, cockles, borers and mussels for personal use from their own tidelands or leased state tidelands.

(2) It shall be unlawful for private tideland owners or lessees of state tidelands to allow any person other than the owner or lessee or immediate family of the owner or lessee to transport or possess unfrozen or unprocessed oysters, clams, cockles, borers, or mussels away from their owned or leased tidelands or adjoining owned or leased uplands in excess of the daily bag limit. Immediate family for purposes of this section means spouse, parent, sibling, child, or grandchild. Immediate family members may take up to two times the daily bag limit of shellfish as provided for in WAC 220-56-310. Immediate family members possessing written authorization on their person may take shellfish in amounts not exceeding the presumption commercial harvest amounts in RCW 69.30.010(8). No person may take commercial quantities of shellfish without department of health certification.

(3) This section shall not apply to razor clams.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 60 inches in length in the Columbia River and tributaries upstream from the ((~~Dalles Dam~~)) Highway 395 Bridge 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~~)) 1 fish not less than 48 inches nor more than 66 inches in length in the Columbia River and tributaries upstream from the Dalles Dam to the Highway 395 Bridge.

(c) 2 fish ((~~in total,~~)) with the following size restrictions in the Columbia River and tributaries upstream from the Buoy 10 Line to the Dalles Dam:

(i) Minimum size is 40 inches in length;

(ii) Maximum size is ((~~60~~)) 72 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)~~)) (d) 2 fish in all other state waters with the following size restrictions:

(i) Minimum size is 40 inches in length;

(ii) Maximum size is 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.

(e) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

((~~(d)~~)) (f) There is an annual personal use bag limit of 15 sturgeon.

((~~(e) No person may have in possession in the state of Washington any sturgeon taken for personal use that exceeds 60 inches in length, regardless of the origin of the 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 92-19, filed 5/12/92, effective 6/12/92)

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 220-56-307 Shellfish—Closed areas. It is unlawful to fish for or possess shellfish taken for personal use from the following areas:

(1) The San Juan Islands Marine Preserve Area, except that it is lawful to take crab for personal use from Parks Bay, using personal use crab gear.

(2) Waters within 200 yards of the salmon net pens located near Sund Rock in Hood Canal, except that it is lawful to take shrimp during the Hood Canal shrimp season provided for in WAC 220-56-325.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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:

(a) In all waters except Shrimp District 5 - 10 pounds, whole in the shell.

(b) In Shrimp District 5 (Hood Canal) - 7 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Pinto abalone: 3 abalone, minimum size limit 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.

(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 92-19, filed 5/12/92, effective 6/12/92)

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~~)):

(a) In Puget Sound waters other than Shrimp District 5 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.

(b) In Shrimp District 5 (Hood Canal) it is unlawful to use more than one shrimp pot during the Hood Canal shrimp season. Only one shrimp pot may be attached to a buoy in the Hood Canal shrimp fishery.

(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 from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(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 Order 89-12, filed 3/16/89)

WAC 220-57-137 Carbon River. Bag Limit A - ((~~October~~)) September 1 through November 30 downstream from the old bridge abutments near the east end of Bridge Street in Orting.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

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 F - August 1 through ((~~August 15 except waters westerly of the Light 26 Line are closed.~~

~~(b) Bag Limit F - August 16 through~~)) Labor Day.

(((~~c~~))) (b) Special daily bag limit of 3 adult salmon - the day after Labor Day through September 30.

(c) Special daily bag limit of 6 salmon, only 3 of which may be adult salmon - ((~~the day after Labor Day~~)) October 1 through December 31.

(d) Bag Limit A - January 1 through March 31.

(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 92-19, filed 5/12/92, effective 6/12/92)

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 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~~)) October 15: Downstream from fishing boundary markers approximately 400 feet below the barrier dam structures except, during the period October 1 through ((~~December 31~~)) October 15, chinook salmon over 28 inches in length taken upstream of the mouth of Blue Creek must be released.

(4) Special Bag Limit - October 16 through December 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam. Bag limit is 6 salmon, minimum size limit 12 inches, not more than 4 of which may be adult coho salmon, and all chinook salmon greater than 28 inches in length taken upstream of the mouth of Blue Creek must be released.

(5) Bag Limit A except minimum size of 12 inches - January 1 through March 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam.

(6) 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~~))) (7) Bag Limit A except minimum size of 8 inches - open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-210 Duckabush River. (1) Special Bag Limit - 2 pink salmon - August 16 through September 30: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All salmon other than pink salmon must be released.

(2) 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 87-16, filed 4/21/87)

WAC 220-57-235 Elochoman River. (1) Bag Limit A - September 1 through September 30: Downstream from the mouth of the west fork.

(2) Bag Limit A - October 1 through ((~~December 31~~)) October 15: Downstream from the mouth of the west fork to the Foster Road Bridge. All chinook salmon greater than 28 inches in length must be released immediately.

(3) Special Bag Limit - 6 salmon not more than 4 of which may be adult coho salmon and all chinook salmon greater than 28 inches in length must be released: Downstream from the mouth of west fork to the Foster Road Bridge.

(4) Bag Limit A - October 1 through ((~~December 31~~)) October 15: Downstream from the Foster Road Bridge.

(5) Special Bag Limit - 6 salmon not more than 4 of which may be adult coho salmon: Downstream from the Foster Road Bridge.

(6) The following waters are closed to salmon angling at all times:

(a) From a point 100 feet above the upper hatchery rack to the Elokomin Salmon Hatchery Bridge located approximately 400 feet below the upper hatchery rack.

(b) From the department of fisheries temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in the river.

(c) Between points 50 feet above and 100 feet below the outlet pipes from the most downstream Elokomin Salmon Hatchery rearing pond and extending 30 feet out from the south bank of the river.

(d) From the Beaver Creek Bridge to 200 feet below the weir at Beaver Creek Hatchery.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-255 Green River (Cowlitz County). ((~~Special~~)) Bag Limit A - ((~~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 87-16, filed 4/21/87)

WAC 220-57-310 Kalama River. (1) Bag Limit A except minimum size limit is 12 inches in length and except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - last Saturday in May through December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.

(2) Bag Limit A except minimum size limit is 12 inches in length and except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - last Saturday in May through December 31: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.

(3) Bag Limit A except minimum size limit is 12 inches in length and except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only and lawful salmon angling gear in those waters upstream from the fly fishing area to a point 1,000 feet below the fishway at the upper salmon hatchery and downstream from the fly fishing area to the Interstate 5 Bridge is limited to bait or lures with one single point hook only, measuring not more than 1/2 inch from point to shank.

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-315 Klickitat River. (1) Bag Limit A - April 1 through January 31 except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon: Downstream from the Fisher Hill Bridge approximately 1-1/2 miles above the mouth, except open to salmon angling only from 12:00 noon Thursdays to 12:00 noon Mondays from April 1 through May 31.

(2) Bag Limit C - May 30 through July 31 - downstream from fishing boundary markers at the downstream end of the Klickitat River Salmon Hatchery grounds to a point 400 feet above the No. 5 Fishway.

(3) Bag Limit A - August 1 through January 31 except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon: Downstream from fishing boundary markers at the downstream end of the Klickitat River Salmon Hatchery grounds to a point 400 feet above the No. 5 Fishway.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-319 Lewis River. (1) Mainstem - Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from east fork to mouth.

(2) East fork:

(a) Bag Limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag Limit A - April 1 through December 31: Downstream from Lucia Falls to the LaCenter Bridge. All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North fork:

(a) Bag Limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the east

fork, except that at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway.

(c) During the period September 1 through November 30, in those waters downstream from the mouth of Colvin Creek to the lower Cedar Creek concrete boat ramp, lawful salmon angling gear is limited to bait or lures with one single pointed hook only, which hook measures not more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-350 Nooksack River. (1) Bag Limit A except that up to six coho salmon may be retained in the daily bag limit - August 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Bag Limit A - October 1 through December 31: Downstream from Maple Creek to mouth of north fork.

(3) South Fork - Bag Limit A - October 1 through December 31: Downstream from the Saxon Bridge to mouth of south fork.

(4) Closed to the taking of pink salmon.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-380 Quilcene (Big Quilcene) River. ((~~Bag Limit A - September 1 through January 31: Downstream from Highway 101 Bridge.~~)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-400 Salmon River (Jefferson County). (1) Bag Limit A - September 16 through November 30 except that it is unlawful to retain chum salmon: Downstream from the Q 1000 Road Bridge including waters within Olympic National Park outside the boundaries of the Quinault Indian Reservation.

(2) It is unlawful to use bait to fish for salmon in the Salmon River.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-425 Skagit River. (1) Special Bag Limit ((~~A~~)) - July 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Six fish daily bag limit which may include not more than one coho salmon greater than 20 inches in length and one chum salmon. If the limit includes no coho salmon greater than 20 inches in length, it may contain up to two chum salmon. 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. All sockeye salmon must be released immediately.

(2) Special Bag Limit ((~~A~~)) - 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,~~)) Six fish daily, of which no more than two may be adult salmon (coho greater than 20 inches in length, chinook salmon greater than 24 inches in length, or chum salmon). The adult portion of the daily bag limit may contain no more than one coho or one chinook salmon. Up to six pink salmon allowed in the six salmon daily bag limit. All sockeye salmon must be released immediately.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-430 Skokomish River. Special Daily Bag Limit of two salmon not less than 12 inches in length. August 1 through September ((~~30~~)) 15 and November 1 through January 31: Downstream from the mouth of Vance Creek. Coho salmon must be released immediately. 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 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-460 ((~~Soleduck~~)) Sol Duc River. Bag Limit A - March 1 through November 30: Downstream from the concrete pump station at the Soleduck Hatchery.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-465 Stillaguamish River. Special Bag Limit ((~~A~~)) of two chum salmon - October ((~~1~~)) 16 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, coho or pink salmon.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-495 Washougal River. Bag Limit A - January 1 through December 31 except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon: Downstream from bridge at Salmon Falls to mouth. During the period October 1 through December 31, in waters upstream from the mouth of Little Washougal River, chinook salmon over 28 inches in length must be released. From September 1 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-270 Hoh River. (1) Bag Limit C - May ((~~16~~)) 1 through November 30: Downstream from the mouth of the south fork Hoh to Morgan's Crossing boat launch site.

(2) Bag Limit A - May ((~~16~~)) 1 through November 30: Downstream from Morgan's Crossing boat launch site.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-445 Snake River. ((~~Bag Limit C - September 1 through November 30: Downstream from a point 400 feet below Little Goose Dam to the mouth, except waters within 400 feet of the Lyons Ferry hatchery fishway and waters at both Lower Monumental Dam and Ice Harbor Dam between the upstream line of each dam and points 400 feet below each dam are~~)) Closed to ((~~fishing for food fish at all times~~)) salmon angling the entire year.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57A-183 Lake Wenatchee. Special daily bag limit of ((~~three~~)) two sockeye salmon not less than 16 inches in length - August 1 through ((~~Labor Day~~)) August 15, except closed to salmon angling within 300 feet of the mouths of the Little Wenatchee River and the White River.

WSR 93-04-097
PROPOSED RULES
STATE PERSONNEL BOARD
[Filed February 2, 1993, 2:43 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-10-030 Positions—Allocation—Reallocation; and new WAC 356-05-157 Essential functions.

Purpose: WAC 356-10-030 directs the Department of Personnel and state agencies to establish procedures and designates responsibility for establishing position allocations and reallocations.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal defines the term "essential functions" and also directs agencies to identify essential functions for each position when the position is established or vacated.

Reasons Supporting Proposal: This proposal is being submitted to allow agencies a procedure to follow in determining fundamental job duties to be in compliance with the Americans with Disabilities Act (ADA).

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Rule is necessary because of federal law, United States Code Service, Title 42, Americans with Disabilities Act.

Explanation of Rule, its Purpose, and Anticipated Effects: Currently WAC 356-10-030 provides the Department of Personnel the authority and procedures on establishing positions, changes in positions and delegation of authority. This proposal would establish a new WAC 356-05-157 to define "essential functions." It will also amend existing WAC 356-10-030 to provide a procedure for state agencies to identify the fundamental job duties or essential functions of each position. This would be completed at the time the position is established or at the time it is vacated.

Proposal Changes the Following Existing Rules: This process needs to be implemented to comply with the ADA. The Department of Personnel will establish guidelines for agencies regarding the factors to be considered in determining essential functions.

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

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on March 11, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by March 9, 1993.

Date of Intended Adoption: March 11, 1993.

January 29, 1993
Marilyn Glenn
Secretary

AMENDATORY SECTION (Amending Order 303, filed 7/18/88, effective 9/1/88)

WAC 356-10-030 Positions—Allocation—Reallocation. (1) Position allocations or reallocations shall be based upon an investigation of duties and responsibilities assigned and/or performed and other information and recommendations. Every position shall be allocated to an established class.

(2) Allocations may be made by:

(a) The director or designated staff of the department of personnel; OR,

(b) By agency directors or other designees authorized under subsection (3) of this section.

(3) Agency directors may request and the director of personnel may approve, the authorization of the agency director or designee to approve or disapprove the allocation or reallocation of positions for which the agency has been delegated allocation authority under the merit system rules and procedures approved by the director of personnel.

(4) It shall be the duty of the appointing authority and/or the personnel representative to report to the director of personnel any changes in duties, responsibilities or organization in a position which may affect position allocation.

(5) Agencies shall establish procedures for processing and reporting new positions, changes in position duties, and requests for position review to provide proper maintenance of the classification plan. The procedure will include identification of the essential functions for each position within the plan at the time the position is established and when it is vacated. The director shall provide guidance to agencies regarding the factors to be considered in determining whether a function is essential. The procedure shall provide for individual employee requests for position review,

based on duties and responsibilities, through the agency personnel office to the director of personnel. This procedure will not cause undue delay in the director of personnel or designee reviewing the requested reclassification. Such procedures shall be reviewed and approved by the director of personnel or designee. Notice of changes in this procedure initiated by agencies, will be provided to exclusive bargaining representatives and a copy to the director of personnel.

(6) Questions concerning the previous classification of employees due to the retitling, reallocating or reclassification of positions will be determined by the director of personnel or designee.

(7)(a) Employees affected by agency initiated reallocations shall be notified in writing by the agency not less than twenty calendar days in advance of the intended date of the action, provided that this notice requirement shall not preclude the establishment of effective dates for other than competitive reallocations as provided in WAC 356-10-050.

(b) Any official authorized in subsection (2) of this section to make allocation or reallocation determinations shall immediately transmit a written notice of the determination to the employee in the position affected by that determination.

NEW SECTION

WAC 356-05-157 Essential functions. The fundamental job duties that an employee must be able to perform, with or without reasonable accommodation.

WSR 93-04-098
PROPOSED RULES
PERSONNEL BOARD
[Filed February 2, 1993, 2:47 p.m.]

Continuance of WSR 92-18-059, 92-22-040, 92-24-099, and 93-02-041.

Title of Rule: WAC 356-35-010 Disability—Reasonable accommodation—Separation—Appeals.

Purpose: This rule describes procedures and entitlements for an employee who needs to be reasonably accommodated or separated from employment due to a disability.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on February 11, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by February 9, 1993.

Date of Intended Adoption: February 11, 1993.

February 2, 1993
Marilyn Glenn
Acting Secretary

WSR 93-04-099
PROPOSED RULES
PERSONNEL BOARD
[Filed February 2, 1993, 2:50 p.m.]

Continuance of WSR 92-20-080, 92-24-100, and 93-02-036.

Title of Rule: WAC 356-30-330 Reduction in force—Reasons, regulations—Procedure.

Purpose: This rule establishes guidelines and procedures to be used when determining and implementing a reduction in force.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, 586-1770; Implementation and Enforcement: Department of Personnel.

Hearing Location: Department of Personnel, 521 Capitol Way South, 2nd Floor, Board Room, Olympia, WA, on March 11, 1993, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by March 9, 1993.

Date of Intended Adoption: March 11, 1993.

February 2, 1993
Marilyn Glenn
Acting Secretary

WSR 93-04-101
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed February 2, 1993, 3:19 p.m.]

Original Notice.

Title of Rule: Licensed pharmacist change of address.

Purpose: To more clearly place responsibility for notification of change of address on licensee.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: This amendment more clearly places responsibility for notification of address changes on licensee and allows charges against licensees that are returned unclaimed of [or] that are not able to be delivered to proceed without return.

Reasons Supporting Proposal: Licensees neglect to notify Board of Pharmacy of address changes and mail is not able to reach them.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 1300 Quince S.E., Olympia, WA, (206) 753-6834.

Name of Proponent: Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will place the responsibility of supplying the Board of Pharmacy with a current address more firmly on the shoulders of the licensee. If statements of charges, or

other legal documents, are returned unclaimed, the board can proceed against the licensee despite lack of proof that licensee has received the charges.

Proposal Changes the Following Existing Rules: Delineates pharmacist's responsibility for maintaining current mailing address with the board and allows charges by certified mail to be acted on even if mail is not able to be delivered.

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

Hearing Location: WestCoast SeaTac Hotel, Cascade Room, 18220 Pacific Highway South, Seattle, WA, on March 17, 1993, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, by March 15, 1993.

Date of Intended Adoption: March 17, 1993.

February 1, 1993
Donald H. Williams
Executive Director

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-863-050 Licensed pharmacists change of address. ((~~All~~)) It is the responsibility of the licensed pharmacist to maintain a current mailing address with the board. Licensed pharmacists shall notify the state board of pharmacy of any change of mailing address within thirty days of the change. The board may rely upon the last mailing address ((~~of record~~)) for purposes of service or delivery of any official board documents, including the service of adjudicative proceeding documents. If charges against the licensee are mailed by certified mail to the address on file with the board and returned unclaimed or are unable to be delivered for any reason, the board may proceed against the licensee by default under RCW 34.05.440.

WSR 93-04-102
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed February 2, 1993, 3:22 p.m.]

Original Notice.

Title of Rule: Model procedural rules for boards.

Purpose: To establish rules for adjudicative proceedings authorized by boards having disciplinary authority.

Statutory Authority for Adoption: RCW 18.130.050(1), as well as RCW 18.130.060(3) for WAC 246-11-110 and 246-11-140.

Statute Being Implemented: RCW 34.05.220 is WAC 246-11-001, 246-11-010, 246-11-040, 246-11-200, 246-11-210, 246-11-250, 246-11-260, 246-11-270, 246-11-280, 246-11-530, and 246-11-610; RCW 4.24.240 is WAC 246-11-220; RCW 4.24.250 is WAC 246-11-001, 246-11-100, and 246-11-220; RCW 4.24.260 is WAC 246-11-220; RCW 34.05.419 is WAC 246-11-290; RCW 34.05.422 is WAC 246-11-310 and 246-11-300; RCW 34.05.434 is WAC 246-11-470; RCW 34.05.440 is WAC 246-11-280; RCW 34.05.446 is WAC 246-11-400; RCW 34.05.452(5) is WAC 246-11-160; RCW 34.05.455 is WAC 246-11-440; RCW 34.05.464 is WAC 246-11-550 and 246-11-560; RCW 34.05.467 is WAC 246-11-570; RCW 34.05.470 is WAC 246-11-280 and 246-11-580; RCW 34.05.473 is WAC 246-11-320 and 246-11-560; RCW 34.05.476 is WAC 246-11-590; RCW 34.05.479 is WAC 246-11-310, 246-11-320, 246-11-330, 246-11-300, 246-11-340, and 246-11-350; RCW 34.05.482 is WAC 246-11-420; RCW 34.05.485 is WAC 246-11-440; RCW 34.05.488 is WAC 246-11-440; RCW 34.05.491 is WAC 246-11-440; RCW 34.05.494 is WAC 246-11-450; RCW 34.05.510 is WAC 246-11-600; RCW 34.05.566 is WAC 246-11-140; and chapter 42.17 RCW is WAC 246-11-560 and 246-11-590.

Summary: Establishes rules for adjudicative proceedings authorized by boards having disciplinary authority.

Name of Agency Personnel Responsible for Drafting: Colleen Klein, Attorney, 2413 Pacific Avenue, Olympia, 664-8881; Implementation and Enforcement: Colleen Klein and Bonnie King, 2413 Pacific Avenue, Olympia, 664-8881.

Name of Proponent: Medical Disciplinary Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes rules for adjudicative proceedings.

Proposal does not change existing rules.

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

Hearing Location: Office Building 2, Department of Social and Health Services, 14th and Jefferson, Olympia, Washington, on March 11, 1993, at 1:00 p.m.

Submit Written Comments to: Ann Foster, P.O. Box 47902, Olympia, WA 98504-7902, by March 11, 1993.

Date of Intended Adoption: March 18, 1993.

January 28, 1993
Kristine M. Gebbie
Secretary

Chapter 246-11 WAC
MODEL PROCEDURAL RULES FOR BOARDS

SECTION I
PRELIMINARY MATTERS

NEW SECTION

WAC 246-11-001 Purpose and application of chapter. (1) This chapter contains model rules for adjudicative proceedings authorized to be conducted under the authority of a board having disciplining authority under the Uniform Disciplinary Act, chapter 18.130 RCW. Each board may adopt these rules as contained in this chapter or as modified.

(2) This chapter, as modified and adopted by the board, shall apply to adjudicative proceedings authorized to be conducted under the authority of the board.

(3) This chapter applies to adjudicative proceedings begun on or after the effective date of this chapter in programs administered by the board. For purposes of this section, "begun" shall mean the receipt by the appropriate office of an application for an adjudicative proceeding.

These rules shall be the exclusive rules governing adjudicative proceedings under the jurisdiction of the board.

(4) To the extent that these rules differ by inclusion, deletion, or content from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250, this chapter shall prevail in order to provide a process consistent with the organization of the department and the board.

(5) Where a provision of this chapter conflicts with another chapter of Title 246 WAC, the provision of this chapter shall prevail.

(6) Where a provision of this chapter conflicts with a provision of the Revised Code of Washington, the statute shall prevail.

NEW SECTION

WAC 246-11-010 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

(1) "Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an opportunity to be heard by the board prior to the entry of a final order under this chapter.

(2) "Administrative hearings unit" or "hearings unit" shall mean the administrative hearings unit of the department of health, whose address is:

Department of Health
Administrative Hearings Unit
1300 Quince Street
PO Box 47851
Olympia, WA 98504-7851

(3) "Board" shall mean a disciplining authority under RCW 18.130.040 (2)(b).

(4) "Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

(5) "Department" shall mean the Washington state department of health and, where appropriate, the secretary of the Washington state department of health.

(6) "Filing" shall mean receipt by the administrative hearings unit.

(7) "Hearings officer" shall mean a person appointed by the board to preside over some proceedings as permitted by this chapter.

(8) "Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license and which creates the right to an adjudicative proceeding. It may be denominated a statement of charges, notice of intent to deny, or by any other designation indicating the action or proposed action to be taken.

(9) "License" shall have the meaning set forth in RCW 34.05.010 and includes license to practice the profession for which the board is the disciplining authority and any approval of school or curriculum required by law or rule to be obtained from the board.

(10) "Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the license holder or applicant for license following summary action taken in accord with this chapter against that license holder or applicant.

(11) "Program" shall mean the administrative unit within the department responsible for implementation of that chapter of Title 18 RCW establishing the board or its powers and responsibilities.

(12) "Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

(13) "Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding and may either be a member of the board or an administrative law judge employed by the office of administrative hearings.

(14) "Respondent" shall mean a license holder or applicant for license under the jurisdiction of the board who is named in an initiating document.

(15) "Secretary" shall mean the secretary of the department of health or his/her designee.

(16) "Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or welfare and shall include, but not be limited to, a cease and desist order, an order of summary suspension, and an order of summary restriction of a license.

NEW SECTION

WAC 246-11-020 Signature authority. (1) A person designated by the board shall sign all initiating documents and orders issued under this chapter.

(2) Authority to sign shall be indicated by designation of the title of the person signing and shall not require any other affirmation, affidavit, or allegation.

NEW SECTION

WAC 246-11-030 Appearance of parties. If a respondent requests an adjudicative proceeding to contest the action, that party shall appear at all stages of the proceeding except as otherwise provided in this section.

(1) If the respondent is represented as provided in this chapter, the respondent shall appear personally at the hearing and at any scheduled settlement conference but need not appear at the prehearing conference or at presentation of motions.

(2) Parties may be represented by counsel at all proceedings.

(3) The respondent may appear by telephone at any portion of the proceedings conducted by telephone, in the discretion of the presiding officer following reasonable advance notice to the presiding officer and to the opposing party.

(4) The requirement of personal appearance may be waived for good cause in the discretion of the presiding officer.

(5) Failure to appear as provided in this chapter shall be grounds for taking final action by default.

NEW SECTION

WAC 246-11-040 Computation of time. (1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or legal holiday.

(3) When the last day is a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(4) When the period of time prescribed or allowed is seven days or less, any intermediate Saturday, Sunday, and legal holiday shall be excluded from the computation.

NEW SECTION

WAC 246-11-050 Notarization, certification, and authentication. (1) A person's sworn written statement, declaration, verification, certificate, oath, or affidavit may be authenticated by an unsworn written statement which is executed in substantially the following form:

> I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.
>
> _____ _____
>
> (date and place) (Signature)

(2) Documents or records may be authenticated by a certification, as provided in subsection (1) of this section, from the custodian of the records or other qualified person that the documents or records are what they purport to be.

(3) Signature of any attorney shall be accompanied by and authenticated by that attorney's Washington State Bar Association number.

(4) Documents prepared and submitted by a party who is not represented by an attorney shall be signed and dated by that party and shall include that party's current address.

(5) Signature by a party or an attorney on a document shall constitute a certificate by the party or attorney that he/she has read the document, believes there are grounds to support it, and has not submitted the document for delay, harassment, or needless increase in the cost of a proceeding.

(6) Compliance with certification requirements of subsections (1) and (2) of this section creates a rebuttable presumption that a document is authentic.

NEW SECTION

WAC 246-11-060 Current address. Each license holder and applicant shall provide current mailing address and all subsequent address changes to the program. Whenever service upon any such person is required by these rules, the most recent address provided may be used unless the program has actual knowledge that the person resides at a different address.

NEW SECTION

WAC 246-11-070 Representation. (1) License holders, applicants for license, and recipients of benefits may be represented subject to the following conditions:

(a) A license holder or applicant for license may represent himself/herself or may be represented by an attorney who has complied with the admission to practice rules of the supreme court of the state of Washington;

(b) Every attorney representing a license holder or applicant for license shall file a notice of appearance with the board upon commencing representation, and shall file a notice of withdrawal of counsel with the board upon terminating representation.

(c) No license holder or applicant may be represented in an adjudicative proceeding by an employee of the department.

(2) No current or former employee of the department may appear as an expert, character witness, or representative of any party other than the state of Washington if he/she took an active part in investigating or evaluating the case or represented the agency in the matter, unless written permission of the secretary is granted. No current or former member of the attorney general's office staff who participated personally and substantially in investigating or evaluating the matter at issue while so employed may represent a party or otherwise participate in a related proceeding without first having obtained the written consent of the attorney general's office.

NEW SECTION

WAC 246-11-080 Service and filing. (1) A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.

(2) Unless otherwise provided by law, filing and service shall be made by personal service; first class, registered, or certified mail; or commercial parcel delivery company.

(3) Filing shall be complete upon actual receipt during normal business hours at the board's office, unless filing is directed in writing to be made to another address.

(4) Service shall be complete when personal service is made; mail is properly stamped, addressed, and deposited in the United States mail; or a parcel is delivered to a parcel delivery company with charges prepaid.

(5) Proof of service shall consist of filing as required by these rules, together with one of the following:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served, the parties upon whom served, the signature of the serving party, and a statement that service was completed by:

(i) Personal service; or

(ii) Mailing in the United States mail or shipping by commercial parcel service a copy properly addressed with postage and fees prepaid to each party and each designated representative.

NEW SECTION

WAC 246-11-090 Jurisdiction. (1) The board has jurisdiction over all licenses issued by the board and over all holders of and applicants for licenses. Such jurisdiction is retained even if an applicant requests to withdraw the application, or a licensee surrenders or fails to renew a license.

(2) The department has jurisdiction over unlicensed practice of any activity for which a license is required.

NEW SECTION

WAC 246-11-100 Telephone proceedings. (1) The presiding officer may conduct all or part of the proceedings or permit a party or witness to appear by telephone or other electronic means if each participant in the proceedings has an opportunity to participate in, hear, and, if technically and economically feasible, see the entire proceeding while it is taking place. Cost of such appearance may be assessed to the party so appearing or on whose behalf the witness appears.

(2) If all or part of the proceedings is conducted as provided in subsection (1) of this section, the parties shall file and serve copies of all documentary evidence no less than three days prior to the proceeding. The presiding officer may, for good cause, allow exceptions to this requirement.

NEW SECTION

WAC 246-11-110 Hearing location. The presiding officer shall designate sites for the conduct of proceedings taking into account accessibility, efficiency, and economy.

NEW SECTION

WAC 246-11-120 Good faith requirement. Good faith shall be the standard for compliance with these rules. Failure to make a good faith effort to comply with these rules shall be grounds for sanctions as provided in this chapter.

NEW SECTION

WAC 246-11-130 Public records. (1) All papers, exhibits, transcripts, and other materials required by or submitted in accordance with this chapter shall be considered public records.

(2) Release of information shall be subject to the following limitations:

(a) Release of health care information shall comply with chapter 70.02 RCW and rules promulgated thereunder;

(b) Protective orders issued pursuant to WAC 246-11-400 shall prevail;

(c) Initiating documents may be released after service upon the license holder or applicant but no other records shall be released until a final order is entered and served; and

(d) Chapter 42.17 RCW shall govern the release of records.

NEW SECTION

WAC 246-11-140 Expenses and witness fees. (1) Fees and expenses shall be paid at the following rates to witnesses appearing under subpoena by the party requesting the appearance:

(a) Fees shall be paid at the daily rate established for jurors in superior court of Thurston County; and

(b) Expenses shall be paid at the rate established for employees of the state of Washington, or as otherwise required by law.

(2) Fees for an expert witness shall be negotiated by and paid by the party requesting services of the expert.

(3) All expenses incurred in connection with proceedings under this chapter shall be paid by the party incurring the expense.

(4) The program shall pay expenses associated with:

(a) The facility in which proceedings are conducted; and

(b) Recording of the proceedings.

(5) Expenses related to preparation and distribution of the transcript of proceedings shall be paid by the party filing a motion or request for review of an initial order or petition for reconsideration, appealing a final order, or otherwise requesting the transcript.

NEW SECTION

WAC 246-11-150 Immunity. The legislature has determined that persons who file complaints with or provide information to the department or board regarding health care practitioners licensed by the board or department are immune from civil liability, provided that such persons have acted in good faith. RCW 4.24.240 through 4.24.260, 18.130.170, 18.130.180, and 18.130.300 set forth the provisions under which immunity is granted.

NEW SECTION

WAC 246-11-160 Official notice and agency expertise. (1) Official notice may be taken as provided in RCW 34.05.452(5).

(2) The board, through its designated presiding officer or hearings officer, may use its expertise and specialized knowledge to evaluate and draw inferences from the evidence presented to it.

NEW SECTION

WAC 246-11-170 Sanctions. (1) Orders may include sanctions against either party.

(2) Grounds for sanctions may include:

(a) Failure to comply with these rules or orders of the presiding officer; and

(b) Willful interference with the progress of proceedings.

(3) Sanctions may include:

(a) Dismissal of the matter;

(b) Proceeding in default; and

(c) Other sanctions as appropriate.

(4) The order shall state the grounds upon which any sanctions are imposed.

NEW SECTION

WAC 246-11-180 Intervention. (1) The presiding officer may grant a petition for intervention pursuant to RCW 34.05.443.

(2) A request to intervene shall be handled as a prehearing motion and shall be subject to the dates contained in the scheduling order. Within the sound exercise of discretion, the presiding officer may allow intervention if:

(a) The intervenor is not a party to the matter but has a substantial interest in outcome of the matter and the interest of the intervenor is not adequately represented by a party, or other good cause exists; and

(b) Any representative of the intervenor meets the requirements of WAC 246-11-070.

(3) A person shall not be allowed to intervene if that person had notice of the board's decision and, upon timely application, would have been able to appear as a party in the matter in which intervention is sought, but failed to make such timely application.

(4) If intervention is granted, the intervenor shall be subject to these rules on the same basis as the other parties to the proceeding, unless otherwise limited in the order granting intervention.

NEW SECTION

WAC 246-11-190 Form of pleadings and orders. (1) Pleadings, orders, and other papers filed, served, or entered under this chapter shall be:

(a) Captioned with the name of the state of Washington, the name of the board, and the title and cause number, if any, of the proceeding; and

(b) Signed by the person filing, serving, or entering the document. When that person is an attorney representing a party, the signature block shall include the attorney's Washington State Bar Association number.

(2) All orders shall comply with RCW 34.05.461 and the requirements of this chapter.

NEW SECTION

WAC 246-11-200 Notice to limited-English-speaking parties. When the program or the hearings unit is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, shall either be in the primary language of the party or shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and, if necessary, responding to the notice.

NEW SECTION

WAC 246-11-210 Interpreters. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defect cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) A "limited-English-speaking person" means a person who because of a non-English speaking cultural background cannot readily speak or understand the English language.

(3) If a hearing impaired person or a limited-English-speaking person is involved in an adjudicative proceeding and a need for an interpreter is made known to the hearings unit, the presiding officer shall appoint an interpreter who is acceptable to the parties or, if the parties are unable to agree on an interpreter, the presiding officer shall select and appoint an interpreter.

(4) Before beginning to interpret, an interpreter shall take an oath or make affirmation that:

(a) A true interpretation shall be made to the impaired person of all the proceedings in a language or in a manner the impaired person understands; and

(b) The interpreter shall repeat the statements of the impaired person to the presiding officer, in the English language, to the best of the interpreter's skill and judgment.

(5) When an interpreter is used in a proceeding:

(a) The interpreter shall translate all statements made by other participants in the proceeding;

(b) The presiding officer shall ensure sufficient extra time is provided to permit translation; and

(c) The presiding officer shall ensure that the interpreter translates the entire proceeding to the hearing impaired person or limited-English-speaking person to the extent that the person has the same opportunity to understand the statements made as would a person not requiring an interpreter.

(6) An interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The program shall pay the interpreter fee and expenses incurred for interpreters for license holders, applicants, or recipients of benefits. The party on whose behalf a witness requiring an interpreter appears shall pay for interpreter services for that witness.

(7) All proceedings shall be conducted consistent with chapters 2.42 and 2.43 RCW.

NEW SECTION

WAC 246-11-220 Subpoenas. (1) The board, through the presiding officer, hearings officer, or other designated person, and attorneys for parties may issue subpoenas to residents of the state of Washington, to license holders and applicants for license, and to other persons or entities subject to jurisdiction under RCW 4.28.185.

(2) The presiding officer or hearings officer shall issue subpoenas pursuant to RCW 34.05.446(1) for parties not represented by counsel upon request of the party and upon a showing of relevance and reasonable scope of the testimony or evidence sought.

(3) The person on whose behalf the subpoena is issued shall pay any witness fees and expenses as provided in WAC 246-11-140 or costs for interpreters for such witnesses as provided in WAC 246-11-210.

(4) Attendance of persons subpoenaed and production of evidence may be required at any designated place in the state of Washington.

(5) Every subpoena shall:

(a) Comply with WAC 246-11-190;

(b) Identify the party causing issuance of the subpoena;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony and/or produce designated items under the person's control at a specified time and place.

(6) A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Giving a copy to the person to whom the subpoena is addressed;

(b) Leaving a copy at the residence of the person to whom the subpoena is addressed with a person of suitable age and discretion;

(c) Sending a copy by mail to the current address on file with the program if the person is licensed by the board or has filed an application for a license with the board; or

(d) Sending a copy by certified mail with proof of receipt if the person is neither licensed by nor has applied for a license with the board.

(7) Proof of service may be made by:

(a) Affidavit of personal service;

(b) Certification by the person mailing the subpoena to a license holder or applicant; or

(c) Return or acknowledgment showing receipt by the person subpoenaed or his/her representative. Any person accepting certified or registered mail at the last known address of the person subpoenaed shall be considered an authorized representative.

(8) The presiding officer or hearings officer, upon motion made promptly and before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or requires evidence not relevant to any matter at issue; or

(b) Condition denial of the motion upon just and reasonable conditions, including advancement of the reasonable cost by the person on whose behalf the subpoena is issued of producing the books, documents, or tangible things; or

(c) Issue a protective order under RCW 34.05.446.

(9) The board may seek enforcement of a subpoena under RCW 34.05.588(1) or proceed in default pursuant to WAC 246-11-280.

NEW SECTION

WAC 246-11-230 Hearings officer. (1) The board may appoint one or more persons to preside over some or all proceedings under this chapter not required by statute to be conducted by the presiding officer.

(2) Any person appointed as hearings officer shall be an employee of the department.

(3) Decisions and rulings of the hearings officer shall become final rulings unless appealed to the presiding officer as provided in WAC 246-11-550.

SECTION II
INITIATING ACTIONS

NEW SECTION

WAC 246-11-250 Form and content of initiating documents. (1) Initiating documents shall include a clear and concise statement of the:

(a) Identity and authority of the person issuing the document;

(b) Factual basis for the action or proposed action set forth in the document;

(c) Statutes and rules alleged to be at issue;

(d) Identity of the party against whom the action is taken or proposed to be taken;

(e) Action or proposed action or penalties, including the statutory or rule authority for those actions or penalties; and

(f) Signature of the person issuing the document and the date signed.

(2) Initiating documents shall be accompanied by the following documents:

(a) Notice that the respondent may defend against the action or proposed action; and

(b) Form for requesting adjudicative proceeding.

(3) Initiating documents shall be served as described in WAC 246-11-080.

NEW SECTION

WAC 246-11-260 Amendment of initiating documents. (1) Prior to the hearing date, initiating documents may be amended subject to the following conditions:

(a) Amended initiating documents shall meet the requirements of WAC 246-11-250(1);

(b) Amended initiating documents shall be accompanied by the documents described in WAC 246-11-250(2);

(c) Whenever amended initiating documents are issued, a new interval for response will begin, as described in WAC 246-11-270, unless the amendment benefits the respondent; and

(d) Issuance of amended initiating documents ends all obligations of the parties under the prior initiating documents.

(2) On the hearing date, the initiating documents may be amended subject to the following conditions:

(a) The documents may be amended upon motion of the state;

(b) The documents may not be amended without the approval of the presiding officer; and

(c) Upon motion of a party or upon his/her own initiative, the presiding officer may grant a continuance on all or part of the matter if necessary to afford the respondent an opportunity to prepare a defense to the amended documents.

NEW SECTION

WAC 246-11-270 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents; and

(ii) For all other matters, within twenty-eight days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding shall be made on the Request for Adjudicative Proceeding form accompanying the initiating documents or by a written document including substantially the same information.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved by the presiding officer, by telephone, unless appearance is waived as authorized in WAC 246-11-130(4).

(d) The application for adjudicative proceeding shall contain a response to the initiating documents, indicating whether each charge is admitted, denied or not contested, and responses shall be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it shall be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding shall specify the representative, if any, designated pursuant to WAC 246-11-070 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding shall be filed at the board's office.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) At the address indicated in subsection (1)(f) of this section.

NEW SECTION

WAC 246-11-280 Default. (1) If a party fails to respond to initiating documents according to WAC 246-11-270, that party will be deemed to have waived the right to a hearing, and the board shall enter a final order without further contact with that party.

(2) If a party requests an adjudicative proceeding but fails to appear, without leave to do so, at a scheduled settlement or prehearing conference, the presiding officer may issue an order of default. The order shall include notice of opportunity to request that the default order be vacated pursuant to RCW 34.05.440(3).

(3) If a party requests an adjudicative proceeding but fails to appear at the hearing, the presiding officer may issue an order of default in the same manner as subsection (2) of this section, or may proceed to hear the matter in the absence of the party and issue a final order.

(4) Final orders entered under this section shall contain:

(a) Findings of fact and conclusions of law based upon prima facie proof of the allegations contained in the initiating documents;

(b) A finding that there is no reason to believe that the party in default is in active military service;

(c) The penalties or conditions imposed by the order; and

(d) Notice of the opportunity to request reconsideration pursuant to RCW 34.05.470.

(5) Final and default orders entered under this section shall be served upon the parties in accordance with WAC 246-11-080.

NEW SECTION

WAC 246-11-290 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, the board or designee thereof, shall:

(a) Examine the application;

(b) Notify the respondent of any obvious errors or omissions;

(c) Request any additional information the board or designee wishes or is permitted by law to require; and

(d) Notify the respondent of the name, mailing address, and telephone number of an office that may be contacted regarding the application.

(2) Within ninety days after receipt of any additional information required to be submitted under subsection (1)(c) of this section or receipt of an application without obvious errors or omissions, whichever comes later, the board or designee shall:

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a notice of the date, time, and place of the hearing; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

(3) The presiding officer or hearings officer may issue a scheduling order governing the course of the proceeding and the scheduling order may be modified by order of the presiding officer or hearings officer.

SECTION III
EMERGENCY ADJUDICATIVE PROCEEDINGS

NEW SECTION

WAC 246-11-300 Conduct of emergency adjudicative proceedings. (1) Summary action may be taken only after a review by the board or designee of such evidence, including affidavits, if appropriate, to establish:

(a) The existence of an immediate danger to the public health, safety, or welfare;

(b) The board's ability to address the danger through a summary action, and

(c) The summary action necessary to address the danger.

(2) No notice to any person potentially affected by a summary action shall be required prior to issuance of a summary action.

NEW SECTION

WAC 246-11-310 Effect of summary action. (1) Summary action takes effect upon entry of the order.

(2) No person shall be required to comply with a summary action until service has been made or the person has knowledge of the order, whichever occurs first.

(3) A summary action shall be served as promptly as practicable, in accordance with WAC 246-11-080.

(4) A summary action shall not be subject to the post hearing process provided in WAC 246-11-550 through 246-11-610, but a summary action may be appealed to superior court as provided by law.

NEW SECTION

WAC 246-11-320 Form and content of summary actions. (1) A summary action shall be entered in the form of an order containing findings of fact, conclusions of law, and the summary action imposed, as well as a statement of policy reasons for the decision.

(2) A summary action imposed by emergency adjudicative proceeding shall be limited to those actions necessary to alleviate an immediate danger to the public health, safety, or welfare.

(3) Initiating documents, and all other documents required by WAC 246-11-250 shall accompany a summary action order when served.

NEW SECTION

WAC 246-11-330 Adjudicative proceedings upon summary action. Following summary action taken by the board, the respondent may:

(1) Request a prompt adjudicative proceeding conducted in accordance with this chapter; or

(2) Waive the prompt adjudicative proceeding and request an adjudicative proceeding conducted in accordance with this chapter;

(3) Waive the right to an adjudicative proceeding and submit a written statement to be considered prior to the entry of the final order; or

(4) Waive the opportunity to be heard.

NEW SECTION

WAC 246-11-340 Opportunity for prompt adjudicative proceeding. (1) Any respondent affected by a summary action shall be provided the opportunity to request a prompt adjudicative proceeding. Notice of the opportunity shall be provided in the notice of opportunity to defend against the allegations that are the basis for the summary action. The form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.

(2) Any respondent affected by a summary action may request an prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding in lieu of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding in accord with WAC 246-11-270.

(3) Any request for a prompt adjudicative proceeding must be filed within ten days of the service of the summary action.

(4) If requested by the respondent, a prompt adjudicative proceeding shall be conducted within twenty days of service of a summary action.

(5) Regardless whether a prompt adjudicative proceeding is requested, the matter shall be resolved as quickly as feasible in accordance with all other applicable rules.

NEW SECTION

WAC 246-11-350 Proceedings prior to prompt adjudicative proceeding. A settlement conference may be requested, a settlement may be offered, and a prehearing conference may be conducted prior to a prompt adjudicative proceeding. Prehearing proceedings shall not delay a prompt adjudicative proceeding except by mutual agreement of the parties.

SECTION IV
SETTLEMENT AND PREHEARING PROCEDURE

NEW SECTION

WAC 246-11-360 Settlement conference. (1) Following a request for an adjudicative proceeding, the presiding officer or hearings officer may schedule a settlement conference. The parties shall be notified of the date, time, and place of the settlement conference.

(2) The purpose of the settlement conference shall be to attempt to reach agreement on the issues and the order to be entered. Any agreement of the parties is subject to final approval by the board.

(3) The respondent shall attend the settlement conference as scheduled and may also be represented as provided in WAC 246-11-070. Representatives of the board and/or department will also attend. Other persons may attend by agreement of the parties.

(4) Either party may bring documents or other materials to the settlement conference for the purpose of settlement negotiations. No testimony will be taken. No documents or information submitted at the settlement conference will be admitted at the adjudicative proceeding unless stipulated by the parties or otherwise admitted into evidence by the presiding officer.

(5) If a settlement offer has been made in writing to the respondent and it is signed and returned by the respondent to the board prior to the settlement conference, all subsequent scheduled dates are continued pending final review of the settlement by the board.

NEW SECTION

WAC 246-11-370 Discovery. The parties are encouraged to exchange information and documents related to the case prior to the adjudicative proceeding. Formal discovery may be had at the discretion of the presiding officer.

NEW SECTION

WAC 246-11-380 Motions. (1) The presiding officer shall rule on motions or may appoint a hearings officer to rule on motions. The presiding officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, shall be made in writing to the presiding officer prior to the dates set in the scheduling order.

(3) Motions for continuance must be made in writing within forty-five days following service of the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than forty-five days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing.

(4) The presiding officer may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section in a bona fide emergency.

NEW SECTION

WAC 246-11-390 Prehearing conference. (1) The presiding officer may schedule a prehearing conference to be held prior to the hearing. Parties shall be notified of the time and place of the conference in the scheduling order.

(2) The presiding officer shall conduct the prehearing conference and shall issue rulings related to prehearing motions and evidentiary issues. The rulings shall govern the conduct of subsequent proceedings.

(3) The prehearing conference shall be recorded unless recording is waived by the parties. All offers of proof and objections concerning matters raised at the prehearing conference must be made on the record at the prehearing conference.

(4) Following the prehearing conference, the presiding officer shall issue a written prehearing order which will:

(a) Identify the issues to be considered at the hearing and indicate which party has the burden of proof on these issues;

(b) Specify the facts which are admitted or not contested by the parties;

(c) Identify those documents and exhibits that will be admitted at hearing and those which may, by agreement, be distributed prior to hearing;

(d) Identify expert and lay witnesses that may be called at hearing and the issues to which those witnesses may testify;

(e) Rule on motions;

(f) Accept amendments to the pleadings;

(g) Address such other issues or matters as may be reasonably anticipated to arise and which may aid in the disposition of the proceedings; and

(h) Rule on objections made in any preserved testimony.

(5) Following the prehearing conference, the presiding officer or hearings officer may issue an order directing that the matter be heard as a brief adjudicative proceeding, pursuant to WAC 246-11-420 through 246-11-450.

(6) Documentary evidence not offered in the prehearing conference shall not be received into evidence at the adjudicative proceeding in the absence of a clear showing that the offering party had good cause for failing to produce the evidence at the prehearing conference.

(7) Witnesses not identified during the prehearing conference shall not be allowed to testify at the adjudicative proceeding in the absence of a clear showing that the party offering the testimony of such witness had good cause for failing to identify the witness at the prehearing conference.

(8) If the authenticity of documents submitted at the prehearing conference is not challenged at the prehearing conference, the documents shall be deemed authentic. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to object at the prehearing conference.

(9) Nothing in these rules shall prohibit the presiding officer or hearings officer from conducting a conference at any time, including during the hearing. The presiding officer or hearings officer shall state on the record the results of such conference.

(10) A party bound by a stipulation or admission of record may withdraw it in whole or in part only upon a determination by the presiding officer or hearing officer that:

(a) The stipulation or admission was made inadvertently or as a bona fide mistake of fact or law; and

(b) The withdrawal will not unjustly prejudice the rights of the other parties.

(11) In an appeal to superior court involving issues addressed in the prehearing order, the record of the prehearing conference, the prehearing order and any orders issued by the presiding officer pursuant to WAC 246-11-380, shall be the record.

NEW SECTION

WAC 246-11-400 Protective orders. The presiding officer may issue a protective order at his or her discretion:

(1) To protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense;

(2) To preserve confidentiality related to health care records or provider-client information;

(3) To protect examination processes;

(4) To protect the identity of a person supplying information to the department or board where the person indicates a desire for nondisclosure unless that person testifies or has been called to testify at an adjudicative proceeding; or

(5) To comply with applicable state or federal law.

SECTION V
BRIEF ADJUDICATIVE PROCEDURES

NEW SECTION

WAC 246-11-420 Application of brief adjudicative proceedings. (1) If an adjudicative proceeding has been requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(a) A determination of whether an applicant for a license meets the minimum criteria for an unrestricted license and the board proposes to deny such a license or to issue a restricted license;

(b) A determination as to whether a person is in compliance with the terms and conditions of a final order previously issued by the board; and

(c) Any approval of a school or curriculum when such approval by the board is required by statute or rule.

(2) If an adjudicative proceeding has been requested, a brief adjudicative proceeding may be conducted at the discretion of the presiding officer when it appears that:

(a) Only legal issues exist; or

(b) Both parties have agreed to a brief proceeding; and

(c) The protection of the public interest does not require that the board provide notice and an opportunity to participate to persons other than the parties.

NEW SECTION

WAC 246-11-430 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer or hearings officer designated by the board. The presiding officer or hearings officer shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer or hearings officer shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer or hearings officer may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer or hearings officer may consider health care expertise as a basis for decision.

(6) Within fifteen days of the final date for submission of materials or oral argument, if any, the presiding officer or hearings officer shall enter an initial order in accordance with WAC 246-11-540.

NEW SECTION

WAC 246-11-440 Effectiveness of orders on brief adjudicative proceedings. (1) Initial orders on brief adjudicative proceedings shall become final twenty-one days after service of the order unless:

(a) Review has been requested pursuant to WAC 246-11-550; or

(b) On its own initiative, the board determines to review the matter and provides notice to the parties of the date by which a determination shall be made.

(2) If review is taken under subsection (1) of this section, a written order containing findings of fact, conclusions of law, and order shall be entered and served upon the parties.

NEW SECTION

WAC 246-11-450 Agency record in brief proceedings. The agency record of brief adjudicative proceedings shall consist of:

(1) All initiating documents including the notice of opportunity to defend;

(2) The request for adjudicative proceeding;

(3) All documents submitted in the proceeding;

(4) Any transcript or recording of any testimony or arguments presented; and

(5) All orders issued in the case.

SECTION VI
HEARING

NEW SECTION

WAC 246-11-470 Notice of adjudicative proceeding. Notice of an adjudicative proceeding shall be issued pursuant to RCW 34.05.434.

NEW SECTION

WAC 246-11-480 Conduct of adjudicative proceeding. (1) The adjudicative proceeding shall be conducted as provided in RCW 34.05.449 through 34.05.455.

(2) The presiding officer may take the following actions to the extent not already determined in a prehearing order:

(a) Conduct the hearing de novo;

(b) Determine the order of presentation of evidence;

(c) Administer oaths and affirmations;

(d) Issue subpoenas;

(e) Rule on procedural matters, objections, motions, and offers of proof;

(f) Receive relevant evidence;

(g) Interrogate witnesses called by the parties in an impartial manner to develop any facts necessary to fairly and adequately decide the matter;

(h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(i) Take any appropriate action necessary to maintain order during the adjudicative proceeding;

(j) Determine whether to permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Permit photographic and recording equipment at hearing subject to conditions necessary to preserve confidentiality and prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapter 34.05 RCW or this chapter, except as precluded by law; and

(m) Take any other action necessary and authorized by applicable law or rule.

(3) The presiding officer shall:

(a) Apply as the first source of law governing an issue those statutes and rules deemed applicable to the issue;

(b) If there is no statute or rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington Constitutions, statutes, rules, and court decisions; and

(c) Not declare any statute or rule invalid.

(4) If the validity of any statute or rule is raised as an issue, the presiding officer may permit arguments to be made on the record concerning the issue for the purpose of subsequent review.

(5) A party may move to disqualify the presiding officer pursuant to RCW 34.05.425(3).

NEW SECTION

WAC 246-11-490 Evidence. (1) The presiding officer shall rule on objections to the admissibility of evidence pursuant to RCW 34.05.452 unless those objections have been addressed in the prehearing order.

(2) The refusal of a witness to answer any question ruled proper shall be grounds for the presiding officer, at his/her discretion, to strike some or all prior testimony by that witness on related matters or to grant a continuance to allow a party to seek a court order to compel the witness to answer.

(3) Each person called as a witness in an adjudicative proceeding shall swear or affirm that the evidence about to be given in the adjudicative proceeding shall be the truth under the provisions of RCW 5.28.020 through 5.28.060.

NEW SECTION

WAC 246-11-500 Proposed order. At the conclusion of the hearing or by a date specified by the presiding officer, each party shall submit to the presiding officer proposed findings of fact and conclusions of law and a proposed order, except as may be ordered by the presiding officer.

NEW SECTION

WAC 246-11-510 Issuance of final order. If the adjudicative proceeding is conducted by a presiding officer authorized to make the final decision, the presiding officer shall:

(1) Issue a final order containing findings of fact and conclusions of law and an order; and

(2) Serve a copy of the order on each party and any designated representative of the party.

NEW SECTION

WAC 246-11-520 Standard of proof. The order shall be based on the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. In all cases involving an application for license the burden shall be on the applicant to establish that the application meets all applicable criteria. In all other cases the burden is on the department to prove the alleged factual basis set forth in the initiating document. Except as otherwise provided by statute, the burden in all cases is a preponderance of the evidence.

NEW SECTION

WAC 246-11-530 Consolidated proceedings. (1) When two or more applications for adjudicative proceeding involve a similar issue, the applications may be consolidated by the presiding officer and the hearings conducted together. The presiding officer may consolidate on his/her own motion or upon the request of a party.

(2) A party scheduled for a consolidated proceeding may request to withdraw from the consolidated proceeding in favor of an individual proceeding. A request to withdraw from a consolidated proceeding shall be granted if the motion is filed before the presiding officer has made any discretionary ruling in the matter and before the hearing date. The presiding officer may grant a motion to withdraw from a consolidated proceeding at any time when good cause is shown.

(3) Each respondent in a consolidated proceeding shall retain the right to representation.

NEW SECTION

WAC 246-11-540 Initial order. If the adjudicative proceeding is conducted by a presiding officer who is not authorized to make the final decision, the presiding officer shall:

(1) Issue an initial order containing proposed findings of fact, conclusions of law, and a proposed order;

(2) Serve a copy of the initial order on each party and any designated representative of a party; and

(3) Forward the initial order and record of the adjudicative proceeding to the hearings unit.

SECTION VII
POST HEARING PROCESS

NEW SECTION

WAC 246-11-550 Appeal from initial order. (1) Any party may file a written petition for administrative review of an initial order issued under WAC 246-11-430 or WAC 246-11-540 stating the specific grounds upon which exception is taken and the relief requested.

(2) Petitions for administrative review must be served upon the opposing party and filed with the administrative hearings unit within twenty days of service of the initial order.

(3) Within twenty days of service of a petition for administrative review is filed as provided in this section, the opposing party may file a response at the place specified in subsection (2) of this section. The party filing the response shall serve a copy of the response upon the party requesting administrative review.

NEW SECTION

WAC 246-11-560 Final orders. (1) The form and content of final orders shall be as follows:

(a) Final orders shall contain findings of fact, conclusions of law, and an order, and shall be signed by the presiding officer.

(b) Final orders may adopt by reference the initial order in whole or in part.

(c) Final orders may modify or revise the initial order in whole or in part.

(2) Final orders shall be served upon the parties and their representatives as provided in WAC 246-11-080.

(3) Final orders shall be issued following:

(a) A review of the record;

(b) A review of the initial order, if any;

(c) A review of any request for review of the initial order and any response thereto; and

(d) Consideration of protection of the public health and welfare.

(4) Unless a later date is stated in the final order, final orders shall be effective when entered but a party shall not be required to comply with a final order until the order is served upon that party.

(5) Final orders may contain orders that specified portions of the agency record shall not be disclosed as public records if necessary to protect privacy interests, the public welfare, or vital governmental functions. Such orders shall include but are not limited to protective orders issued during the proceeding or pursuant to WAC 246-11-400.

NEW SECTION

WAC 246-11-570 Stay of final orders. No final order will be stayed except by its own terms or by order of a court of competent jurisdiction.

NEW SECTION

WAC 246-11-580 Reconsideration of final orders. (1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration shall be limited to:

(a) Specific errors of fact or law; or

(b) Implementation of the final order would require department activities inconsistent with current department practice.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the administrative hearings unit within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration shall contain specific reference to the record. If reconsideration is requested based on testimony of record, the party requesting consideration shall submit a copy of the transcript of the adjudicative proceeding or shall specify the date by which the transcript will be submitted, and shall submit specific reference to the transcript by a date determined by the presiding officer.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the presiding officer:

(a) Denies the petition;

(b) Does not act upon the petition; or

(c) Does not serve the parties with notice of the date by which he/she will act on the petition.

(6) If the presiding officer determines to act upon the petition, the opposing party shall be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

NEW SECTION

WAC 246-11-590 Agency record of adjudicative proceedings. (1) The department shall maintain an official record of each adjudicative proceeding.

(2) The record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, requests, and rulings thereon;

(d) Evidence received or considered;

(e) A statement of matters officially noted;

(f) Offers of proof and objections and rulings thereon;

(g) Any proposed findings, requested orders, and exceptions;

(h) Any recording of the hearing and any transcript of all or part of the hearing considered before final disposition of the matter;

(i) Any final order, initial order, or order on reconsideration; and

(j) Matters placed on the record following an ex parte communication, if any.

(3) The record shall be subject to disclosure as provided by chapter 42.17 RCW, the Fair Campaign Practices Act, and by WAC 246-11-130, except as limited by protective orders and orders contained in the final order.

NEW SECTION

WAC 246-11-600 Judicial review. (1) Judicial review of actions taken under this chapter shall be as provided in RCW 34.05.510 et seq.

(2) Notice of the opportunity for judicial review shall be provided in all final orders.

NEW SECTION

WAC 246-11-610 Vacating an order for reason of default or withdrawal. (1) A party against whom an order for reason of default is entered shall have the right to file a written petition requesting that the order be vacated.

(2) The petition to vacate shall state the grounds relied upon.

(3) The petition shall be filed at the administrative hearings unit.

(4) If, in the opinion of the presiding officer, good cause to grant the motion to vacate is shown, the presiding officer shall grant the motion and reinstate the application for adjudicative proceeding and may impose conditions on licensure pending final adjudication of the matter.

WSR 93-04-103
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 2, 1993, 3:45 p.m.]

Original Notice.

Title of Rule: Horticultural inspection fees, chapter 16-400 WAC.

Purpose: To generate funds for Washington state's 1993 apple maggot survey and detection program through a temporary assessment on fresh apple shipments.

Statutory Authority for Adoption: Chapters 15.17 and 17.24 RCW.

Statute Being Implemented: Chapters 15.17 and 17.24 RCW.

Summary: Due to state budget reductions, general funds are not available for Washington State Department of Agriculture's apple maggot survey and detection program. In consultation with the Washington State Horticultural Association it was decided that the Washington State Department of Agriculture should continue current levels of

trapping and detection for the 1993 growing season funded through a temporary assessment on fresh apple shipments.

Reasons Supporting Proposal: The continued detection program would allow both foreign and domestic market access for Washington grown apples.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William E. Brookreson, 1111 Washington Street, Olympia, WA, (206) 902-2060.

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: Due to state government budget reductions, general fund money is not available for Washington State Department of Agriculture's apple maggot survey and detection program. If the detection program is to continue, funding must be generated through industry user fees. The proposed amendment adds a temporary fee (which terminates May 31, 1993) for apple pest certification by survey method to the horticultural inspection fees in WAC 16-400-210. It is intended that this fee will fund the program through the 1993 growing season. the survey and detection program, along with inspection and control will allow continued marketability of Washington grown apples.

Proposal Changes the Following Existing Rules: It adds a temporary fee (which terminates May 31, 1993) for apple pest certification by survey method.

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

Hearing Location: Wenatchee Red Lion, V.I.P. Room, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, on March 9, 1993, at 1:00 p.m.

Submit Written Comments to: William E. Brookreson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by March 9, 1993.

Date of Intended Adoption: March 23, 1993.

February 1, 1993
William E. Brookreson
Assistant Director

AMENDATORY SECTION (Amending WSR 92-06-022, filed 2/25/92, effective 3/27/92)

WAC 16-400-210 Other charges. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of twenty dollars.

(b) Time allowance - Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of twenty dollars.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges—The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to twenty-seven dollars.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February).

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: *Provided,* That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method; ((~~one cent~~)) $.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards. Such fee shall ((~~terminate on August 14, 1992~~)) apply from February 1 to May 31, 1993.

WSR 93-04-107
PROPOSED RULES
DEPARTMENT OF NATURAL RESOURCES
[Order 610—Filed February 3, 1993, 9:08 a.m.]

Original Notice.

Title of Rule: Forest protection zones—King County, identifies lands outside the forest protection zone.

Purpose: Removes forest land from Department of Natural Resources protection, assigns responsibility for protection to fire districts. Removes protection assessment from lands transferred to fire district protection.

Statutory Authority for Adoption: RCW 76.04.165.

Reasons Supporting Proposal: Fire districts mutually agree to protect the forest lands in the areas identified. This will result in more efficient fire protection for the residents in these areas.

Name of Agency Personnel Responsible for Drafting: Bob Bannon, Olympia, Washington, 902-1300; Implementation and Enforcement: Region Manager, Enumclaw, Washington, 825-1631.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to identify the forest protection zone. This rule identifies lands outside the zone, mutually agreed with the fire protection districts. This rule will transfer protection responsibility for the lands outside the zone to the fire districts. The rule will remove any further assessments on these lands under RCW 76.04.610 or 76.04.630. The fire districts have contracted the protection responsibility for much of these lands. It has been shown that the fire district is best suited to assume the responsibility for providing protection to these lands.

Proposal does not change existing rules.

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

Hearing Location: King County Fire District #45, 156 101st Avenue N.E., Duvall, WA 98019, on March 24, 1993, at 7:30 p.m.

Submit Written Comments to: Bob Bannon, P.O. Box 47037, Olympia, WA 98504-7037, by March 24, 1993.

Date of Intended Adoption: March 25, 1993.

February 2, 1993
Kaleen Cunningham
for Jennifer M. Belcher
Commissioner of Public Lands

NEW SECTION

WAC 332-24-730 Forest protection zone—King County (1) It is determined that some forest lands within King County are best protected by fire protection districts. Therefore, the forest lands, situated within the following fire protection districts, are removed from the Department's forest protection zone and become the protection responsibility of the district:

(a) Fire Protection District 10. All forest lands, except King County, State and federal owned forest lands, within the legal description as follows: Township 23 North, Range 5 East W.M. Section: the N 1/2 NW 1/4 and the SE 1/4 NW 1/4 of 1, the NW 1/4 and the S 1/2 of 2, 3, 10, 11, 12, 13; Township 24 North, Range 5 East W.M. Section 13, 14, 23, 24, 25, 26, 27, 34, the NW 1/4 NW 1/4 and the SW 1/4 SW 1/4 of 35; Township 23 North, Range 6 East W.M. Section: E 3/4 of 3, 6, 7, 8, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 36; Township 24 North, Range 6 East W.M. Section: the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of 1, the S 1/2 and the S 1/2 NW 1/4 of 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 north of Interstate 90, 27 north of Interstate 90, 28, the SE 1/4 and the S 1/2 SW 1/4 and the NE 1/4 SW 1/4 of 29, the N 1/2 NE 1/4 and the NE 1/4 NW 1/4 of 30, the N 1/4 E 1/2 of 32, 33, 34; Township 25 North, Range 6 East W.M. Section 26, 27, 28, 32, 33, 34, the N 1/2 NW 1/4 and the SW 1/4 NW 1/4 of 35; Township 26 North, Range 6 East W.M. Section 25, 26, 35, 36; Township 23 North, Range 7 East W.M. Section 3, 4, 10; Township 24 North, Range 7 East W.M. Section 18, 19, the S 1/2 of 29, 30, 32, the W 3/4 of 33; Township 25 North, Range 6 East W.M. Section 1, 12; Township 25 North, Range 7 East W.M. Section: that portion of the SW 1/4 west of the Tolt River of 1, the W 1/2 SW 1/4 of 3, 4, 5, 6, 7, 8, 9, the W 3/4 and the E 1/2 SE 1/4 of 10, the SE 1/4 SW 1/4 and that portion of the E 1/2 west of the Tolt River of 11, that portion of the NW 1/4 west of the Tolt River of 12, the N 3/4 W 1/2 E 1/2 and the E 1/2 W 1/2 and the SW 1/4 SW 1/4 of 14, the W 1/2 and the S 1/2 SE 1/4 of 15, 16, 17, 20, 21, 22, the W 1/4 of 23, the SE 1/4 and the NW 1/4 and the

NE 1/4 SW 1/4 of 26, the N 1/4 and the W 1/4 of 27, 28, 29, 30, 32, 33, that portion west of Griffin Creek of 34; Township 26 North, Range 7 East W.M. Section: the SW 1/4 and the S 1/2 SE 1/4 of 26, 27, 31, 32, 33, the W 1/4 and the N 3/4 E 1/2 W 1/2 of 34, the N 1/2 and the E 3/4 N 1/2 S 1/2 of 35, 36.

(b) Fire Protection District 27. All forest lands except State and federal owned forest lands, within the legal description as follows: Township 24 North, Range 6 East W.M. Section 12; Township 24 North, Range 7 East W.M. Section 3, 4, the E 1/4 and the N 1/2 NW 1/4 of 5, the N 3/4 E 1/2 W 1/2 and the W 1/2 E 1/2 and the NE 1/4 NE 1/4 and the SE 1/4 SE 1/4 of 6, the N 1/2 of 7, 8, 9, 10, 11, 13, 14, 15, the NE 1/4 and the N 1/2 SE 1/4 and the NW 1/4 of 16, the E 1/2 NE 1/4 of 17, 18, 19, the NE 1/4 of 22, the N 1/2 of 23, the N 1/2 and the N 1/2 SE 1/4 of 24; Township 25 North, Range 7 East W.M. Section 30, the E 3/4 and the N 3/4 W 1/4 of 31, the SW 1/4 and the E 1/2 SE 1/4 of 32, 33, 34; Township 24 North, Range 8 East W.M. Section: the W 1/2 NW 1/4 of 19.

(c) Fire Protection District 38. All forest lands, except State and federal owned forest lands, within the legal description as follows: Township 23 North, Range 7 East W.M. Section 1; Township 24 North, Range 7 East W.M. Section 36; Township 23 North, Range 8 East W.M. Section 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 35; Township 24 North, Range 8 East W.M. Section 17, 18, 19, 20, 21, south 3/4 of 26, that portion of the SE 1/4 of 27 as bounded by 428th Avenue SE on the west and north and section line on the east and south, the N 1/2 and the SW 1/4 of 28, 29, 30, 31, 32, 33, the E 1/2 and the S 3/4 of the W 1/2 of 34, 35; Township 23 North, Range 9 East W.M. Section 7, 17, 18, 19, 30.

(d) Fire Protection District 43. All forest lands, except State and federal owned forest lands, within the legal description as follows: Township 22 North, Range 5 East W.M. Section 12; Township 23 North, Range 5 East W.M. Section 24; Township 22 North, Range 6 East W.M. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, that portion of the SE 1/4 of 25 as bounded by 268th Avenue SE on the west, SE 264th Street on the north and section line on the east and south, 27, 28, 29, 30, 31, 32, 33, 34, 35, that portion of the NE 1/4 of 36 as bounded by 268th Avenue SE on the west, SE Ravensdale Way on the south, Landsburg Road SE on the west and section line on the north; Township 23 North, Range 6 East W.M. Section 19, 29, 30, 31, 32, 33, 34, 35, 36; Township 22 North Range 7 East W.M. Section 5, 6, 7, 8, 18, 19, 32.

(e) Fire Protection District 45. All forest lands, except State and federal owned forest lands, within the legal description as follows: Township 25 North, Range 6 East W.M. Section 1, 12; Township 26 North, Range 6 East W.M. Section: 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, 36; Township 26 North, Range 7 East W.M. Section: the N 3/4 of the W 1/2 of 3, 4, 5, 6, 7, 8, 9, 14, W 1/2 of 15, 16, 17, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32, 33.

(2) Forest lands removed from the protection zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The exchange of fire protection responsibility will be effective January 1, 1994.

WSR 93-04-108
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 92-47—Filed February 3, 1993, 9:40 a.m.]

Original Notice.

Title of Rule: Chapter 173-491 WAC, Emission standards and controls for sources emitting gasoline vapors, WAC 173-491-020, 173-491-040, and 173-491-050.

Purpose: To ensure the return of displaced gasoline vapors while transferring gasoline in bulk (stage I vapor recovery).

Other Identifying Information: Amendment to extend compliance deadline for stage I vapor recovery for terminals, bulk plants, and small-volume tank wagons in Eastern Washington.

Statutory Authority for Adoption: RCW 70.94.331.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Proposed amendments extend compliance deadlines for Eastern Washington terminals, bulk plants and small volume tank wagons that are required to comply with chapter 173-491 WAC.

Reasons Supporting Proposal: Previous compliance deadline puts an undue burden on affected Eastern Washington businesses.

Name of Agency Personnel Responsible for Drafting: Carol Piening, P.O. Box 47600, Olympia, WA 98504-7600, (206) 438-8110; Implementation and Enforcement : Joe Williams, P.O. Box 47600, Olympia, WA 98504-7600, (206) 459-6255.

Name of Proponent: Department of Ecology, Air Quality Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To establish reasonably attainable standards for the control of gasoline vapors that will achieve a substantial reduction in these emissions in a timely manner.

Proposal Changes the Following Existing Rules: These amendments are proposed to lessen the burden of compliance on Eastern Washington businesses by extending compliance deadlines. The changes define Eastern Washington counties (WAC 173-491-020); exempt transport tanks with a total nominal capacity less than 4000 gallons in use in Eastern Washington prior to June 1, 1993, from the requirement to be fitted with attachments for vapor balance lines. Replacement equipment or new equipment put in use after June 1, 1993, are not exempt from vapor balance requirements (WAC 173-491-040); and extend stage I vapor recovery compliance deadlines for fixed roof gasoline storage tanks, gasoline terminals and bulk gasoline plants in Eastern Washington from December 31, 1993, to July 31, 1996 (WAC 173-491-050).

Small Business Economic Impact Statement: An SBEIS was prepared for the original adoption of chapter 73-491 WAC. Rule Summary: This amendment to chapter 173-491 WAC modifies the compliance deadlines in WAC 173-491-050. It affects gasoline transfer operations which are required to reduce vapors under WAC 173-491-040. Bulk plants, loading terminals and transport tanks in Eastern

Washington will have a postponement in their compliance schedules.

Regulatory Fairness Act Requirements: The Regulatory Fairness Act, chapter 19.85 RCW, requires review and mitigation of rules which have an economic impact on more than 20 percent of the businesses of all industries or more than 10 percent of the businesses in any one industry (as defined by any three digit SIC code). Mitigation should minimize the impact on small businesses. The proposed revisions to chapter 173-491 WAC have been reviewed. They reduce the cost of an existing rule. The amendment therefore does not meet these criteria and no small business economic impact statement is required.

Summary of Findings and Mitigation Efforts: These rule amendments postpone or reduce the cost of an existing regulation for a limited number of companies in Eastern Washington. This amendment would have constituted a reduction of the economic impact of the rule under RCW 19.85.030 (1)(a). The SIC coded industries with reduced costs are; Trucking and Courier Services 421; Bulk Plants 5171; and Bulk Transfer Stations 5172; Most of the terminals in Eastern Washington which are owned by major corporations have already put in Stage I vapor recovery. This means that within SIC 5172 the rule amendment only benefits small businesses.

Hearing Location: Spokane County Air Pollution Control Authority, West 1101 College Street, Suite 403, Spokane, WA 99201, on March 11, 1993, at 1:30 p.m.

Submit Written Comments to: Carol Piening, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by March 19, 1993.

Date of Intended Adoption: June 1, 1993.

February 2, 1993
Terry Husseman
Acting Director

AMENDATORY SECTION (Amending Order 90-63, filed 7/2/91, effective 8/2/91)

WAC 173-491-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are by this reference incorporated into this chapter. Unless a different meaning is clearly required by context, the following words and phrases, as used in this chapter, shall have the following meanings:

(1) "Bottom loading" means the filling of a tank through a line entering the bottom of the tank.

(2) "Bulk gasoline plant" means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.

(3) "Certified vapor recovery system" means a vapor recovery system which has been certified by the department of ecology. Only Stage II vapor recovery systems with a single coaxial hose can be certified. The department may certify vapor recovery systems certified by the California Air Resources Board as of the effective date of the regulation.

(4) "Eastern Washington counties" means the following counties: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

(5) "Gasoline" means a petroleum distillate which is a liquid at standard conditions and has a true vapor pressure greater than four pounds per square inch absolute at twenty degrees C, and is used as a fuel for internal combustion engines. Also any liquid sold as a vehicle fuel with a true vapor pressure greater than four pounds per square inch absolute at twenty degrees C shall be considered "gasoline" for purpose of this regulation.

(((~~(5)~~))) (6) "Gasoline dispensing facility" means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

(((~~(6)~~))) (7) "Gasoline loading terminal" means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.

(((~~(7)~~))) (8) "Leak free" means a liquid leak of less than four drops per minute.

(((~~(8)~~))) (9) "Stage I" means gasoline vapor recovery during all gasoline marketing transfer operations except motor vehicle refueling.

(((~~(9)~~))) (10) "Stage II" means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.

(((~~(10)~~))) (11) "Submerged fill line" means any discharge pipe or nozzle which meets either of the following conditions:

- Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank, or;
- Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is eighteen inches from the bottom of the tank.

(((~~(11)~~))) (12) "Submerged loading" means the filling of a tank with a submerged fill line.

(((~~(12)~~))) (13) "Suitable cover" means a door, hatch, cover, lid, pipe cap, pipe blind, valve, or similar device that prevents the accidental spilling or emitting of gasoline. Pressure relief valves, aspirator vents, or other devices specifically required for safety and fire protection are not included.

(((~~(13)~~))) (14) "Throughput" means the amount of material passing through a facility.

(((~~(14)~~))) (15) "Top off" means to attempt to dispense gasoline to a motor vehicle fuel tank after a vapor recovery dispensing nozzle has shut off automatically.

(((~~(15)~~))) (16) "Transport tank" means a container used for shipping gasoline over roadways.

(((~~(16)~~))) (17) "True vapor pressure" means the equilibrium partial pressure of a petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, 1980.

(((~~(17)~~))) (18) "Upgraded" means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overfill protection that involved removal of ground or ground cover above a portion of the product piping.

(((~~(18)~~))) (19) "Vapor balance system" means a system consisting of the transport tank, gasoline vapor transfer lines, storage tank, and all tank vents designed to route displaced gasoline vapors from a tank being filled with liquid gasoline.

(((~~19~~))) (20) "Vapor collection system" means a closed system to conduct vapors displaced from a tank being filled into the tank being emptied, a vapor holding tank, or a vapor control system.

(((~~20~~))) (21) "Vapor control system" means a system designed and operated to reduce or limit the emission of gasoline vapors emission into the ambient air.

(((~~21~~))) (22) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

(((~~22~~))) (23) "Vapor tight" means a leak of less than one hundred percent of the lower explosive limit on a combustible gas detector measured at a distance of one inch from the source or no visible evidence of air entrainment in the sight glasses of liquid delivery hoses.

(((~~23~~))) (24) "Western Washington counties" means the following counties: Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom.

AMENDATORY SECTION (Amending Order 90-63, filed 7/2/91, effective 8/2/91)

WAC 173-491-040 Gasoline vapor control requirements. (1) Fixed-roof gasoline storage tanks.

(a) All fixed-roof gasoline storage tanks having a nominal capacity greater than forty thousand gallons shall comply with one of the following:

(i) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources - Storage Vessels for Petroleum Liquids (40 CFR 60, subpart K).

(ii) Be retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the federal standards referred to in (a)(i) of this subsection or its equivalent.

(iii) Be fitted with a floating roof or internal floating cover meeting the manufacturer's equipment specifications in effect when it was installed.

(b) All seals used in (a)(ii) and (iii) of this subsection are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears, or other openings.

(c) All openings not related to safety are to be sealed with suitable closures.

(d) Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in subsection (3)(b) of this section shall be exempt from the requirements of subsection (1) of this section.

(2) Gasoline loading terminals.

(a) This chapter shall apply to all gasoline loading terminals with an average annual gasoline throughput greater than 7.2 million gallons according to the schedule of compliance in WAC 173-491-050.

(b) Loading facilities. Facilities for the purpose of loading gasoline into any transport tank shall be equipped with a vapor control system (VCS) as described in (c) of this subsection and comply with the following conditions:

(i) The loading facility shall employ submerged or bottom loading for all transport tanks.

(ii) The VCS shall be connected during the entire loading of all transport tanks.

(iii) The loading of all transport tanks shall be performed such that the transfer is at all times vapor tight. Emissions from pressure relief valves shall not be included in the controlled emissions when the back pressure in the VRS collection lines is lower than the relief pressure setting of the transport tank's relief valves.

(iv) All loading lines and vapor lines shall be equipped to close automatically when disconnected. The point of closure shall be on the tank side of any hose or intermediate connecting line.

(c) Vapor control system (VCS). The VCS shall be designed and built according to accepted industrial practices and meet the following conditions:

(i) The VCS shall not allow organic vapors emitted to the ambient air to exceed thirty-five milligrams per liter (three hundred twenty-two milligrams per gallon) of gasoline loaded.

(ii) The VCS shall be equipped with a device to monitor the system while the VCS is in operation.

(iii) The back pressure in the VCS collection lines shall not exceed the transport tank's pressure relief settings.

(3) Bulk gasoline plants.

(a) This section shall apply to all bulk gasoline plants with an average annual gasoline throughput greater than 7.2 million gallons according to the schedule of compliance in WAC 173-491-050.

(b) Deliveries to bulk gasoline plant storage tanks.

(i) The owner or operator of a bulk gasoline plant shall not permit the loading of gasoline into a storage tank equipped with vapor balance fittings unless the vapor balance system is attached to the transport tank and operated properly. The vapor balance system shall prevent at least ninety percent of the displaced gasoline vapors from entering the ambient air. A vapor balance system that is designed, built, and operated according to accepted industrial practices will satisfy this requirement.

(ii) Storage tank requirements. All storage tanks with a nominal capacity greater than five hundred fifty gallons and used for the storage of gasoline shall comply with the following conditions:

(A) Each storage tank shall be equipped with a submerged fill line.

(B) Each storage tank shall be equipped for vapor balancing of gasoline vapors with transport tanks during gasoline transfer operations.

(C) The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically when disconnected.

(D) The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety but in no case greater than ninety percent of the tank's safe working pressure.

(iii) Transport tank requirements. All transport tanks transferring gasoline to storage tanks in a bulk gasoline plant shall comply with the following conditions:

(A) The transport tank shall be equipped with the proper attachment fittings to make vapor tight connections for vapor balancing with storage tanks.

(B) The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically when disconnected.

(C) The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(c) Gasoline transfer operations.

(i) No owner or operator of a bulk gasoline plant or transport tank shall allow the transfer of gasoline between a stationary storage tank and a transport tank except when the following conditions exist:

(A) The transport tanks are being submerged filled or bottom loaded.

(B) The loading of all transport tanks, except those exempted under (c)(ii) of this subsection are being performed using a vapor balance system.

(C) The transport tanks are equipped to balance vapors and maintained in a leak tight condition in accordance with subsection (6) of this section.

(D) The vapor return lines are connected between the transport tank and the stationary storage tank and the vapor balance system is operated properly.

(ii) Transport tanks used for gasoline and meeting ((~~all of~~)) the following conditions shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines if:

(A) The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of subsection (4) of this section; and (((~~B~~))) the transport tank has a total nominal capacity less than four thousand gallons and is constructed so that it would require the installation of four or more separate vapor balance fittings; or

(B) In eastern Washington counties, a transport tank with a total nominal capacity less than four thousand gallons shall be exempt from the requirement to be fitted with any attachment fitting for vapor balance lines if the transport tank was in use prior to July 1, 1993. Replacement transport tanks or new equipment put into use July 1, 1993, or later are exempt from vapor balance requirements only as specified in (c)(ii)(A) of this subsection.

(4) Gasoline dispensing facilities (Stage I).

(a) This section shall apply to the delivery of gasoline to gasoline dispensing facilities with an annual gasoline throughput greater than three hundred sixty thousand gallons in accordance with the schedule of compliance in WAC 173-491-050 and all new gasoline dispensing facilities with a total gasoline nominal storage capacity greater than ten thousand gallons.

(b) All gasoline storage tanks of the facilities defined in (a) of this subsection shall be equipped with submerged or bottom fill lines and fittings to vapor balance gasoline vapors with the delivery transport tank.

(c) Gasoline storage tanks with offset fill lines shall be exempt from the requirement of (b) of this subsection if installed prior to January 1, 1979.

(d) The owner or operator of a gasoline dispensing facility shall not permit the loading of gasoline into a storage tank equipped with vapor balance fittings from a transport tank equipped with vapor balance fittings unless the vapor balance system is attached to the transport tank and operated satisfactorily.

(5) Gasoline dispensing facilities (Stage II).

(a) This section shall apply to the refueling of motor vehicles from stationary tanks at all gasoline dispensing facilities located in western Washington counties with an annual gasoline throughput greater than eight hundred forty thousand gallons with the exception of Clark, King, Pierce, and Snohomish counties where this section shall apply to gasoline dispensing facilities with an annual gasoline throughput greater than six hundred thousand gallons in accordance with the schedule of compliance in WAC 173-491-050 and all new gasoline dispensing facilities with greater than ten thousand gallons gasoline nominal storage capacity in western Washington counties.

(b) All gasoline dispensing facilities subject to this section shall be equipped with a certified Stage II vapor recovery system.

(c) The owner or operator of a gasoline dispensing facility subject to this section shall not transfer or allow the transfer of gasoline from stationary tanks into motor vehicle fuel tanks unless a certified Stage II vapor recovery system is used.

(d) All Stage II 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.

(e) Whenever a Stage II 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.

(f) The owner or operator of each gasoline dispensing facility utilizing a Stage II 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 ecology's toll free telephone number for complaints regarding the operation and condition of the vapor recovery nozzles.

(6) Equipment or systems failures.

(a) Specific applicability. This section shall apply to all gasoline transport tanks equipped for gasoline vapor collection and all vapor collection systems at gasoline loading terminals, bulk gasoline plants, and gasoline dispensing facilities as described in subsections (2) through (5) of this section.

During the months of May, June, July, August, and September any failure of a vapor collection system at a bulk gasoline plant or gasoline loading terminal to comply with this section requires the discontinuation of gasoline transfer operations for the failed part of the system. Other transfer points that can continue to operate in compliance may be used. The loading or unloading of the transport tank connected to the failed part of the vapor collection system may be completed during the other months of the year.

(b) Provisions for specific processes.

(i) The owner or operator of a gasoline loading terminal or bulk gasoline plant shall only allow the transfer of gasoline between the facility and a transport tank if a current leak test certification for the transport tank is on file with the

facility or a valid inspection sticker is displayed on the vehicle. Certification is required annually.

(ii) The owner or operator of a transport tank shall not make any connection to the tank for the purpose of loading or unloading gasoline, except in the case of an emergency, unless the gasoline transport tank has successfully completed the annual certification testing requirements in (c) of this subsection, and such certification is confirmed either by:

(A) Have on file with each gasoline loading or unloading facility at which gasoline is transferred a current leak test certification for the transport tank; or

(B) Display a sticker near the department of transportation certification plate required by 49 CFR 178.340-10b which:

(I) Shows the date that the gasoline tank truck last passed the test required in (c) of this subsection;

(II) Shows the identification number of the gasoline tank truck tank; and

(III) Expires not more than one year from the date of the leak tight test.

(iii) The owner or operator of a vapor collection system shall:

(A) Operate the vapor collection system and the gasoline loading equipment during all loadings and unloadings of transport tanks equipped for emission control such that:

(I) The tank pressure will not exceed a pressure of eighteen inches of water or a vacuum of six inches of water;

(II) The concentration of gasoline vapors is below the lower explosive limit (LEL, measured as propane) at all points a distance of one inch from potential leak sources; and

(III) There are no visible liquid leaks except for a liquid leak of less than four drops per minute at the product loading connection during delivery.

(IV) Upon disconnecting transfer fittings, liquid leaks do not exceed ten milliliters (o.34 fluid ounces) per disconnect averaged over three disconnects.

(B) Repair and retest a vapor collection system that exceeds the limits of (b)(iii)(A) of this subsection within fifteen days.

(iv) The department or local air authority may, at any time, monitor a gasoline transport tank and vapor collection system during loading or unloading operations by the procedure in (c) of this subsection to confirm continuing compliance with this section.

(c) Testing and monitoring.

(i) The owner or operator of a gasoline transport tank or vapor collection system shall, at his own expense, demonstrate compliance with (a) and (b) of this subsection, respectively. All tests shall be made by, or under the direction of, a person qualified to perform the tests and approved by the department.

(ii) Testing to determine compliance with this section shall use procedures approved by the department.

(iii) Monitoring to confirm continuing leak tight conditions shall use procedures approved by the department.

(d) Recordkeeping.

(i) The owner or operator of a gasoline transport tank or vapor collection system shall maintain records of all certification tests and repairs for at least two years after the test or repair is completed.

(ii) The records of certification tests required by this section shall, as a minimum, contain:

(A) The transport tank identification number;

(B) The initial test pressure and the time of the reading;

(C) The final test pressure and the time of the reading;

(D) The initial test vacuum and the time of the reading;

(E) The final test vacuum and the time of the reading;

(F) At the top of each report page the company name, date, and location of the tests on that page; and

(G) Name and title of the person conducting the test.

(iii) The owner or operator of a gasoline transport tank shall annually certify that the transport tank passed the required tests.

(iv) Copies of all records required under this section shall immediately be made available to the department, upon written request, at any reasonable time.

(e) Preventing evaporation. All persons shall take reasonable measures to prevent the spilling, discarding in sewers, storing in open containers, or handling of gasoline in a manner that will result in evaporation to the ambient air.

AMENDATORY SECTION (Amending Order 92-42, filed 1/20/93)

WAC 173-491-050 Compliance schedules. (1) Fixed-roof gasoline storage tanks. All fixed roof gasoline storage tanks subject to WAC 173-491-040(1) in western Washington counties shall comply no later than December 31, 1993. All fixed roof gasoline storage tanks subject to WAC 173-491-040(1) in eastern Washington counties shall comply no later than July 31, 1996.

(2) Gasoline loading terminals. All gasoline loading terminals subject to WAC 173-491-040(2) in western Washington counties shall comply no later than December 31, 1993. All gasoline loading terminals subject to WAC 173-491-040(2) in eastern Washington counties shall comply no later than July 31, 1996.

(3) Bulk gasoline plants. All bulk gasoline plants subject to the requirements of WAC 173-491-040(3) in western Washington counties shall comply no later than December 31, 1993. All bulk gasoline plants subject to WAC 173-491-040(3) in eastern Washington counties shall comply no later than July 31, 1996.

(4) Gasoline dispensing facilities - Stage I. All gasoline dispensing facilities subject to the requirements of WAC 173-491-040(4) shall comply no later than December 31, 1993, or whenever the facility is upgraded, whichever is earliest.

(5) Gasoline dispensing facilities - Stage II. All gasoline dispensing facilities subject to the requirements of WAC 173-491-040(5) shall comply:

(a) When upgraded except any gasoline dispensing facility upgraded or with new tank(s) installed after the effective date of this regulation but before May 1, 1992, need not comply earlier than May 1, 1992.

(b) For businesses which own ten or more gasoline dispensing facilities in the state of Washington, facilities subject to Stage II requirements as indicated in WAC 173-491-040 (5)(a) must comply according to the following schedule:

(i) Fifty percent of all gasoline dispensing facilities with an annual throughput greater than 1.2 million gallons by May 1, 1993.

(ii) All remaining gasoline dispensing facilities with an annual throughput greater than 1.2 million gallons must comply by May 1, 1994.

(iii) Businesses which own ten or more gasoline dispensing facilities in King, Pierce, Snohomish, and Clark counties must, in addition, meet the following requirements at their facilities within King, Pierce, Snohomish, and Clark counties:

(A) At least fifty percent of the gasoline dispensing facilities with an annual throughput greater than 840,000 gallons must comply by May 1, 1994;

(B) The remaining gasoline dispensing facilities with an annual throughput greater than 840,000 gallons must comply by May 1, 1995.

(iv) All gasoline dispensing facilities must be in compliance not later than December 31, 1998.

(v) In meeting this requirement, businesses that lease some facilities and operate others must ensure that the percentage of facilities owned and operated which are required to comply with this provision at least equals the percentage of leased facilities required to comply with this provision.

(c) For businesses which own fewer than ten gasoline dispensing facilities in the state of Washington:

(i) All facilities with an annual throughput of 1.2 million gallons must comply by May 1, 1994;

(ii) All remaining facilities must comply by December 31, 1998.

WSR 93-04-109
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS

[Filed February 3, 1993, 9:41 a.m.]

Original Notice.

Title of Rule: WAC 296-116-110 Details and requirements of renewal/reinstatement application.

Purpose: To clarify the procedures for annual pilot license fee payments and physical examination reporting.

Statutory Authority for Adoption: RCW 88.16.090.

Statute Being Implemented: RCW 88.16.090.

Summary: The proposed amendments would require a pilot's annual license fee payment and physical examination report to be submitted to the board on or before the anniversary date of his state license in order to keep it valid.

Reasons Supporting Proposal: The amended rule would also ensure that the board possesses a copy of each pilot's currently valid federal license.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 801 Alaskan Way, Seattle, 464-7818.

Name of Proponent: Washington State Board of Pilotage Commissioners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule details the requirements for pilot license fee payments, the submission of physical examination reports and license reinstatement application. The amendments would clarify the requirements for a pilot to annually validate his state license.

Proposal Changes the Following Existing Rules: The written renewal application and certified check for the license fee payment to the board thirty days prior to the expiration of a pilot's state license is no longer required.

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

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Colman Dock, Pier 52, Seattle, WA 98104, on March 11, 1993, at 9:00 a.m.

Submit Written Comments to: Admiral Chester Richmond, by March 1, 1993.

Date of Intended Adoption: March 11, 1993.

February 2, 1993
C. A. Richmond, Jr.
Chairman

[AMENDATORY SECTION (Amending WSR 92-08-050, filed 3/26/920)]

WAC 296-116-110 Details and requirements of annual license ((~~renewal~~)) fee payment, physical examination report and reinstatement application. (1) ((~~All applications for renewal of~~)) Annual license((s)) fees and reports on annual physical examinations pursuant to RCW 88.16.090 shall be submitted ((~~in writing~~)) to the Board ((~~at least thirty days prior to~~)) on or before the ((~~expiration~~)) anniversary 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~~)) Each pilot shall ensure that the Board, at all times, possesses a copy of his/her currently ((~~applicable~~)) valid 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 reinstatement of his/her pilot's license within five years from the date of their last pilotage assignment, provided they are capable of passing a physical examination without any restrictions as to full 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: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 93-04-110
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS
[Filed February 3, 1993, 9:44 a.m.]

Original Notice.

Title of Rule: WAC 296-116-360 Exempt vessels.

Purpose: To amend the licensing requirements for masters of exempt vessels.

Statutory Authority for Adoption: RCW 88.16.070.

Statute Being Implemented: RCW 88.16.070.

Summary: The proposed amendment would lessen the license requirements of a master of an exempt vessel from master of inland steam or motor vessels of not more than sixteen hundred gross tons down to five hundred gross tons.

Reasons Supporting Proposal: The standardization of license requirements for all Clipper Navigation vessels (exempt and nonexempt) would allow for training and promotion within their company; thus cross utilizing officers between vessels.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Washington State Board of Pilotage Commissioners, 801 Alaskan Way, Seattle, 464-7818.

Name of Proponent: Clipper Navigation, Inc., private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board has granted an exemption from pilotage requirements for the operation of a limited class of small passenger vessels with the condition that the master of the vessel shall hold a specified license. The amendment would reduce the license requirement from a "master of inland steam or motor vessels of not more than sixteen hundred gross tons with radar endorsement" to one of "five hundred gross tons with radar endorsement."

Proposal Changes the Following Existing Rules: The condition of the license requirement would change from sixteen hundred gross tons to five hundred gross tons.

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

Hearing Location: Eikum Conference Room, 801 Alaskan Way, Colman Dock, Pier 52, Seattle, WA 98104, on March 11, 1993, at 9:00 a.m.

Submit Written Comments to: Admiral Chester Richmond, by March 1, 1993.

Date of Intended Adoption: March 11, 1993.

February 2, 1993
C. A. Richmond, Jr.
Chairman

[AMENDATORY SECTION (Amending WSR 90-20-039, filed 9/25/90)]

WAC 296-116-360 Exempt vessels Under the authority of RCW 88.16.070, application may be made to the Board of Pilotage Commissioners to seek exemption from the pilotage requirements for the operation of a limited class of small passenger vessels or yachts, which are not more than five hundred gross tons (International), do not exceed two hundred feet in length, and are operated exclusively in the waters of the Puget Sound Pilotage District and lower British Columbia. The owners or operators of such vessel or vessels must:

(1) Seek exemption at least sixty days prior to planned vessel operations in the Puget Sound Pilotage District.

(2) Submit the petition requesting exemption to the chairperson, Washington State Board of Pilotage Commissioners, with details concerning description of the vessel, the contemplated use of vessel, the proposed area of operation, the name and address of the vessel's owner, and the dates of planned operations. The Board shall hold a hearing at a regularly scheduled Board meeting to consider such exemption request.

The Board, when granting such an exemption, may establish such conditions they deem necessary so that such an exemption shall not be detrimental to the public interest in regard to safe operation preventing loss of human lives, loss of property, and protecting the marine environment of the State of Washington.

One such condition shall be that the master of the vessel, shall at all times, hold as a minimum, a United States government license as a master of ocean or near coastal steam or motor vessels of not more than sixteen hundred gross tons or as a master of inland steam or motor vessels of not more than (~~sixteen~~) five hundred gross tons, such license to include a current radar endorsement.

The Board shall annually, or at any other time when in the public interest, review any exemptions granted to the specified class of small vessels to ensure that each exempted vessel remains in compliance with the original exemption and any conditions to the exemption. The Board shall have the authority to revoke such exemption when there is not continued compliance with the requirements for exemption.

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

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

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 93-04-113
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 3, 1993, 10:35 a.m.]

Original Notice.

Title of Rule: Rights of persons aggrieved by pesticide violations in chapter 16-10 WAC.

Purpose: To adopt into rule procedures for persons aggrieve of pesticide violations in order to work within the Administrative Procedure Act, chapter 34.05 RCW.

Statutory Authority for Adoption: Chapter 17.21 RCW.

Statute Being Implemented: RCW 17.21.310.

Summary: These rules outline procedures and rights of a person aggrieved by a pesticide violation.

Reasons Supporting Proposal: RCW 17.21.340 provides for certain rights for persons aggrieved by a pesticide violation.

Name of Agency Personnel Responsible for Drafting: Dannie McQueen, Rules Coordinator, P.O. Box 42560, Olympia, WA, 902-1809; Implementation and Enforcement: Art G. Losey, Assistant Director, P.O. Box 42589, Olympia, WA, 902-2010.

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: RCW 27.21.340 provides certain rights for person aggrieved by a pesticide violation. These rules will provide the procedures for an aggrieved person of a pesticide violation to file a petition for reconsideration on a final order issued by the department and at the same time work within the requirements of the Administrative Procedure Act, chapter 34.05 RCW.

Proposal does not change existing rules.

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

Hearing Location: Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, WA, on March 9, 1993, at 7:00 p.m.; at the Yakima Valley Inn, 1507 North First Street, Yakima, WA 98901, on March 10, 1993, at 7:00 p.m.; and at the Natural Resources Conference Room, Room #172, 1111 Washington Street, Olympia, WA, on March 11, 1993, at 7:00 p.m.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, by March 10, 1993, at 5:00 p.m.

Date of Intended Adoption: March 26, 1993.

February 3, 1993
Art G. Losey
Assistant Director

Chapter 16-10 WAC
RIGHTS OF PERSONS AGGRIEVED PESTICIDE VIOLATIONS

NEW SECTION

WAC 16-10-010 Definitions. The following definitions are applicable to sections of this chapter concerning rights of persons aggrieved by violations under chapter 17.21 RCW and rules adopted under chapter 17.21 RCW.

(1) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she has been subjected to harm or potential harm by such violation.

(2) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(3) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

NEW SECTION

WAC 16-10-020 Rights of complainants. If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determining no action; the department will endeavor to provide notice concurrently with the department's service of such document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: *Provided,* That in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC 16-10-030, if aggrieved, except that the complainant shall be provided, automatically without request, a copy of the final order referred to therein.

NEW SECTION

WAC 16-10-030 Rights of person aggrieved. A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department pursuant to an investigation under chapter 17.21 RCW; the department will provide notice concurrently with service of notice on the violator: *Provided,* That such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why said person believes the penalty decision is inappropriate, and shall serve such request on the violator.

(3) Upon reconsideration, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why the person believes the penalty decision is inappropriate, and shall serve such request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits

against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review thereon.

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstituting the rights of the alleged violator to seek further relief.

WSR 93-04-114
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 3, 1993, 10:37 a.m.]

Original Notice.

Title of Rule: Pesticide penalty matrix schedule in chapter 16-228 WAC.

Purpose: To adopt into rule a pesticide penalty assignment schedule to determine penalties for violations of the pesticide laws and rules.

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Statute Being Implemented: RCW 15.58.260 and 17.21.315.

Summary: Chapters 17.21 and 15.58 RCW provide for civil penalties for violations of the pesticide laws and rules. These rules will provide a basis for setting penalties for certain violations.

Name of Agency Personnel Responsible for Drafting and Implementation: Cliff Weed, Program Manager, P.O. Box 42589, Olympia, WA 98504-2589, 902-2040; and Enforcement: Art G. Losey, Assistant Director, P.O. Box 42589, Olympia, WA 98504-2589, 902-2011.

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: To provide for a fair and uniform manner in which to set penalties commensurate with the seriousness of the violation. These rules will place the department's pesticide penalty matrix into rule.

Proposal does not change existing rules.

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

Hearing Location: Chelan County PUD, 327 North Wenatchee Avenue, Wenatchee, WA, on March 9, 1993, at 7:00 p.m.; at the Yakima Valley Inn, 1507 North First Street, Yakima, WA 98901, on March 10, 1993, at 7:00 p.m.; and at the Natural Resources Conference Room, Room #172, 1111 Washington Street, Olympia, WA, on March 11, 1993, at 7:00 p.m.

Submit Written Comments to: Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42589, Olympia, WA 98504-2589, by March 10, 1993 at 5:00 p.m.

Date of Intended Adoption: March 26, 1993.

February 3, 1993
Art G. Losey
Assistant Director

NEW SECTION

WAC 16-228-905 Statement of purpose—Penalty assignment. For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-910 through 16-228-930, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

NEW SECTION

WAC 16-228-910 Definitions—Penalty assignment. In addition to the definitions set forth in RCW 17.21.020, RCW 15.58.030, and WAC 16-228-010, the following shall apply to WAC 16-228-905 through 16-228-930:

(1) "Adverse effect(s)" means a possibility of pesticide exposure that could cause damage or injury to humans, animals, plants, or the environment.

(2) "Knowingly" means that the alleged violator knew or should have known that conditions existed that would result in adverse effect(s) or knew that a violation would occur.

(3) "Level of violation" means that the alleged violation is a first, second, third, fourth, fifth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) Fifth or more violation. This means the alleged violator committed at least four prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(4) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(5) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(6) "Unknowingly" means that the alleged violator did not act knowingly.

PROPOSED

(7) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

NEW SECTION

WAC 16-228-915 Calculation of penalty. (1) Median penalty selection. In the disposition of administrative cases, the department shall determine the penalty by first determining the penalty assignment schedule table listed in either WAC 16-228-920 or 16-228-925 that is applied based on the type of violation alleged. The department shall then determine the penalty range based on the level of violation, adverse effect(s) at the time of the incident(s) giving rise to the violation, and the knowledge of the alleged violator. The median penalty is then selected as the penalty unless a proportionate adjustment is required and/or there are aggravating or mitigating factors as provided herein. The median penalty under Table A listed in WAC 16-228-920 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under Table B listed in WAC 16-228-925 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation. The median penalty under Table A and B may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty. The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action when circumstances in the particular case demonstrate the ineffectiveness of the licensing action as a deterrent, or proportionately decrease the civil penalty and proportionately increase the licensing action when circumstances in the particular case demonstrate the ineffectiveness of a civil penalty action as a deterrent.

(3) Aggravating factors. The department may consider circumstances enhancing the seriousness of the violation, including, but not limited to, the following:

(a) Each separate additional incident of violation(s) alleged within a single notice of intent to have been committed by the alleged violator within the same calendar year.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) The similarity of the current alleged violation to previous violations that occurred within three years of the current alleged violation.

(d) The extent to which the violation is part of a pattern of the same or substantially similar violations by others which necessitates a greater deterrent factor.

(4) Mitigating factors. The department may consider circumstances reducing the seriousness of the violation including, but not limited to, the following:

(a) A voluntary disclosure of a violation by the alleged violator.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

NEW SECTION

WAC 16-228-920 Penalty assignment schedule—Table A.

Penalty Assignment Schedule-TABLE A
Pesticide use, application, disposal, licensing, distriubtion, recommendation, and label violations (See WAC 16-228-930 for other dispositions of alleged violations, including warning letters.)

LEVEL OF VIOLATION	ADVERSE EFFECT(S)	UNKNOWINGLY			KNOWINGLY		
		MINIMUM	MEDIAN	MAXIMUM	MINIMUM	MEDIAN	MAXIMUM
First	a. Not probable	$100 and 1 day SUSPENSION	$200 and 3 days	$300 and 5 days	$200 and 3 days	$300 and 5 days SUSPENSION	$400 and 7 days
	b. Probable	$150 and 1 day	$250 and 3 days SUSPENSION	$350 and 5 days	$250 and 3 days	$350 and 5 days SUSPENSION	$450 and 7 days
Second	a. Not probable	$200 and 3 days	$300 and 5 days SUSPENSION	$400 and 7 days	$300 and 5 days	$400 and 7 days SUSPENSION	$500 and 9 days
	b. Probable	$200 and 3 days	$350 and 5 days SUSPENSION	$450 and 7 days	$350 and 5 days	$450 and 7 days SUSPENSION	$550 and 9 days
Third	a. Not probable	$400 and 10 days	$700 and 15 days SUSPENSION	$1000 and 20 days	$500 and 10 days	$1000 and 20 days SUSPENSION	$1500 and 30 days
	b. Probable	$500 and 10 days	$1000 and 15 days SUSPENSION	$1500 and 20 days	$600 and 10 days	$1300 and 20 days SUSPENSION	$2000 and 30 days
Fourth	a. Not probable	$600 and 15 days	$1800 and 20 days SUSPENSION	$3000 and 25 days	$700 and 20 days	$2100 and 30 days SUSPENSION	$3500 and 40 days
	b. Probable	$700 and 20 days	$2100 and 30 days SUSPENSION	$3500 and 40 days	$800 and 30 days	$2400 and 40 days SUSPENSION	$4000 and 50 days
Fifth or More	a. Not probable	$800 and 20 days	$3400 and 40 days SUSPENSION	$6000 and 60 days	$900 and 50 days	$3700 and 60 days SUSPENSION	$6500 and 70 days
	b. Probable	$900 and 50 days	$3700 and 60 days SUSPENSION OR DENIAL OR REVOCATION	$6500 and 70 days	$1000 and 50 days	$4250 and 70 days SUSPENSION OR DENIAL OR REVOCATION	$7500 and 90 days

NEW SECTION

WAC 16-228-925 Penalty assignment schedule—Table B.

Penalty Assignment Schedule-TABLE B
Records, posting of storage for category one pesticides, removal of examination material, and impersonating state official other violations not listed in Table A (See WAC 16-228-930 for other dispositions of alleged violations, including warning letters.)

LEVEL OF VIOLATION	ADVERSE EFFECT(S)	UNKNOWINGLY MINIMUM	UNKNOWINGLY MEDIAN	UNKNOWINGLY MAXIMUM	KNOWINGLY MINIMUM	KNOWINGLY MEDIAN	KNOWINGLY MAXIMUM
First	a. Not probable	$100 1 day	$150 and 2 days SUSPENSION	$200 3 days	$150 2 days	$200 and 3 days SUSPENSION	$250 4 days
	b. Probable	$150 1 day	$200 and 2 days SUSPENSION	$250 3 days	$200 2 days	$250 and 3 days SUSPENSION	$300 4 days
Second	a. Not probable	$200 2 days	$250 and 3 days SUSPENSION	$300 4 days	$250 3 days	$300 and 4 days SUSPENSION	$350 5 days
	b. Probable	$250 2 days	$300 and 3 days SUSPENSION	$350 4 days	$300 3 days	$350 and 4 days SUSPENSION	$400 5 days
Third	a. Not probable	$300 3 days	$350 and 4 days SUSPENSION	$400 5 days	$350 4 days	$400 and 5 days SUSPENSION	$450 6 days
	b. Probable	$350 3 days	$400 and 4 days SUSPENSION	$450 5 days	$400 4 days	$450 and 5 days SUSPENSION	$500 6 days
Fourth	a. Not probable	$400 4 days	$450 and 5 days SUSPENSION	$500 6 days	$450 5 days	$500 and 6 days SUSPENSION	$550 7 days
	b. Probable	$450 4 days	$500 and 5 days SUSPENSION	$550 6 days	$500 5 days	$550 and 6 days SUSPENSION	$600 7 days
Fifth or More	a. Not probable	$500 5 days	$550 and 6 days SUSPENSION	$600 7 days	$550 6 days	$600 and 7 days SUSPENSION	$650 8 days
	b. Probable	$550 5 days	$600 and 6 days SUSPENSION	$650 7 days	$600 6 days	$650 and 7 days SUSPENSION	$750 8 days

NEW SECTION

WAC 16-228-930 Other dispositions of alleged violations. Nothing herein shall prevent the department from:

(1) Choosing not to pursue a case administratively.

(2) Issuing a warning letter in lieu of pursuing administrative action.

(3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-228-900 Penalties.

WSR 93-04-116
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 10:59 a.m.]

Original Notice.

Title of Rule: WAC 180-16-222 Exceptions to classroom teacher assignment policy; and 180-16-223 Temporary out-of-endorsement assignment criteria.

Purpose: Amend the rules governing the placement of teachers in out-of-endorsement assignments.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: The amendments allow a school district to assign any teacher with at least two full school years of classroom teaching experience, who has not been placed on probation during the past two years, to an out-of-endorsement assignment for up to one year, under certain conditions.

Reasons Supporting Proposal: The amendments would give the school districts increased flexibility to fill difficult vacancies and reduce the number of out-of-endorsement waiver requests.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-2298; Implementation and Enforcement: Theodore E. Andrews, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-3222.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Same as above.

No small business economic impact statement required by chapter 19.85 RCW.

Hearing Location: Moses Lake High School Library, 803 East Sharon, Moses Lake, WA 98837, (509) 766-2666, on March 18, 1993, at 10:45 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, by March 16, 1993.

Date of Intended Adoption: March 19, 1993.

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

WAC 180-16-222 Exceptions to classroom teacher assignment policy. Exceptions to the classroom teacher assignment specified in WAC 180-16-221 shall be limited to the following:

(1) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(2) Any certificated person holding a limited certificate as specified in WAC 180-79-230 or a vocational education

certificate as specified in chapter 180-77 WAC or any person holding a nonimmigrant alien permit issued pursuant to WAC 392-193-055, may be assigned as per the provisions of such section or chapter.

(3) Any certificated teacher may be assigned to courses offered in basic education subject areas not included within the list of endorsements specified in WAC 180-79-080.

(4) ((~~Any certificated teacher may be assigned temporarily to an out-of-endorsement grade level or subject area if such assignment complies with WAC 180-16-223.~~

~~(5)~~)) Any certificated teacher with at least two full school years of classroom teaching experience who has not been placed on probation pursuant to RCW 28A.405.100 during the past two years may be assigned for one year to an out-of-endorsement assignment under the following conditions:

(a) A designated representative of the district and the classroom teacher so assigned will mutually develop a written plan which would provide necessary assistance to the teacher so assigned, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment; and

(b) Teachers so assigned would not be subject to annual summative evaluation requirements in any out-of-endorsement assignments. Teachers so assigned would be encouraged to participate in the professional growth evaluation option.

(c) If a teacher is assigned to provide special education, then the district must also comply with WAC 392-171-701, including the request for a waiver from the superintendent of public instruction required by subsection (5) of this section.

(5) School districts may assign classroom teachers out of their endorsement areas for two additional years if such assignment(s) complies with WAC 180-16-223.

(6) Any certificated teacher may be assigned to a middle school or junior high school block program, which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students, if the teacher has an endorsement in one of the subject areas and has completed or will complete within one year nine quarter hours in each of the other subject areas.

((~~(6)~~)) (7) Any certificated teacher who holds one of the specific subject area endorsements (i.e., drama, English, journalism, and/or speech) related to the broad area of English/Language Arts, may be assigned at the junior high school/middle school level to teach any other related course in that respective broad subject area endorsement if the teacher has completed or will complete at least nine quarter hours (six semester hours) of study within one year in the assigned endorsement area. Only coursework which received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours.

((~~(7)~~)) (8) Any certificated teacher who holds one of the specific subject area endorsements (i.e., biology, chemistry, earth science, and/or physics) related to the broad area of science, may be assigned at the junior high school/middle school level to teach any other related course in that respective broad subject area endorsement if the teacher has completed or will complete at least nine quarter hours (six semester hours) of study within one year in the assigned endorsement area. Only coursework which received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours.

((~~(8)~~)) (9) Any certificated teacher who holds one of the specific subject area endorsements (i.e., anthropology, economics, geography, history, political science, psychology, and/or sociology) related to the broad area of social studies, may be assigned at the junior high school/middle school level to teach any other related course in that respective broad subject area endorsement if the teacher has completed or will complete at least nine quarter hours (six semester hours) of study within one year in the assigned endorsement area. Only coursework which received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours.

AMENDATORY SECTION (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

WAC 180-16-223 Temporary out-of-endorsement assignment criteria. In order ((~~for a temporary out-of-endorsement assignment for a classroom teacher to comply with the basic education approval standards~~)) to assign a classroom teacher to an out-of-endorsement assignment for more than one year, the board of directors of the district must comply with the following:

(1) The board of directors of the district must make one or more of the following factual determinations:

(a) The district was unable to recruit a teacher with the proper endorsement who was the best qualified of candidates for the position.

(b) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable.

(c) The reassignment of another teacher within the district with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(d) The district has a surplus of teachers with endorsements in specified grade levels or subject areas and it is necessary to reassign such teachers in whole or part in order to avoid adversely affecting such teachers' contract status.

(2) The teacher assigned to the out-of-endorsement grade level or subject area must meet the following requirements:

(a) The teacher so assigned must have at least two full school years of classroom teaching experience and must not have been placed on probation pursuant to RCW 28A.405.100 during the last two school years.

(b) The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in the out-of-endorsement grade level or subject area.

(3) The board of directors of the district shall comply with the following conditions:

(a) Prior to the assignment of the out-of-endorsement grade level or subject area, or as soon as reasonably practi-

cable thereafter, but in no event beyond twenty school days after the commencement of the assignment, if the assignment was not reasonably foreseeable, a designated representative of the district and the classroom teacher so assigned shall mutually develop a written plan which provides necessary assistance to the teacher so assigned and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement classroom assignment.

(b) No classroom teacher shall be assigned in any one semester or trimester to more than one preparation in one out-of-endorsement grade level or subject area and for no more than two periods of not more than sixty minutes each per day.

(c) Any observation conducted in the out-of-endorsement grade level or subject area will not be utilized by the district as evidence to support probation of the teacher so assigned pursuant to RCW 28A.405.100 or nonrenewal of such teacher pursuant to RCW 28A.405.210.

(d) A second or third year assignment to an out-of-endorsement grade level or subject area will be made only pursuant to WAC 180-16-224 and in no case will the teacher be assigned to the same out-of-endorsement grade level or subject area during more than three school years at any time in which the teacher serves within the same school district; hence, this provision applies to assignments in consecutive or nonconsecutive school years.

(4) The board of directors shall submit to the office of superintendent of public instruction as part of its annual report required by WAC 180-16-195, a list which indicates all assignments for the previous school year in out-of-endorsement grade levels or subject areas. Such list shall include:

(a) The name and certification number of each teacher so assigned, the out-of-endorsement grade levels or subject areas and the number of such periods taught by such teacher, and the dates upon which such assignment(s) commenced and concluded.

(b) The reason for each such assignment.

(c) The reason why the particular teacher was selected for the out-of-endorsement grade level or subject area.

(d) A dated copy of each plan of assistance required pursuant to ((~~WAC 180-16-223~~)) subsection (3)(a) of this section. Such copy shall not contain any personal information the disclosure of which would violate the named teacher's right to privacy pursuant to RCW 42.17.310(b).

(e) An assurance that each such assignment was made in compliance with WAC 180-16-221 through 180-16-224.

(5) *Provided,* That the provisions of subsections (2)(a) and (b) and (3)(b) of this section shall be waived for a period of three consecutive school years for each proposed out-of-endorsement assignment by the state board of education if:

(a) The board of directors of the school district adopts a resolution for each proposed out-of-endorsement assignment which states that the district has made a good faith effort to comply with the provision(s) for which it is requesting a waiver. Such resolution must recite the actions that the school district has taken to comply. Upon adoption and transmission of such resolution to the superintendent of public instruction, the district shall be authorized to assign each such classroom teacher affected to the proposed out-of-endorsement assignment until the state board of education makes its determination under (c) of this subsection.

(b) The superintendent of public instruction presents the resolution at a meeting of the state board of education and documents to the board the stated efforts of the district.

(c) The state board of education determines, based on the evidence received, that a good faith effort to comply has been made.

WSR 93-04-117
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 11:00 a.m.]

Original Notice.

Title of Rule: School bus transportation, chapter 180-20 WAC.

Purpose: To amend chapter 180-20 WAC to reflect modifications to the rules for regulating school district employees and their contractors who transport children. To explain the authorization process for the newly designated Type 1 school bus driver and Type 2 school activities driver. To repeal WAC 180-20-100 through 180-20-230.

Statutory Authority for Adoption: RCW 28A.160.210.

Statute Being Implemented: RCW 28A.160.210.

Summary: Same as above.

Reasons Supporting Proposal: The method of certifying school bus drivers was updated to make the process easier to administer for both the Superintendent of Public Instruction and school districts. The minimum requirements for school bus drivers, needed to be revised to provide further safeguards for the safety of children being transported by school districts or their contractors. The rules also needed to be updated to reflect commercial drivers license requirements and changes in the law regarding criminal background checks.

Name of Agency Personnel Responsible for Drafting: Richard Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-2298; Implementation: David Moberly, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-6742; and Enforcement: Don Carnahan, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-0235.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Divides school bus drivers into two types, a Type 1 school bus driver and a Type 2 school activities driver and sets out the minimum qualifications for each category. Updates minimum qualifications to reflect commercial driver's license requirements. Clarifies that driver requirements apply to school bus drivers employed by contractors. Converts the process from a "certification" system to an "authorization" system. Modifies the list of violations which may result in denial, suspension, or revocation of a driver's authorization. Also see Purpose and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: Amends chapter 180-20 WAC by repealing all substantive provisions and replacing them with updated versions. See above.

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

Hearing Location: Moses Lake High School Library, 803 East Sharon, Moses Lake, WA 98837, (509) 766-2666, on March 18, 1993, at 10:45 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, by March 16, 1993.

Date of Intended Adoption: March 19, 1992 [1993].

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

NEW SECTION

WAC 180-20-005 Authority. RCW 28A.160.210 authorizes the state board of education to adopt rules and regulations governing the training, qualifications, and eligibility requirements for school bus drivers.

NEW SECTION

WAC 180-20-030 Purpose and application. (1) The purpose of this chapter is to set minimum standards and qualifications as are reasonably necessary for public school district employees and contractors operating motor vehicles for the transportation of school children.

(2) School buses shall be operated by authorized drivers when transporting students.

(3) The requirements in this chapter shall not limit discharge, nonrenewal of contracts, or other employment action by employers of such drivers.

NEW SECTION

WAC 180-20-031 Application to contractors. (1) Every contract between a school district and a private school bus contractor for pupil transportation services shall provide for compliance with the requirements of this chapter and establish the responsibility of the contractor or school district, or both, to assure compliance with such requirements.

(2) Each driver employed by a private school bus contractor under contract with a school district to provide pupil transportation services shall meet the requirements of this chapter, and shall be subject to the denial, suspension, and revocation of authority to operate a motor vehicle under this chapter.

(3) Every contract between a school district and a charter bus carrier or excursion carrier shall require a carrier profile report from the Washington utilities and transportation commission before any service is provided. No driver under this subsection shall have unsupervised access to children. Supervision of children under this subsection shall be provided by a responsible employee of the school district.

NEW SECTION

WAC 180-20-034 Definition—Student. As used in this chapter, the term "student" means the following:

(1) Any youth under twenty-one years of age who is under the supervision, direction, or control of the motor vehicle operator authorized under this chapter;

(2) Any youth under twenty-one years of age enrolled in any public school served by the motor vehicle operator;

(3) Any youth under twenty-one years of age enrolled in any public school while attending a school related activity at which the motor vehicle operator is performing professional duties; or

(4) Any former student who is under eighteen years of age and who has been under the supervision, direction, or control of the motor vehicle operator. Former student, for the purpose of this section, includes but is not limited to drop outs, graduates, and students who transfer to other districts or schools.

NEW SECTION

WAC 180-20-035 Definition—School bus driver. As used in this chapter, "school bus driver" means a person, who is employed by a school district including contracted drivers under WAC 180-20-031 (1) and (2) and as part of that employment or contract, operates a motor vehicle for the transportation of children between home and school or for school related activities. A school bus driver includes both Type 1 and Type 2 drivers.

(1) A "Type 1 school bus driver" means a person who operates a school bus as defined in WAC 392-143-010, as well as other motor vehicles for the transportation of students between home and school routinely on scheduled routes. An authorized Type 1 school bus driver may also transport students on field trips and other school related activities.

(2) A "Type 2 school activities driver" means a person employed by the school district, other than a Type 1 school bus driver, who transports students for school activities in a district or private vehicle with a seating capacity of ten persons or less including the driver as defined in WAC 392-143-070. It is not the intent of this chapter to affect the assignment of work between Type 1 and Type 2 drivers.

NEW SECTION

WAC 180-20-040 Definition—Type 1 school bus driver's authorization. As used in this chapter, "Type 1 school bus driver's authorization" means an authorization issued by the superintendent of public instruction indicating that the person has met state board of education requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and for school activities.

NEW SECTION

WAC 180-20-045 Definition—Type 2 school activities driver's authorization. As used in this chapter, "Type 2 school activities driver's authorization" means an authorization issued by the superintendent of public instruction indicating that the person has met state board of education requirements to operate a district or private motor vehicle

with a seating capacity of ten or less, including the driver for the purpose of transporting students to and from school related activities, but not for scheduled routes between home and school. This authorization is not required of a person who transports students in response to an emergency affecting health and/or safety.

NEW SECTION

WAC 180-20-050 Definition—Temporary Type 1 school bus driver's authorization. As used in this chapter, "temporary Type 1 school bus driver's authorization" means an authorization issued by an educational service district superintendent indicating that the person possesses the minimum skills to operate a school bus to transport students and has met state board of education requirements for a Type 1 school bus driver, except for a course in first aid and/or the results of a requested criminal record check.

NEW SECTION

WAC 180-20-055 Definition—School bus driver instructor's endorsement. As used in this chapter, "school bus driver instructor's endorsement" means an endorsement issued by the superintendent of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This endorsement qualifies a person to train and verify the training of Type 1 school bus drivers and Type 2 school activities drivers. This endorsement shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.

NEW SECTION

WAC 180-20-060 Definition—Type 1 school bus driver training course. As used in this chapter, "Type 1 school bus driver training course" means a course established by the superintendent of public instruction and taught by a qualified school bus driver instructor. This course shall be successfully completed by all applicants for a continuing Type 1 school bus driver's authorization.

NEW SECTION

WAC 180-20-065 Definition—Type 2 school activities driver training course. As used in this chapter, "Type 2 school activities driver training course" means a course established by the superintendent of public instruction and taught by a qualified school bus driver instructor. This course shall be successfully completed by all applicants for a continuing Type 2 school activities driver's authorization.

NEW SECTION

WAC 180-20-070 Definition—Type 1 school bus driver annual in-service training course. As used in this chapter, "Type 1 school bus driver annual in-service training course" means an annual course taught by a qualified school bus driver instructor. The content and minimum time requirements of such course shall be annually determined by the superintendent of public instruction and shall be required to be completed by the end of the school year by all authorized Type 1 school bus drivers.

NEW SECTION

WAC 180-20-075 Definition—Type 1 school bus driver and Type 2 school activities driver instructor's course. As used in this chapter, "Type 1 school bus driver and Type 2 school activities driver instructor's course" means a training program authorized by the superintendent of public instruction or his/her designee to qualify a person as a Type 1 school bus driver and Type 2 school activities driver instructor.

NEW SECTION

WAC 180-20-080 Definition—Instructor's annual in-service course. As used in this chapter, "instructor's annual in-service course" means an annual required course, the content of which shall be determined by the superintendent of public instruction. Successful completion of this course prevents the instructor's qualification from lapsing.

NEW SECTION

WAC 180-20-090 Authorization required. Every Type 1 school bus driver and Type 2 school activities driver shall meet the requirements for Type 1 or Type 2 authorization or temporary Type 1 school bus driver's authorization issued in accordance with the provisions of this chapter. An authorization is no longer valid if suspended, lapsed, or revoked. An authorization is not required of a person who operates a motor vehicle to transport students in an emergency affecting health and/or safety.

NEW SECTION

WAC 180-20-095 Duration of authorization. A Type 1 or Type 2 authorization shall continue in effect from year to year as long as the person continues to meet the requirements of this chapter or until the authorization lapses or is suspended or revoked.

NEW SECTION

WAC 180-20-101 Minimum qualifications of Type 1 school bus drivers and Type 2 school activities drivers. (1) Every Type 1 school bus driver and Type 2 school activities driver must meet and continue to meet the following minimum requirements:

(a) Be at least twenty-one years of age.

(b) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.

(c) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.

(d) Hold a current and valid first aid card or equivalent which certifies that the applicant has completed a course in the basic principles of first aid.

(e) Submit to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be

grounds for denial of authorization under (h), (i), (j), (k), (l), and (m) of this subsection.

(f) Submit to a criminal record check according to chapter 28A.400 RCW (for new employees) which shows that no offenses have been committed which would be grounds for denial of an authorization.

(g) Shall not have misrepresented or concealed a material fact in obtaining a Type 1 or Type 2 authorization or in reinstatement thereof in the previous five years.

(h) Shall not have had a driving license privilege suspended or revoked within the preceding three years, a certified copy of the suspension or revocation order issued by the department of licensing being conclusive evidence of the suspension or revocation.

(i) Shall not have incurred three or more speeding tickets in excess of ten miles per hour over the speed limit within any twelve-month period, within the last thirty-six months.

(j) Shall not have been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or nolo contendere is the basis for the conviction) or any proceedings in which the charge has been deferred from prosecution under chapter 10.05 RCW or the sentence has been deferred or suspended, and is related to the occupation of a Type 1 school bus driver or the duties of a Type 2 school activities driver, including but not limited to the following:

(i) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, sexual exploitation of a child under chapter 9.68A RCW; sexual offenses under chapter 9A.44 RCW where a minor is the victim; promoting prostitution of a minor under chapter 9A.88 RCW; the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction;

(ii) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription within the last seven years: *Provided,* That in the case of felony convictions, the applicable time limit shall be ten years;

(iii) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last three years;

(iv) Any crime against children or other persons as listed in RCW 43.43.830 which is relatively recent (less than ten years for felonies and less than seven years for other crimes).

(k) Shall not have been found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor, within the last seven years.

(l) Shall not have been found by a court in a domestic relation proceeding under Title 26 RCW, to have sexually abused or exploited any minor or to have physically abused any minor, within the last seven years.

(m) Shall not have been found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person, within the last seven years.

(n) Shall not have intentionally and knowingly transported public school students within the state of Washington within the previous five years with an expired, lapsed, surrendered, or revoked authorization in a position for which authorization is required under this chapter.

(o) Shall not have a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues. A serious behavioral problem includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student.

(2) Every Type 1 school bus driver must also meet and continue to meet the following requirements:

(a) Be certified by a local school district that the person seeking a Type 1 school bus driver authorization:

(i) Is physically able to maneuver and control a school bus under all driving conditions; and

(ii) Is physically able to use all hand/or foot operated controls and equipment found on state minimum specified school buses; and

(iii) Is physically able to perform daily routine school bus vehicle safety inspections and necessary emergency roadside services; and

(iv) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds.

(b) Provide certification of passing a physical examination every twenty-four months in accordance with the standards established in 49 C.F.R. 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. Type 1 drivers must continue to meet these physical examination requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

(c) Satisfactorily complete a Type 1 training course and each year thereafter, satisfactorily complete a Type 1 school bus driver in-service training course.

(3) Every Type 2 school activities driver must also meet and continue to meet the following requirements:

(a) Provide written assurance to the school district that the person possesses the physical health necessary to safely transport students prior to initial authorization and at intervals deemed appropriate by the local school district.

(b) Satisfactorily complete a Type 2 training course.

NEW SECTION

WAC 180-20-111 Issuing procedures for Type 1 and Type 2 authorizations. (1) Type 1 and Type 2 authorizations shall be issued by the superintendent of public instruction upon request by an authorized representative of the

employing school district subject to compliance with the following provisions:

(2) The employing school district shall forward to the superintendent of public instruction an application for a Type 1 or Type 2 authorization prior to issuance. The following verifications relating to the applicant must be provided:

(a) Verification by a qualified training instructor of successful completion of the appropriate training course.

(b) Verification by the employing school district that it has on file a physical health certification or statement as required by this chapter.

(c) Verification by the employing school district that it has on file a current driver's abstract of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days of the date the application is being submitted for authorization.

(d) Verification that the applicant has a current and valid first aid card or equivalent.

(e) Verification by the employing school district that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of Type 1 school bus driver or Type 2 school activities driver under WAC 180-20-101 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that the school district has on file the results of a criminal record check as required under chapter 28A.400 RCW for new employees and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter.

(g) Verification by the school district that it has on file a history of any serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.

(h) Verification by the employing school district that the applicant complies with all of the requirements for Type 1 school bus drivers or Type 2 school activities drivers set forth in this chapter.

(3) Upon approval of an application, the superintendent of public instruction shall issue a notice of Type 1 school bus driver or Type 2 school activities driver authorization to the employing school district.

(4) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent of public instruction to such districts prior to the operation of any motor vehicle for the transportation of children.

(5) On or before August 15 of each year, the superintendent of public instruction will provide each school district with a list of authorized drivers and their status.

NEW SECTION

WAC 180-20-115 Issuing procedures for temporary Type 1 school bus driver's authorization—Effective period. Temporary school bus drivers' authorizations may be issued by an educational service district superintendent upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(1) Issuing procedure.

(a) Application for a temporary school bus driver's authorization must be approved by an authorized representative of the employing school district, verified by said school official that the applicant meets the qualification requirements set forth in WAC 180-20-101 (except for a course in first aid and/or the results of a requested criminal record check), and further verified by a certified instructor that the applicant has satisfactorily completed the appropriate school bus driver training course. The application shall be submitted to the educational service district superintendent for approval.

(b) Upon approval of the application by the educational service district superintendent, the temporary authorization will be transmitted to the employing school district.

(2) Effective period. The temporary Type 1 school bus driver's authorization shall be valid for a period of sixty calendar days and shall be nonrenewable: *Provided,* That the issuing educational service district superintendent may extend such period for a reasonable number of days when extenuating circumstances exist and the applicant is actively working toward completion of an approved first aid course.

NEW SECTION

WAC 180-20-120 Discipline—Grounds for denial, suspension, or revocation of authorization. (1) A request for an authorization may be denied or an authorization issued under this chapter may be suspended, or revoked for failure to meet any of the minimum requirements set forth in WAC 180-20-101, established by a preponderance of the evidence.

(2) Conduct, which by a preponderance of the evidence, amounts to a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to denial, suspension, or revocation action. Upon such conviction, however, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.

(3) Any person in treatment for alcohol or other drug misuse shall have his or her Type 1 or Type 2 authorization temporarily suspended until successful treatment is satisfactorily confirmed by a state-approved alcohol or other drug treatment program, or by the court in deferred prosecution cases under chapter 10.05 RCW, at which time the authorization will be reinstated.

NEW SECTION

WAC 180-20-123 Applicability of chapter to off-duty hours. Nothing in WAC 180-20-101 (1)(o) shall be applied so as to deny, revoke, or suspend authorizations to any individual for the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

NEW SECTION

WAC 180-20-125 Discipline—Emergency suspension. If the superintendent of public instruction finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, emergency suspension of an authorization may be ordered pending proceedings for revocation or other action. In such cases, the superintendent of public instruction shall expedite all due process actions as quickly as possible.

NEW SECTION

WAC 180-20-130 Discipline—Appeals—Adjudicative proceedings. (1) Any person desiring to appeal a denial, suspension, or revocation of a Type 1 school bus driver or a Type 2 school activities driver authorization, may do so to the superintendent of public instruction or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494 and the administrative practices and procedures of the superintendent of public instruction in chapter 392-101 WAC.

(2) The superintendent of public instruction may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision making authority to the administrative law judge conducting the hearing.

(3) The superintendent of public instruction may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(4) Any person who disagrees with a school district's determination of failure to meet any Type 1 school bus driver or Type 2 school activities driver authorization qualifications may request that the school district forward the pertinent records to the superintendent of public instruction. After review or investigation, the superintendent of public instruction will grant, deny, suspend, or revoke the authorization.

NEW SECTION

WAC 180-20-135 Self—Reporting. (1) Every person authorized under this chapter to operate a motor vehicle to transport children shall, within twenty calendar days, notify his or her employer in writing of the filing of any criminal charge involving conduct not meeting the standards in WAC 180-20-101(1). The authorized driver shall also notify his or her employer of any disqualifying traffic convictions, or license suspension or revocation orders issued by the department of licensing. In cases where the employer is providing transportation services through a contract with the school district, the authorized driver shall also notify the school district superintendent.

(2) The notification in writing shall identify the name of the authorized driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

(3) The failure of an authorized driver to comply with the provisions of this section is an act of unprofessional conduct and constitutes grounds for authorization suspension or revocation by the superintendent of public instruction.

NEW SECTION

WAC 180-20-140 School district—Reporting. (1) Every school district employing authorized drivers to transport children or contracting with a private firm who provides such authorized drivers as a part of a contract shall, within twenty calendar days, notify the superintendent of public instruction in writing of knowledge it may have of the filing of any criminal charge involving the conduct not meeting the standards in WAC 180-20-101 against any authorized driver.

(2) The notification in writing shall be by certified or registered mail and shall identify the name of the authorized driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

NEW SECTION

WAC 180-20-145 School district—Verification of drivers continuing compliance. (1) Every school district shall evaluate each authorized driver for continuing compliance with the provisions of this chapter annually. The results of this evaluation of all drivers shall be forwarded to the superintendent of public instruction as follows:

(2) This report shall be added to the regular school bus driver status report (Report 1799) exchanged between all school districts and the superintendent of public instruction.

(3) Verification that each authorized driver's criminal history record contains no convictions or charges which would be grounds for revocation or suspension of a Type 1 school bus driver or Type 2 school activities driver authorization. This report shall verify that each authorized driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 180-20-101 (1)(e).

(4) This report shall be a written verification that the evaluation has been conducted in accordance with the requirements of this chapter and that all drivers are in compliance, or if all drivers are not in compliance, a list of drivers who are out of compliance and the reason for noncompliance shall be provided.

NEW SECTION

WAC 180-20-150 Training and qualifications of Type 1 school bus drivers and Type 2 school activities drivers—Administration. It shall be the responsibility of the superintendent of public instruction to administer the program of training and qualifications of Type 1 school bus drivers and Type 2 school activities drivers consistent with the provisions of this chapter.

NEW SECTION

WAC 180-20-155 Type 2 authorization—Implementation date. All references in this chapter to Type 2 school activities driver authorization shall become fully implemented by January 1, 1995: *Provided,* That Type 2 drivers issued authorizations prior to January 1, 1995, must comply with all applicable provisions of this chapter from the date of the issuance of the type 2 authorization.

NEW SECTION

WAC 180-20-160 Type 1 authorization—Conversion date. The expiration date of all active school bus driver's certificates will be extended to June 30, 1993. All existing school bus driver certificates will be converted to Type 1 school bus driver authorizations by July 1, 1993.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 180-20-100	Use of school buses—Promulgation.
WAC 180-20-105	Use of school buses—Definition of curricular and extracurricular use.
WAC 180-20-106	School bus operation for extracurricular use.
WAC 180-20-200	Training and qualifications of school bus drivers—Promulgation.
WAC 180-20-205	Training and qualifications of school bus drivers—Definitions.
WAC 180-20-210	Training and qualifications of school bus drivers—Driver's license and school bus driver's certificate or temporary permit required.
WAC 180-20-215	Training and qualifications of school bus drivers—Temporary school bus driver's permit.
WAC 180-20-220	Training and qualifications of school bus drivers—Continuing school bus driver's certificate.
WAC 180-20-225	Training and qualifications of school bus drivers—Annual physical examination required.
WAC 180-20-230	Training and qualifications of school bus drivers—Administration.

WSR 93-04-118
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 11:01 a.m.]

Original Notice.

Title of Rule: WAC 180-26-020 Site conditions—Acceptance criteria.

Purpose: Upon meeting the amended rule conditions, this revision allows the Office of Superintendent of Public Instruction to grant a waiver of site size to school districts when the site size for new construction and modernization is between 70% and 100% of the minimum prescribed acreage.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: Section 24 (8)(e), chapter 233, Laws of 1992.

Summary: This rule, as amended, defines the criteria for the State Board of Education to delegate to the Office of Superintendent of Public Instruction the granting of a site size waiver for new construction and modernization.

Reasons Supporting Proposal: Administrative efficiencies, to reduce state board time on routine administrative matters.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-2298; Implementation: David Moberly, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6742; and Enforcement: Michael Roberts, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, 753-6702.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: The proposed change specifies the standard for the State Board of Education to delegate to the Office of Superintendent of Public Instruction the granting of a site size waiver on sites having 70% to 100% of usable acreage for new school construction or modernization. As part of the on-site review and evaluation process, eligibility for a site size waiver is acceptable if a mitigation plan outlining the diminished negative impacts to education programs is submitted to the Office of Superintendent of Public Instruction.

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

Hearing Location: Moses Lake High School Library, 803 East Sharon, Moses Lake, WA 98837, on March 18, 1993, at 10:45 a.m.

Submit Written Comments to: Monica Schmidt, State Board of Education, P.O. Box 47200, Olympia, WA 98504-7200, by March 16, 1993.

Date of Intended Adoption: March 19, 1993.

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 91-12-057, filed 6/5/91, effective 7/6/91)

WAC 180-26-020 Site conditions—Acceptance criteria. The superintendent of public instruction shall conduct an on-site review and evaluation of a proposed site in the case of new construction and an existing site in the case of modernization. The superintendent of public instruction shall accept a site that meets the following conditions:

(1) The school district provides certification by legal counsel retained by the district that the property upon which the school facility is or will be located is free of all encumbrances that would detrimentally interfere with the construction, operation, and useful life of the school facility;

(2) The minimum acreage of the site shall be five usable acres and one additional usable acre for each one hundred students or portion thereof of projected maximum enrollment plus an additional five usable acres if the school contains any grade above grade six. In computing the minimum acreage of the site, the district may include public property in close proximity to the site if, as a matter of public policy the property is available for school purposes and the district is committed to using such facilities: *Provided,* That for sites having seventy percent or more but less than one-hundred percent of the usable acreage as required above, the superintendent of public instruction may grant a site size waiver when, as part of the on-site review and evaluation process, the district provides a mitigation plan and demonstrates that the requirements of (a) through (d) of this subsection have been met: *Provided further,* That a site consisting of less than the minimum usable acreage calculated as per the provisions of this subsection shall be approved by the state board of education if the district demonstrates the following:

(a) The health and safety of the students are not in jeopardy;

(b) The internal spaces within the proposed facility are adequate for the proposed educational program;

(c) The neighborhood in which the school facility is or will be situated is not detrimentally impacted by lack of parking for students, employees, and the public; and

(d) The physical education and recreational programs on the school site are compatible with less than the minimum prescribed acreage((;)).

(3) That the school district has contacted the appropriate local building authorities and requested a predesign conference;

(4) The school district has retained the services of a geotechnical engineer for the purpose of conducting a limited subsurface investigation to gather basic information regarding potential foundation performance and a report has been reviewed by the school district board of directors;

(5) The site has been approved by the following agencies:

(a) The health agency having jurisdiction;

(b) The local planning commission or authority having jurisdiction; and

(c) The state department of ecology.

WSR 93-04-119
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 11:02 a.m.]

Original Notice.

Title of Rule: WAC 180-26-025 Racial imbalance prohibition—Definition and acceptance criteria.

Purpose: To change the acceptance criteria related to school district racial imbalance prohibition.

Statutory Authority for Adoption: RCW 28A.525.200.

Statute Being Implemented: RCW 28A.525.200.

Summary: Proposed amendments eliminate single minority enrollment criteria and increase combined minority student enrollment in school plan facility average by 25%.

Name of Agency Personnel Responsible for Drafting: Robert Patterson, Old Capitol Building, Olympia, 753-2298; Implementation: David Moberly, Old Capitol Building, Olympia, 753-6742; and Enforcement: Michael Roberts, Old Capitol Building, Olympia, 753-6729.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See 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: Moses Lake High School Library, 803 East Sharon, Moses Lake, WA 98837, (509) 766-2666, on March 18, 1993, at 10:45 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, by March 16, 1993.

Date of Intended Adoption: March 19, 1993.

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending Order 5-84, filed 5/17/84)

WAC 180-26-025 Racial imbalance prohibition—Definition and acceptance criteria. The superintendent of public instruction shall not accept a site unless the applicant district provides assurances that its attendance policies for the proposed or modernized school facility will not create or aggravate racial imbalance within the boundaries of the applicant school district. For the purpose of this chapter, in districts having a total minority student enrollment of fifty percent or less, racial imbalance shall be defined as the situation that exists when the combined minority student enrollment in a school plant facility exceeds the district-wide combined minority average by twenty percentage points, provided that the single minority enrollment (as defined by current federal categories) of a school plant facility will not exceed fifty percent of the school plant facility enrollment in those districts with less than thirty percent district-wide of the single minority. In districts having total minority student enrollment greater than fifty percent, racial imbalance shall be defined as the situation that exists when the combined minority enrollment in a school or plant facility exceeds the district-wide combined minority percentage by more than twenty-five percentage points. This section shall not apply to public schools located on American Indian reservations.

WSR 93-04-120
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 11:03 a.m.]

Original Notice.

Title of Rule: WAC 180-78-010 Definition of terms; and 180-79-010 Definitions.

Purpose: To clarify the meaning of the term, "regionally accredited institution of higher education."

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: The proposed amendments identify which specific accrediting bodies are acceptable in order for an institution to be considered regionally accredited for the purpose of the chapters identified.

Reasons Supporting Proposal: This amendment will prevent confusion which can result from the use of the term, regionally accredited institution of higher education, by numerous agencies. The definition is in agreement with the Interstate Compact.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-2298; Implementation and Enforcement: Theodore E. Andrews, Office of Superintendent of Public Instruction, Old Capitol Building, Olympia, (206) 753-3222.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: Moses Lake High School Library, 803 East Sharon, Moses Lake, WA 98837, (509) 766-2666, on March 18, 1993, at 10:45 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, by March 16, 1993.

Date of Intended Adoption: March 19, 1993.

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-78-010 Definition of terms. The following definitions shall be used in this chapter:

(1) "College or university" means any regionally accredited baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops professional programs of preparation in education which are submitted to the state board of education for approval.

(2) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach or serve as an administrator or educational staff associate.

(3) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.690.010 and 28A.690.020 which facilitates interstate reciprocity.

(4) "Program approval" means the approval by the state board of education of a professional preparation program within Washington state.

(5) "Field experience" means a sequence of learning experiences which occur in actual school settings or clinical or laboratory settings. Such learning experiences are related to specific program outcomes and are designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(6) "Regionally accredited institution of higher education" means a community college, college, or university which is fully accredited by one of the following regional accrediting bodies:

(a) Middle States, Association of Colleges and Schools;
(b) New England Association of Schools and Colleges;
(c) North Central Association of Colleges and Schools;
(d) Northwest Association of Schools and Colleges;
(e) Southern Association of Colleges and Schools;
(f) Western Association of Schools and Colleges: Accrediting Commission for Junior and Senior Colleges.

AMENDATORY SECTION (Amending Order 27-88, filed 12/14/88)

WAC 180-79-010 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," "interstate compact," ((~~and~~)) "college or university," and "regionally accredited institution of higher education," as defined in WAC 180-78-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of an initial certificate may be continued.

(4) "Classroom teaching" means instructing pupils in a classroom setting.

WSR 93-04-121
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed February 3, 1993, 11:04 a.m.]

Original Notice.

Title of Rule: WAC 246-933-990 Fees (veterinary).

Purpose: To reduce the impaired veterinarian assessment.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

Summary: This rule will reduce the impaired veterinarian assessment from $25 to $10 annually for all licensed veterinarians.

Reasons Supporting Proposal: Operating costs for the impaired veterinarian program have been reduced as the result of additional licensing programs being enrolled in the Washington health professionals services program.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jackson D. Melton, 1300 S.E. Quince Street, Olympia, WA 98504, (206) 586-6350.

Name of Proponent: Veterinary Board of Governors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will reduce the impaired veterinary assessment levied annually on each licensee from $25 to $10. The reduction is requested due to lower operating costs assessed to the veterinary program as the result of additional licensing programs being enrolled in the Washington health professional services.

Proposal Changes the Following Existing Rules: Reduces existing fee.

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

Hearing Location: OB-2 Auditorium (Office Building Two), 14th and Jefferson, Olympia, Washington 98504, on March 11, 1993, at 1:30 p.m.

Submit Written Comments to: Ann Foster, 1300 S.E. Quince Street, Olympia, WA 98504, by March 10, 1993.

Date of Intended Adoption: March 18, 1993.

January 28, 1993
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 252, filed 3/10/92, effective 4/10/92)

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
Specialty licensure (initial exam/initial license)	225.00
((~~Impaired veterinarian assessment~~	~~25.00~~))
Temporary permit	100.00
State or specialty license renewal	115.00
Retired active and renewal	60.00
Impaired veterinarian assessment	((~~25.00~~)) 10.00
Late renewal penalty (state and specialty license)	35.00
Late renewal penalty (retired active license)	20.00
Duplicate license	15.00
Certification	25.00

WSR 93-04-122
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Health)
[Filed February 3, 1993, 11:15 a.m.]

Original Notice.

Title of Rule: Public water supplies.

Purpose: To incorporate changes to federal rules regarding surface water treatment and to amend existing WAC sections to be consistent with new requirements. Clarification and some reorganizing. Other minor changes to existing language.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: This rule revision adds new requirements for surface water treatment and clarifies existing requirements relating to surface water sources.

Reasons Supporting Proposal: Adoption is required to retain primacy under the Federal Safe Drinking Water Act.

Name of Agency Personnel Responsible for Drafting: Terri Notestine, Building 3, Airdustrial Park, BX 7822, (S)234-5987; Implementation: B. David Clark, Building 3, Airdustrial Park, BX 7822, (S)234-1280; and Enforcement: John Aden, Building 3, Airdustrial Park, BX 7822, (S)366-0441.

Name of Proponent: State Board of Health, governmental.

Rule is necessary because of federal law, 40 CFR Parts 141 and 142.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule revision will implement the requirements of the federal surface water treatment rule. Public water systems with surface water sources and ground water sources determined to be under direct influence of surface water will be required to install filtration and/or meet increased monitoring requirements.

Proposal Changes the Following Existing Rules: Expands on the requirements for surface water sources and ground water sources determined to be under the direct influence of surface water.

No Small Business Economic Impact Statement required by chapter 19.85 RCW..

Hearing Location: Worthington Conference Center, St. Martins College, Olympia, WA 98503, on March 10, 1993, at 1:15 p.m.

Submit Written Comments to: Ann Foster, (206) 586-6894, Department of Health Rules Management, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902, by March 8, 1993.

Date of Intended Adoption: March 10, 1993.

February 2, 1993
Sylvia Beck
Executive Director

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-001 Purpose and scope. (1) The purpose of these rules is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies.

(2) The rules of this chapter are specifically designed to ensure:

(a) Adequate design, construction, sampling, management, maintenance, and operation practices; and

(b) Provision of high quality drinking water in a reliable manner and in a quantity suitable for intended use.

(3) Purveyors shall be responsible for complying with the regulatory requirements of this chapter.

(4) These rules are intended to conform with ((~~the intent of~~)) P.L. 93-523, the Federal Safe Drinking Water Act of 1974, and P.L. 99-339, the Safe Drinking Water Act Amendments of 1986((~~, P.L. 99-339~~)).

(5) The rules set forth are adopted under chapter 43.20 RCW. Other statutes relating to this chapter are:

(a) ((~~Chapter 43.20A~~)) RCW((~~,~~)) 43.20B.020, Fees for services—Department of health and department of social and health services;

(b) Chapter ((~~43.XXXXX~~)) 43.70 RCW (((~~chapter 9, Laws of 1989 1st Extraordinary Session~~))), Department of health;

(c) Chapter 70.05 RCW, Local health department, boards, officers—Regulations;

(d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977;

(e) Chapter 70.119 RCW, Public water supply systems—Certification and regulation of operators; ((~~and~~))

(f) Chapter 70.119A RCW, Public water ((~~supply~~)) systems—Penalties and compliance; and

(g) Chapter 70.142 RCW, Chemical contaminants and water quality.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-010 Definitions. Abbreviations:

BAT - best available technology;

CSE - comprehensive system evaluation;

GWI - ground water under the direct influence of surface water;

kPa - kilo pascal (SI units of pressure);

m - meter;

MCL - maximum contaminant level;

mg/L - milligrams per liter;

((~~MID - maximum instantaneous demand;~~))

mL - milliliter;

mm - millimeter;

NTNC - nontransient **noncommunity;**

NTU - nephelometric turbidity unit;

pCi/L - picocuries per liter;

psi - pounds per square inch;

SAL - state advisory level;

SOC - synthetic organic chemical;

THM - trihalomethane;

TNC - transient **noncommunity;**

TNTC - too numerous to count;

ug/L - micrograms per liter;

umhos/cm - micromhos per centimeter;

VOC - volatile organic chemical; and

WFI - water facilities inventory and report form.

"Acute" means posing an immediate risk to human health.

"Best available technology (BAT)" means the best technology, treatment techniques, or other means which EPA finds, after examination for efficacy under field conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon.

"Category red operating permit" means an operating permit identified as such pursuant to chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

"Coliform sample" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"Composite sample" means a sample created in a certified laboratory by mixing equal parts of water from up to five different sources.

"Comprehensive system evaluation (CSE)" means a review, inspection, and assessment of a public water system, including but not limited to: Source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.

"Confirmation" means to demonstrate the results of a sample to be precise by analyzing a repeat sample. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample.

"Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

"Contaminant" means a substance present in drinking water which may adversely affect the health of the consumer or the aesthetic qualities of the water.

"Cross-connection" means a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system.

"Department" means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-290-030(1).

"Disinfection" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"Distribution system" means that portion of a public water ((~~supply~~)) system which ((~~stores, transmits, pumps, and distributes~~)) conveys water from the source and/or treatment facilities to consumers.

"Domestic or other nondistribution system plumbing problem," means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

"Duplicate (verification) sample" means a second sample collected at the same time and location as the first sample and used for verification.

"Fire flow" means the rate of water flow needed to fight fires under WAC 246-293-640 or adopted city, town, or county standards.

"First customer" means the first service connection, i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations.

PROPOSED

"Grab sample" means a water qualify sample collected at a specific instant in time and analyzed as an individual sample.

"Ground water under the direct influence of surface water (GWI)" means any water beneath the surface of the ground, which the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia;* or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"Guideline" means a department document assisting the purveyor in meeting a rule requirement.

"Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"Hydraulic analysis" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, ((~~maximum~~)) peak hourly design flow plus fire flow, when required((~~, or maximum instantaneous demand (MID), when fire flow is not required~~)). Hydraulic analysis includes consideration of all factors affecting system energy losses.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table 4.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

((~~"Maximum instantaneous demand (MID)" means the maximum rate of water use, excluding fire flow, which has occurred or is expected to occur within a defined service area at an instant in time.~~))

"Nonacute" means posing a possible or less than immediate risk to human health.

"Nonresident" means a person without a permanent home or without a home served by the system, such as travelers, transients, employees, students, etc.

"Peak hourly design flow" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not such persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

"Potable" means water suitable for drinking by the public.

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Protected ground water source" means a ground water source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

"Public water system" is defined and referenced under WAC 246-290-020.

"Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's customers.

"Purveyor" means an agency ((~~or~~)), subdivision of the state ((~~or a~~)), municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

"Regularly" means four hours or more per day for four days or more per week.

"Repeat sample" means a sample collected to confirm the results of a previous analysis.

"Resident" means an individual living in a dwelling unit served by a public water system.

"Residual disinfectant concentration" means the concentration of disinfectant in mg/L in a representative sample of disinfected water.

"Seasonal source" means a public water system source used on a regular basis, but not in use more than three consecutive months within a twelve-month period.

"Secondary standards" means standards based on factors other than health effects.

"Service" means a connection to a public water system designed to serve a single family residence, dwelling unit, or equivalent use. When the connection is a group home or barracks-type accommodation, two and one-half persons shall be equivalent to one service.

"Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"Standard methods" means the ((~~most recently published~~)) 16th edition of the book, titled *((")Standard Methods for the Examination of Water and Waste Water,((")))* jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"State advisory level (SAL)" means a department-established value for a chemical without an existing MCL. The SAL represents a level which when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

"State board of health" and "board" means the board created by RCW 43.20.030.

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Synthetic organic chemical (SOC)" means a manufactured carbon-based chemical.

"Too numerous to count (TNTC)" means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Trihalomethane (THM)" means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each

substituted by a halogen atom in the molecular structure. Trihalomethanes may occur when chlorine, a halogen, is added to water.

"Verification" means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

"Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

"Water facilities inventory form (WFI)" means the department form summarizing each public water system's characteristics.

"Watershed" means the region or area which:

Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

"Well field" means a group of wells one purveyor owns or controls which:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-020 Applicability. (1) Public water system shall mean any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any:

(a) Collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Collection or pretreatment storage facilities not under control of the purveyor primarily used in connection with such system.

(2) The rules of this chapter shall apply to all public water systems except ((~~public water~~)) those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all ((~~of its~~)) water from, but is not owned by, a public water system where the rules of this chapter apply;

(c) Does not sell water directly to any person;

(d) ((~~The~~)) Has water distribution facilities that are subject to inspection or regulation by a state or local agency other than the department((~~. Bottled water operations fall under Federal Food and Drug Administration regulations, but must obtain water from a source approved by the department or local health jurisdiction~~)); and

(e) Is not a passenger-conveying carrier in interstate commerce.

(3) Public water systems shall be categorized as follows:

(a) A **Group A** water system shall be a system:

(i) With fifteen or more service connections, regardless of the number of people; or

(ii) Serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

Group A water systems are further defined as **community** and **noncommunity** water systems.

(b) **Community** (residential) water system means any **Group A** public water system:

(i) With fifteen or more service connections used by residents for one hundred eighty or more days within a calendar year, regardless of the number of people; or

(ii) Regularly serving twenty-five or more residents for one hundred eighty or more days within the calendar year, regardless of the number of service connections.

Examples of a **community** (residential) water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.

(c) **Noncommunity** water system means a **Group A** public water system which is not a **community** (residential) water system. **Noncommunity** water systems are further defined as:

(i) **Nontransient (NTNC)** (((~~school/business/industry~~))) water system means a **noncommunity** water system regularly serving twenty-five or more of the same nonresidents for one hundred eighty or more days within a calendar year.

Examples of a **NTNC** water system might include a school, day care center, or a business, factory, motel, or restaurant with twenty-five or more employees on-site.

(ii) **Transient (TNC)** (((~~food/lodging/recreation~~))) water system means a **noncommunity** water system:

(A) Having fifteen or more service connections used less than one hundred eighty days within a calendar year; or

(B) Serving twenty-five or more different nonresidents for sixty or more days within a calendar year; or

(C) Serving twenty-five or more of the same nonresidents for sixty or more days, but less than one hundred eighty days within a calendar year; or

(D) Serving twenty-five or more residents for sixty or more days, but less than one hundred eighty days within a calendar year.

Examples of a **TNC** water system might include a restaurant, tavern, motel, campground, state or county park, an RV park, vacation cottages, highway rest area, or church.

(d) A **Group B** water system means a public water system which is not a **Group A** water system. This would include a water system with less than fifteen service connections and serving:

(i) An average of less than twenty-five people for sixty or more days within a calendar year; or

(ii) Any number of people for less than sixty days within a calendar year.

(4) A public water system meeting more than one of the categories described in this section shall be classified by the department in the following order:

(a) **Community** water system;

(b) **NTNC** water system;

(c) **TNC** water system; and

(d) **Group B** water system.

(5) The rules of this chapter to apply to the source or supply of water used by bottled water plants to produce bottled water are as follows:

(a) If the bottled water plant is a **Group A** water system and the plant uses the system's source for the water that is bottled, the source and supply used for the bottled water shall meet the applicable **Group A** requirements;

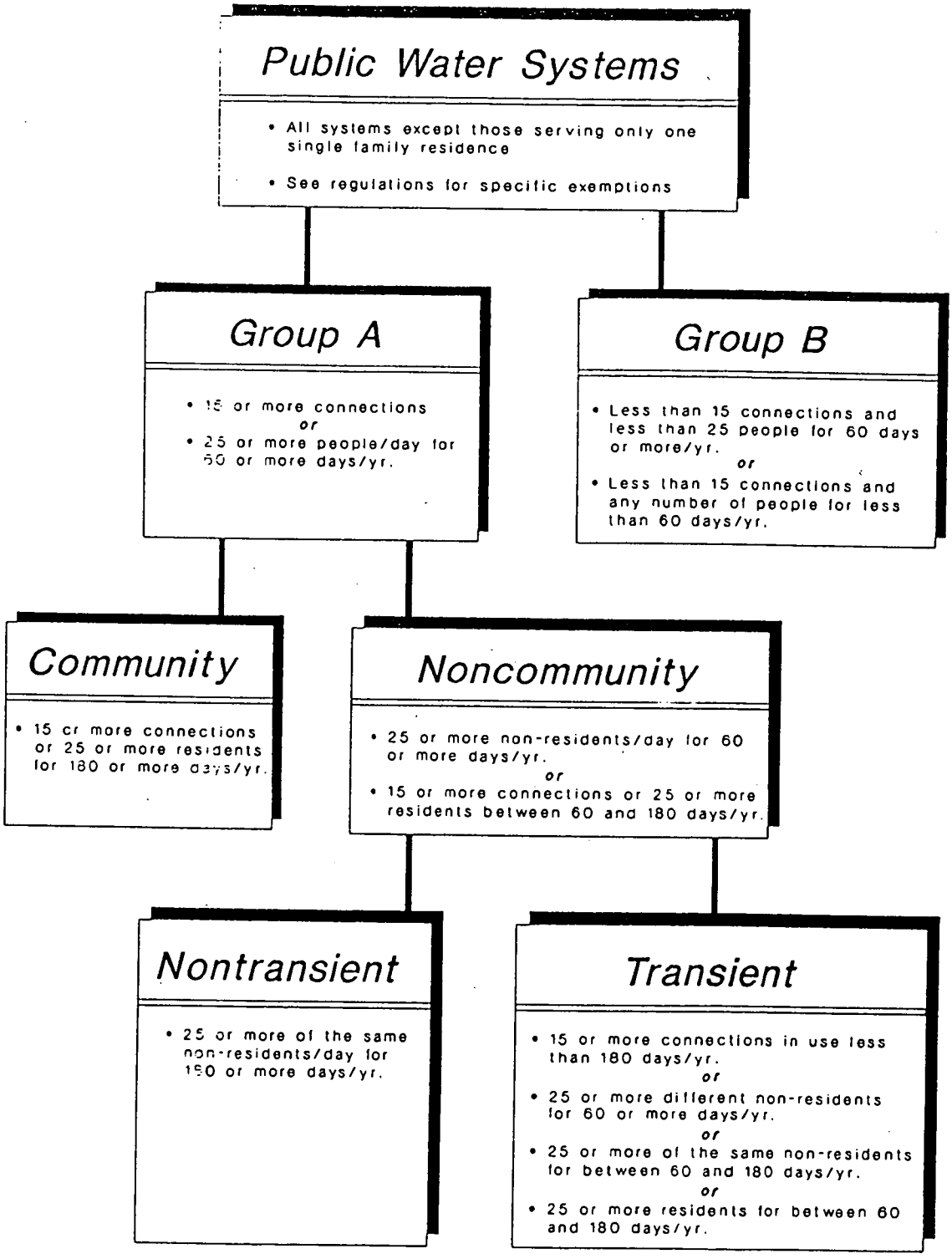
(b) If the bottled water plant uses its own source for the water that is bottled, and the plant is not a **Group A** system, the owner or operator shall obtain source approval from the department, and the water shall meet the minimum requirements for a **Group A** system;

(c) If the bottled water plant purchases the water for bottling from another source or supply, the water shall meet the minimum requirements for a **Group A** system, and the owner or operator of the plant shall ensure that the water meets such requirements;

(d) The source or supply for the water that is bottled shall be protected from contamination prior to the bottling process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water shall be subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

Table 1


Public Water Systems
• All systems except those serving only one single family residence
• See regulations for specific exemptions
Group A
• 15 or more connections
or
• 25 or more people/day for 60 or more days/yr.
Group B
• Less than 15 connections and less than 25 people for 60 days or more/yr.
or
• Less than 15 connections and any number of people for less than 60 days/yr.
Community
• 15 or more connections or 25 or more residents for 180 or more days/yr.
Noncommunity
• 25 or more non-residents/day for 60 or more days/yr.
or
• 15 or more connections or 25 or more residents between 60 and 180 days/yr.
Nontransient
• 25 or more of the same non-residents/day for 180 or more days/yr.
Transient
• 15 or more connections in use less than 180 days/yr.
or
• 25 or more different non-residents for 60 or more days/yr.
or
• 25 or more of the same non-residents for between 60 and 180 days/yr.
or
• 25 or more residents for between 60 and 180 days/yr.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-030 General administration. (1) The department and the health officer for each local health jurisdiction shall develop a joint plan of operation listing the roles of each agency for administering these rules. This plan shall:

(a) Specifically designate those systems for which the department and local health officer have primary responsibility;

(b) Provide for a minimum acceptable level of water system supervision;

(c) Be signed by the department and the chairperson of the local board of health; and

(d) Be updated as needed.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this plan of operation.

(2) The department shall, upon request, review and report on the adequacy of water supply supervision to both the state and local boards of health.

(3) The local board of health may adopt rules ((~~covering~~)) governing public water systems within its jurisdiction for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

(a) No less stringent than this chapter ((~~248-54 WAC~~)); and

(b) Revised, if necessary, within twelve months after the effective date of revised state board of health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised state board of health rules which are more stringent than the local board of health rules shall apply.

(4) The health officer may waive any or all requirements of these rules for **Group B** water systems with two connections where the health officer has assumed primary responsibility for these systems.

(5) For those public water systems where the health officer has assumed primary responsibility, the health officer may approve project reports and construction documents in accordance with engineering criteria approved by the department.

(6) An advisory committee shall be established to provide guidance to the department on drinking water issues. ((~~The committee~~)) Members shall be appointed by the department and conform to department policies for advisory committees. The committee shall be composed of representatives of public water systems, public groups, agencies, and individuals having an interest in drinking water.

(7) The department may develop guidelines to clarify sections of the rules as needed and make these available for distribution.

(8) Fees may be charged by the department as authorized in chapter ((~~43.20A~~)) 43.20B RCW and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering these rules.

(9) All state and local agencies involved in review, approval, surveillance, testing, and/or operation of public water systems, or issuance of permits for buildings or sewage systems shall be governed by these rules and any decisions of the department.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-040 Engineering requirements ((~~for engineers~~)). (1) Purveyors shall ensure that all water system plans, project reports, and construction documents ((~~shall be~~)) are prepared by a professional engineer:

(a) Licensed in the state of Washington under chapter 18.43 RCW; and

(b) Having specific expertise regarding design, operation, and maintenance of public water systems.

All documents shall bear the professional engineer's seal and signature. Tracer studies, where required by this chapter, shall also be prepared by a professional engineer licensed in accordance with chapter 18.43 RCW.

(2) Exceptions to ((~~this~~)) the professional engineer requirement in subsection (1) of this section are:

(a) Minor projects not requiring engineering expertise as determined by the department under WAC ((~~248-54-096(2)~~)) 246-290-120 (2)(a) through (d); and

(b) Public water systems serving less than ten service connections consisting of a simple well and pressure tank with one pressure zone and not providing special treatment or having special hydraulic considerations. These systems may be designed by a water system designer certified by the local health jurisdiction in those counties having a ((~~recognized~~)) water system designer program recognized by the department.

(((~~(2) '~~))) (3) Purveyors shall submit a *Construction Report For Public Water System Projects*((~~' shall be submitted~~)) to the department ((~~on a form provided by the department~~)) within sixty days of completion and before use of any project approved by the department. The form shall:

(a) Be signed by:

(i) A professional engineer; or

(ii) In the case of projects ((~~not requiring engineering expertise as outlined in~~)) identified in subsection (2)(b) of this section, by the certified designer.

(b) State:

(i) The project is constructed and is substantially completed in accordance with approved construction documents; and

(ii) In the opinion of the engineer, based on information available, the installation, testing, and disinfection of the system was carried out per department ((~~rules~~)) guidelines.

(((~~(3) It shall be the responsibility of~~)) (4) The purveyor ((~~to assure~~)) shall ensure the requirements of this section are fulfilled before the use of any completed project. When ((~~necessary~~)) required by the department, the purveyor shall submit an updated water facilities inventory ((~~shall accompany~~)) form with the ((~~'~~))*Construction Report For Public Water System Projects*((~~'~~)) form.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-050 Enforcement. When any ((~~public water system~~)) purveyor is out of compliance with these rules, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued by the department. These actions may include any one or combination of the following:

(1) ((~~Issuance of letters~~)) Notice of violation instructing or requiring appropriate corrective measures;

(2) ((~~Issuance of a~~)) Compliance schedule for specific actions necessary to achieve compliance status;

(3) ((~~Issuance of~~)) Departmental order((s)) requiring ((~~purveyors to submit~~)) submission of project reports, construction documents, and construction report forms;

(4) ((~~Issuance of~~)) Departmental order((s)) requiring specific actions or ceasing unacceptable activities within a designated time period;

(5) ((~~Issuance of~~)) Departmental order((s)) to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;

(6) Imposition of civil penalties for failure to comply with departmental orders may be issued for up to 5,000 dollars per day per violation under authority of chapter 70.119A RCW; and

(7) Legal action may be taken by the attorney general or local prosecutor. The legal action may be criminal or civil.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-060 Variances, exemptions, and waivers. (1) General.

(a) The state board of health may grant variances, exemptions, and waivers of the requirements of this chapter according to the procedures outlined in subsection (5) of this section. The procedures outlined in this section rather than the procedures outlined in WAC ((~~248-08-596~~)) 246-08-210 shall govern the board's consideration of requests for variances, exemptions, and waivers of the requirements of this chapter.

(b) Consideration by the board of requests for variances, exemptions, and waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(c) Statements and written material regarding the request may be presented to the board at or before the public hearing wherein the application will be considered. Allowing cross-examination of witnesses ((~~in such matters~~)) shall be within the discretion of the board.

(d) The board may grant a variance, exemption, or waiver if it finds:

(i) Due to compelling factors, the public water system is unable to comply with the requirements;

(ii) The granting of the variance, exemption, or waiver will not result in an unreasonable risk to the health of consumers.

(2) Variances.

(a) MCL.

(i) The ((~~state~~)) board ((~~of health~~)) may grant a MCL variance to a public water system ((~~if~~)) that cannot meet the MCL requirements because of characteristics of the source water that is reasonably available to the system.

(ii) A MCL variance may only be granted after the system has applied the best available technology (BAT), treatment techniques, or other means as identified by the environmental protection agency (EPA) and still cannot meet ((~~an~~)) a MCL as specified in section 1415, P.L. 99-523 as amended by P.L. 99-339. ((~~Procedures for obtaining a variance are identified under subsection (5) of this section.~~))

(iii) A variance shall not be granted from the MCL for presence of total coliform under WAC 246-290-310(3).

(b) Treatment techniques.

(i) The board may grant a treatment technique variance to a public water system if the system demonstrates that the treatment technique is not necessary to protect the health of consumers because of the nature of the system's source water.

(ii) A variance shall not be granted from any treatment technique requirement under Part 6 of chapter 246-290 WAC.

(c) The board shall condition the granting of a variance upon a compliance schedule as described in subsection (6) of this section.

(3) Exemptions.

(a) The ((~~state~~)) board ((~~of health~~)) may grant ((~~an~~)) a MCL or treatment technique exemption to a public water system ((~~if the system~~)) that cannot meet an MCL or provide the required treatment in a timely manner, or both, as specified under section 1416, P.L. 93-523 as amended by P.L. 99-339.

((~~Procedures for obtaining an exemption are identified under subsection (5) of this section.~~)) (b) An exemption may be granted for up to one year if the system was:

(i) In operation on the effective date of the MCL or treatment technique requirement; or

(ii) Not in operation on the effective date, and no reasonable alternative source of drinking water is available.

(c) No exemption shall be granted from:

(i) The requirement to provide a residual disinfectant concentration in the water entering the distribution system under WAC 246-290-662 or 246-290-692; or

(ii) The MCL for presence of total coliform under WAC 246-290-310(2).

(d) The board shall condition the granting of an exemption upon a compliance schedule as described in subsection (6) of this section.

(4) Waivers. The ((~~state~~)) board ((~~of health~~)) may grant a waiver to a public water system if the system cannot meet the requirements of these regulations pertaining to any subject not covered by EPA regulations. ((~~Procedures for obtaining a waiver are identified under subsection (5) of this section.~~))

(5) Procedures.

(a) For variances and exemptions. The ((~~state~~)) board ((~~of health may grant~~)) shall consider granting a variance or exemption to a public water system ((~~after the purveyor completes~~)) upon completion of the following actions:

(i) The purveyor applies in writing to the department. The application, which may be in the form of a letter((~~. It must state~~)) shall clearly state the reason for the request and what actions the purveyor ((~~took~~)) has taken to meet the requirement;

(ii) The purveyor provides notice of the purveyor's application to customers ((~~of the purveyor's application for a variance or exemption~~)) and provides proof of such notice to the department;

(iii) The department prepares ((~~a schedule of compliance and~~)) recommendations, including a compliance schedule for

the ((~~state board of health to condition the granting of a variance or exemption. The schedule must address:~~

~~(A) Actions the system must undertake within the time frame specified; and~~

~~(B) Implementation of such control measures the department may require in the interim until the purveyor completes the actions required in subsection (5)(a)(ii)(A) of this section.~~)) board's consideration;

(iv) The ((~~state~~)) board ((~~of health~~)) provides notice for and conducts a public hearing on the purveyor's request ((~~and the department's recommendation~~)).

(v) EPA reviews any variance or exemption granted by the board for concurrence, revocation, or revision as provided under sections 1415 and 1416 of P.L. 93-523.

(b) For waivers. The ((~~state~~)) board ((~~of health may grant~~)) shall consider granting a waiver ((~~to a public water system after completing~~)) upon completion of the following actions:

(i) The purveyor applies to the department in writing. The application, which may be in the form of a letter((~~. It must~~)), shall clearly state the reason for the request;

(ii) The purveyor provides notice ((~~to customers~~)) of the purveyor's application ((~~for a waiver~~)) to customers and provides proof of such notice to the department;

(iii) The department prepares a recommendation to the ((~~state~~)) board ((~~of health for the granting or denial of the waiver request~~)); and

(iv) The ((~~state~~)) board ((~~of health~~)) provides notice for and conducts a public hearing on the purveyor's request.

(((~~c~~))) (6) Compliance schedule.

(a) The ((~~state~~)) board ((~~of health~~)) shall ((~~not grant~~)) condition the granting of a variance((~~,~~)) or exemption((~~, or waiver unless the ((state)) board ((of health)) finds:~~

~~(i) Due to compelling factors, the public water system is unable to comply with the requirement;~~

~~(ii) The schedule of~~)) based on a compliance ((~~for a variance or exemption will result in the public water system completing the required actions within the stated time frame; and~~

~~(iii) The granting of the variance, exemption, or waiver will not result in an unreasonable risk to the health of consumers served by the public water system.~~

~~(d) The EPA shall review any variance or exemption granted by the state board of health for concurrence, revocation, or revision provided under sections 1415 and 1416 of P.L. 93-523~~)) schedule. The compliance schedule shall include:

(i) Actions the purveyor must undertake to comply with a MCL or treatment technique requirement within a specified time period; and

(ii) A description and time-table for implementation of interim control measures the department may require while the purveyor completes the actions required in (a)(i) of this subsection.

(b) The purveyor shall complete the required actions in the compliance schedule within the stated time frame.

(7) Extensions to exemptions.

(a) The board may extend the final date of compliance prescribed in the compliance schedule for a period of up to three years after the date the exemption was granted upon a finding that the water system:

(i) Cannot meet the MCL or treatment technique requirements without capital improvements which cannot be completed within the original exemption period; or

(ii) Has entered into an agreement to obtain needed financial assistance for necessary improvements; or

(iii) Has entered into an enforceable agreement to become part of a regional public water system and the system is taking all practicable steps to meet the MCL.

(b) The board may extend the final date of compliance prescribed in the compliance schedule of an exemption for one or more additional two-year periods if the purveyor:

(i) Is a Group A community water system providing water to less than five hundred service connections; and

(ii) Needs financial assistance for the necessary improvements; and

(iii) Is taking all practicable steps to meet the compliance schedule.

(c) Procedures listed in subsection (5) of this section shall be followed in the granting of extensions to exemptions.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-100 Water system plan. (1) The purpose of this section is to establish a uniform process for ((~~public water systems~~)) purveyors to:

(a) Identify present and future needs;

(b) Set forth means for meeting those needs; and

(c) Do so in a manner consistent with other relevant plans and local, state, and federal laws.

(2) Purveyors of the following categories of public water systems shall ((~~develop~~)) ensure the development and submittal of a water system plan for review and approval by the department:

(a) All public water systems having one thousand or more services;

(b) Public water systems located in areas utilizing the Public Water System Coordination Act of 1977, chapter 70.116 RCW and chapter 248-56 WAC;

(c) Any public water system experiencing problems related to planning, operation, and/or management as determined by the department; ((~~and~~))

(d) Any expanding Group A water system;

(e) Any Group A water system for which a change of ownership is proposed; and

(f) All new ((~~public~~)) Group A water systems ((~~as determined by the department~~)).

(3) The department shall work with the purveyor and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size and complexity of the water system. Project reports may be combined with a water system plan.

(4) The water system plan shall address the following elements as a minimum for a period of at least ((~~ten~~)) twenty years into the future. A department guideline titled *Planning Handbook* is available to assist the utility in adequately addressing these elements:

(a) Basic water system planning data((~~,~~));

(b) Existing system analysis((~~,~~));

(c) Planned improvements((~~,~~));

(d) Conservation program;

(e) Financial program((,));

(((e))) (f) Relationship and compatibility with other plans, including local growth management plans and development policies;

(((f))) (g) Supporting maps((,));

(((g))) (h) Operations program((,));

(((h))) (i) Ownership and management;

(j) State Environmental Policy Act((,)); and

(((i))) (k) Watershed control program when applicable (((see WAC 248-54-225))) under WAC 246-290-135.

(5) Department approval of a water system plan shall be in effect for ((five)) six years from the date of written approval unless:

(a) Major system improvements are contemplated which are not addressed in the plan((,));

(b) Changes occur in the basic planning data affecting improvements identified((, and)); or

(c) The department requests an updated plan.

(6) The purveyor shall update the plan and submit it for approval every ((five)) six years. However, if only minor alterations to an existing plan are considered necessary, the purveyor may submit ((evidence supporting this conclusion in a letter)) an amendment to the plan for department ((for)) approval.

(7) Project reports and construction documents submitted for approval per WAC ((248-54-086 and 248-54-096)) 246-290-110 and 246-290-120 by purveyors required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-110 Project report. (1) The purpose of this section is to assure the following factors are taken into account for specific projects prior to construction:

(a) Engineering concepts;

(b) Design criteria;

(c) Planning;

(d) Source protection;

(e) Water quality and quantity;

(f) Results of the filtration facility pilot study;

(g) Local requirements such as fire flow; ((and (g))) (h) Facility operation;

(i) Short-term and long-term financing; and

(j) Other necessary department-determined considerations.

The project report shall document the reasons for carrying out the project and ((WAC 248-54-096)) construction documents shall identify how the project will be constructed.

(2) The purveyor shall submit project reports to the department for written approval prior to installation of any new water system, water system extension, or improvement with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Installation of hydrants under WAC ((248-54-135(3))) 246-290-230;

(c) Repair of a system component or replacement with a similar component;

(d) Maintenance or painting of surfaces not contacting potable water; and

(e) Distribution mains if ((approved)):

(i) Approved standard construction specifications are documented in the water system plan approved by the department; and

(ii) The purveyor provides documentation to the department that a professional engineer registered in Washington, certified the construction and that said construction complied with the standard specifications found in the current department-approved water system plan; and

(iii) The purveyor provides documentation to the department of the pressure test results, disinfection procedures used and tests performed, and water quality sample results obtained prior to placing the distribution pipe into service.

(3) Project reports shall be consistent with the standards identified under WAC ((248-54-105)) 246-290-200 and shall include, at a minimum, the following elements (information contained in a current approved water system plan or current project report need not be duplicated in the new project report. Any planning information in a project report shall be project specific.):

(a) Project description. Identify what the project is intended to achieve, design considerations, approach, etc.;

(b) Planning. If the system has an approved water system plan, show the project's relationship to the plan. If a water system plan is not required, include:

(i) General project background with population and water demand forecasts;

(ii) Relationship between the project and other system components;

(iii) Project schedule;

(iv) Management program; and

(v) How the project will impact neighboring water systems.

(c) Alternatives. Describe options, their impacts, and justify the selected alternative;

(d) Legal considerations. Identify legal aspects such as ownership, right-of-way, sanitary control area, and restrictive covenants. Include discussion of the project's relationship with the boundary review board and the utility and transportation commission;

(e) Engineering calculations. Describe how the project complies with the design considerations. Include the hydraulic analysis, sizing justification, and other relevant technical considerations necessary to support the project;

(f) Management. If the system has an approved management program, refer to that document. If not, describe:

(i) System ownership and management responsibilities;

(ii) Long-term management considerations;

(iii) How the project will be operated; and

(iv) How the project will be maintained over time.

(g) Implementation. Identify the schedule for completion of the project and implementation strategies, if any. Project phasing should also be discussed;

(h) State Environmental Policy Act (SEPA). Include an environmental impact statement, determination of nonsignificance, or justify why SEPA does not apply to the project. Refer to chapter ((248-06)) 246-03 WAC and the ((~~"DSHS~~)) *DOH Drinking Water SEPA Guide*((~~"~~));

(i) Source development information. If the project involves source development, ((~~refer to~~)) address requirements ((~~per~~)) under WAC ((~~248-54-097~~)) 246-290-130; and

(j) Type of treatment. If the project involves treatment, refer to WAC ((~~248-54-155~~)) 246-290-250.

(k) The information required in this subsection shall be included in a letter addendum to the workbook for **Group B** water systems.

(4) Approval of project documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-120 Construction documents. (1) The purpose of this section is to assure detailed plans, specifications, drawings, and other documents are adequately prepared for specific projects. ((~~These~~)) Construction documents shall identify how specific projects will be constructed while ((~~WAC 248-54-086~~)) the project report documents the reasons for carrying out the project.

(2) Purveyors shall submit construction documents ((~~shall be submitted~~)) to the department for written approval prior to installation of any new water system, or water system extension or improvement with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Installation of hydrants per WAC ((~~248-54-135(3)~~)) 246-290-230(3);

(c) Repair of a system component or replacement with a similar component;

(d) Maintenance or painting of surfaces not contacting potable water; or

(e) Distribution mains if ((~~the~~)):

(i) Approved water system plan documents standard construction specifications approved by the department; and

(ii) The purveyor provides documentation to the department that a professional engineer registered in Washington, certified the construction and that said construction complied with the standard specifications found in the current department-approved water system plan; and

(iii) The purveyor provides documentation to the department of the pressure test results, disinfection procedures used and tests performed, and water quality sample results obtained prior to placing the distribution pipe into service.

(3) Construction documents shall be consistent with the standards identified in WAC ((~~248-54-105~~)) 246-290-200 and shall include, at a minimum, the following:

(a) Drawings. Include detailed drawings of each project component;

(b) Material specifications. List detailed material specifications for each project component;

(c) Construction specifications. List detailed construction specifications and assembly techniques for carrying out the project;

(d) Testing. Identify testing criteria and procedures for each applicable portion of the project;

(e) Disinfection. Identify specific disinfection procedures which must conform with American water works association standards or other standards acceptable by the department;

(f) Inspection. Identify provisions for inspection of the installation of each project component. See WAC ((~~248-54-035~~)) 246-290-040 for construction reporting requirements; and

(g) Change orders. All changes except for minor field revisions must be submitted to and approved by the department in writing. Identify who will be responsible for obtaining departmental approval and how change orders will be reported to the department.

(4) Approval of construction documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

(5) A department guideline titled *Planning Handbook* is available to assist the utility in meeting the planning-related requirements of this section.

AMENDATORY SECTION (Amending Order 150B, filed 3/15/91, effective 4/15/91)

WAC 246-290-130 Source approval. (1) No new source, previously unapproved source((s)), or modification of an existing source((s)) shall be used as a public water supply without department approval. A party seeking approval shall provide the department:

(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;

(b) A hydrogeologic assessment of the proposed source along with a general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(c) Any information, in addition to (b) of this subsection, as requested by the department to determine whether a source is a GWI;

(d) For ((~~unfiltered~~)) surface water and GWI sources, the watershed control program identified under WAC ((~~246-290-450~~)) 246-290-135 and Part 6 of chapter 246-290 WAC;

(((~~d~~))) (e) Upstream water uses affecting either water quality or quantity;

(((~~e~~))) (f) A map showing the project location and vicinity;

(((~~f~~))) (g) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(((~~g~~))) (h) The dimensions and location of the sanitary control area under WAC 246-290-210;

(((~~h~~))) (i) Copies of the recorded legal documents for the sanitary control area under WAC 246-290-210;

(((~~i~~))) (j) A copy of the on-site inspection approval made by the department or local health department representative;

(((~~j~~))) (k) A copy of the water well report;

((~~(k)~~)) (l) Required construction documents in accordance with WAC 246-290-120;

((~~(l)~~)) (m) Documentation of source meter installation;

(n) Well source development data establishing the capacity of the source. Data shall include:

(i) Static water level((~~,~~));

(ii) Yield((~~,~~));

(iii) The amount of drawdown((~~,~~));

(iv) Recovery rate ((~~and~~));

(v) Duration of pumping((~~,~~)); and

(vi) Interference between existing sources and the source being tested ((~~shall also be shown~~)).

The source shall be pump tested at no less than the maximum design rate to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine the proper pump settings in the well. A department guideline on pump testing is available to assist purveyors;

((~~(m)~~)) (o) An initial analysis result of ((~~raw~~)) source water quality, including as a minimum ((a)) the following:

(i) Bacteriological((~~,~~));

(ii) Complete inorganic chemical and physical ((~~analysis and a~~));

(iii) VOC ((~~analysis~~));

(iv) Radionuclide (if source being approved is for a community system); and

(v) Any other information required by the department.

When source water quality is subject to variation, the department may require additional ((~~monitoring defining~~)) analyses to define the range of variation((~~. If the source being approved is for a community system, a radionuclide analysis shall also be required~~));

((~~(n) Detailed information regarding aspects of water quality addressed under WAC 246-290-310.~~)) (p) If treatment is planned, refer to WAC 246-290-250(2) and Part 6 of chapter 246-290 WAC, if applicable; and

((~~(o)~~)) (q) Other department-required information. Before initiating source development or modification, the purveyor shall contact the department to identify any such additional information.

(2) The department shall issue a written source approval when:

(a) The purveyor submits the necessary information to the satisfaction of the department; and

(b) The developed source provides water complying with this chapter ((~~246-290-WAC~~)).

NEW SECTION

WAC 246-290-135 Source protection. (1) The purveyor shall obtain drinking water from the highest quality source feasible. Existing and proposed sources of supply shall conform to the water quality standards established in WAC 246-290-310.

(2) The department may require monitoring and controls in addition to those specified in this section if, in the opinion of the department, a potential risk exists to the water quality of a source.

(3) Sanitary control area.

(a) The purveyor shall maintain a sanitary control area around all sources for the purpose of protecting them from existing and potential sources of contamination.

(b) For wells and springs, the minimum sanitary control area shall have a radius of one hundred feet (thirty meters) and two hundred feet (sixty meters) respectively, unless engineering justification supports a smaller area. The justification must address geological and hydrological data, well construction details and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger sanitary control area than specified in (b) of this subsection if geological and hydrological data support such a decision. It shall be the purveyor's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the permission of the department and the purveyor.

(e) The sanitary control area shall be owned by the purveyor in fee simple, or the purveyor shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) A purveyor, owning all or part of the sanitary control area in fee simple or having possession and control, shall send to the department copies of legal documentation, such as a duly recorded declaration of covenant, restricting the use of the land. This legal documentation shall state:

(i) No source of contamination may be constructed, stored, disposed of, or applied without the permission of the department and the purveyor; and

(ii) If any change in ownership of the system or sanitary control area is considered, all affected parties shall be informed of these requirements.

(g) Where portions of the control area are in the possession and control of another, the purveyor shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules and provide the department with copies of the appropriate documentation.

(4) Watershed control program.

(a) Purveyors of water systems using surface water or GWI sources shall develop and implement a watershed control program in accordance with Part 6 of chapter 246-290 WAC as applicable.

(b) The watershed control program shall be part of the water system plan required in WAC 246-290-100 or the small water system management program required in WAC 246-290-410.

(c) The purveyor's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities which may adversely affect source water quality;

(ii) Watershed control measures, including documentation of ownership and relevant written agreements, and monitoring of activities and water quality;

(iii) System operation, including emergency provisions; and

(iv) Documentation of water quality trends.

Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to purveyors establishing watershed control programs.

(d) The purveyor shall submit the watershed control program to the department for approval. Following depart-

mental approval, the purveyor shall implement the watershed control program as approved.

(e) Purveyors of systems using unfiltered surface or GWI sources and meeting the criteria to remain unfiltered as specified in WAC 246-290-690 shall submit an annual report to the department which summarizes the effectiveness of the watershed control program. Refer to WAC 246-290-690 for further information about this report.

(f) The purveyor shall update the watershed control program at least every six years, or more frequently if required by the department.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-200 Design standards. (1) Purveyors shall ensure that good engineering practices ((~~shall be~~)) are used in the design of all public water systems, such as those set out in:

(a) The most recently published edition of *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State ((~~Sanitary Engineers~~)) Public Health and Environmental Managers;*

(b) Department guideline titled *Sizing Guidelines for Public Water Supplies;*

(c) Standard specifications of the American Public Works Association;

(d) Standard specifications of the American Water Works Association; ((~~and~~))

(e) Design criteria, such as contained in current college texts and professional journal articles, acceptable to the department; ((~~and~~))

(f) ((~~WAC~~)) Chapter 173-160 WAC *Minimum Standards for Construction and Maintenance of Water Wells;*

(g) Visscher, J.T., et. al., *Slow Sand Filtration for Community Water Supply, Planning, Design, Construction, Operation, and Maintenance. 1987.* Technical paper no. 24, The Hague, Netherlands: International Reference Center for Community Water Supply and Sanitation;

(h) Huisman, L. and W.E. Wood. 1974. *Slow Sand Filtration.* Geneva. World Health Organization;

(i) *Manual of Design for Slow Sand Filtration. 1991.* AWWA Research Foundation; and

(j) *Slow Sand Filtration. 1991.* American Society of Civil Engineers.

(2) In addition, ((~~all~~)) purveyors of new or expanding public water systems shall use the following design factors:

(a) Historical water use((,));

(b) Community versus recreational uses of water((,));

(c) Local conditions and/or regulations((,));

(d) Community expectations((,));

(e) Public Water System Coordination Act considerations where appropriate((,));

(f) Risks from potential disasters((,)); and

(g) Other requirements as determined by the department.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-230 Distribution systems. (1) ((~~All new~~)) Distribution reservoirs completed after June 1, 1975, shall have suitable watertight roofs or covers preventing entry by birds, animals, insects, and dust and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. ((~~Existing~~)) Purveyors with uncovered distribution reservoirs in use before June 2, 1975, shall comply with the provisions of WAC ((~~248-54-245~~)) 246-290-470.

(2) The purveyor shall size and evaluate the distribution system using a hydraulic analysis acceptable to the department.

(3) The minimum diameter of all distribution mains shall be six inches (150 mm) unless justified by hydraulic analysis. Systems designed to provide fire flows shall have a minimum distribution main size of six inches (150 mm). Installation of standard fire hydrants shall not be allowed on mains less than six inches (150 mm) in diameter.

(4) New public water systems or additions to existing systems shall provide a design quantity of water at a positive pressure of at least 30 psi (200 kPa) under ((~~maximum instantaneous demand~~)) peak hourly design flow conditions measured at any customer's water meter or at the property line if no meter exists.

(5) If fire flow is to be provided, the distribution system shall be designed to provide the required fire flow at a pressure of at least 20 psi during ((~~MID~~)) peak hourly design flow conditions.

(6) Booster pumps needed for individual services shall be subject to review and approval by the department. Installation shall be made under the supervision of the purveyor to assure cross-connection control requirements are met.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-250 Treatment design. (1) Purveyors shall ensure finished water quality from existing and proposed sources of supply ((~~shall~~)) conforms to the minimum water quality standards established in WAC ((~~248-54-175~~)) 246-290-310.

(2) Purveyors using surface water or GWI sources shall design, install, and operate treatment facilities to ensure at least:

(a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; and

(b) 99.99 percent (4 log) removal and/or inactivation of viruses.

Part 6 of chapter 246-290 WAC contains specific requirements for filtered and unfiltered surface water and GWI systems, including treatment technique, monitoring and reporting requirements.

(3) Predesign studies shall be required for proposed surface water ((~~supplies~~)) and GWI sources and those ground water ((~~supplies~~)) sources requiring treatment. The goal of the predesign study shall be to establish the most ((~~acceptable~~)) effective method, considering economics, to produce satisfactory finished water quality ((~~and~~)) meeting the requirements of this chapter and complying with the treatment technique requirements in Part 6 of chapter 246-290 WAC. The predesign study shall be ((~~done in conjunction with a~~)) included as part of the project report ((~~as per~~)) under WAC ((~~248-54-086~~)) 246-290-110. Refer to WAC

246-290-676 for requirements relating specifically to the filtration facility pilot study.

(((3))) (4) The minimum level of treatment for all ((public water supplies)) well sources and spring sources not classified as GWI's shall be continuous and effective disinfection as determined by the department. The department may reduce the requirement for disinfection ((may be waived)) for public water systems with:

(a) Well sources not classified as GWI's:

(i) Having a satisfactory bacteriological history((,)) at the source and within the distribution system as determined by the department; and

(ii) Drawing from a protected aquifer as determined by the department.

(b) Spring sources not classified as GWI's:

(i) Having a satisfactory bacteriological history at the source and within the distribution system as determined by the department;

(ii) Having evidence to demonstrate, to the satisfaction of the department, the spring originates in a stratum not subject to contamination; and

(iii) Where the water is collected by a method precluding contamination.

(((4))) (5) The minimum level of treatment for surface water ((supplies shall be coagulation, flocculation, filtration, and disinfection. In certain cases, alternative treatment designs followed by disinfection may be acceptable to the department, provided there is adequate engineering justification)) and GWI sources shall be as specified under WAC 246-290-630.

(((5) Disinfection as the sole means of treatment for existing surface water supplies may be acceptable to the department provided the purveyor can demonstrate adequate:

(a) Watershed control per WAC 248-54-225,

(b) Raw and finished water quality, and

(c) Water system design and operation.))

(6) Disinfection methods, other than chlorination, ((i.e.,)) such as ozonation, ultraviolet radiation, and iodination, may be approved by the department with appropriate engineering justification.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-300 Monitoring requirements. (1) General.

(a) The purveyor shall comply with the requirements of this section. The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) The department determines a ground water source may be a GWI; or

(iii) Under other circumstances as identified in a departmental order.

(b) Special purpose samples collected by the purveyor shall not count toward fulfillment of the monitoring requirements of this chapter.

(c) The purveyor shall ensure samples required by this ((section)) chapter are collected, transported, and submitted for analysis according to department-approved methods. The analyses shall be performed by the state public health laboratory or another laboratory certified by the department. Qualified water utility, certified laboratory, or health department personnel may conduct measurements for pH, temperature, residual disinfectant concentration and turbidity as required by this chapter, provided, these measurements are made in accordance with "standard methods."

(d) When one public water system sells water to another public water system, the purveyor of the selling system, regardless of size, shall conduct at least the minimum source monitoring required by this chapter for Group A systems.

(e) When one public water system receives water from another public water system, the purveyor of the receiving system is only required to:

(i) Collect coliform samples in accordance with subsection (2) of this section ((and));

(ii) Collect trihalomethane (THM) samples in accordance with subsection (5) of this section; and

(iii) Perform the distribution system disinfectant residual monitoring required under WAC 246-290-694 if applicable.

(((i))) (f) The department may reduce the coliform and THM monitoring requirements of the receiving system provided the receiving system:

(((A))) (i) Has a satisfactory water quality history as determined by the department;

(((B))) (ii) Operates in a satisfactory manner consistent with this chapter;

(((C))) (iii) Is included in the supplying system's regular monitoring schedule; and

(((D))) (iv) Is included in the service and population totals for the supplying system.

(((ii))) (g) The department may periodically review both the selling and receiving system's sampling records to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(((A))) (i) The department shall notify the purveyor of the change in monitoring requirements; and

(((B))) (ii) The purveyor shall conduct monitoring as directed by the department.

(((e) Upon failure))) (h) Purveyors failing to comply with a monitoring requirement((, the purveyor)) shall notify:

(i) The department in accordance with WAC 246-290-480; and

(ii) The water system users in accordance with WAC 246-290-330.

(2) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system after the first service and at regular time intervals at least once per calendar month unless otherwise specified in this subsection, each month the system provides water to consumers.

(b) Coliform monitoring plan.

(i) The purveyor of a **Group A** system shall prepare a written coliform monitoring plan and base routine monitoring upon the plan. A department guideline titled *((-))Preparation of a Coliform Monitoring Plan((-))* is available to assist the purveyor in preparing this plan.

(ii) The plan shall include at a minimum:

(A) A system map or diagram showing the locations of:

(I) Water sources;

(II) Storage, treatment, and pressure regulation facilities;
(III) Distribution systems;
(IV) Pressure zones;
(V) Interconnections; and
(VI) Coliform sample collection sites.

(B) A narrative which includes the following information:

(I) Public water system identification number;
(II) Population served and services;
(III) Water sources;
(IV) System facilities and processes for storage, treatment, and pressure regulation;
(V) Coliform sample collection sites; and
(VI) Sampling schedules.

(iii) The purveyor of a **Group A** system shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested.

(c) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) **Group A.**

(A) Purveyors of **community** systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 during each calendar month of operation;

(B) Purveyors of **noncommunity** systems shall collect and submit for analysis no less than the number of samples required in Table 2. Each month's population shall include all residents and nonresidents served during that month. During months when the total population served is less than twenty-five, routine sample collection is not required when:

(I) Using only protected ground water sources;

(II) No coliforms were detected in samples during the previous month; and

(III) One routine sample has been collected and submitted for analysis during one of the previous two months.

(C) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident and on Table 2; and

(D) Purveyors of systems with a nonresident population lasting two weeks or less during a month shall sample as directed by the department.

(ii) **Group B.** Purveyors shall collect and submit a sample for coliform analysis at least once every twelve months.

(d) Surface water or ground water under the direct influence of surface water (GWI) sources. The purveyor of a **Group A** system using unfiltered surface water or unfiltered GWI sources shall:

(i) Collect and submit for analysis, at least one coliform sample at the first service connection during each day in which source water turbidity exceeds 1 NTU; or

(ii) Collect samples as directed by the department when logistical problems beyond the purveyor's control make analysis of the coliform samples impractical because the time between sample collection and analysis exceeds thirty hours. If the department extends the time limits, the purveyor shall collect the required samples as directed by the department.

(e) Comprehensive system evaluations (CSEs).

(i) Purveyors of **Group A** systems with less than four thousand one hundred one population served shall:

(A) Submit to a CSE conducted by the department; or

(B) Collect and submit for analysis five or more routine samples each month.

(ii) **Group A** systems electing to have CSEs conducted shall be evaluated by the department based on the following schedule:

(A) **Community** water systems, every five years. The initial CSE shall be conducted by June 29, 1994; and

(B) **Noncommunity** systems, every five years unless the system uses only disinfected and protected ground water as determined by the department, in which case the evaluation need only be repeated every ten years. The initial CSE shall be conducted by June 29, 1999.

(iii) The department may substitute source of contamination information from the wellhead protection program for CSE information if the information was collected since the last CSE; and

(iv) Purveyors of **Group A** systems collecting less than five routine samples per month shall be responsible for:

(A) Ensuring full cooperation in scheduling CSEs; and

(B) Making all facilities and records available to the department for the CSE.

(f) Invalid samples. When a coliform sample is determined invalid under WAC 246-290-320 (2)(d), the purveyor shall:

(i) Not include the sample in the determination of monitoring compliance; and

(ii) Collect and submit for coliform analysis, an additional drinking water sample from the same location as each invalid sample within twenty-four hours of notification by the laboratory of the invalid sample.

(g) The purveyor using a surface water or GWI source shall collect representative source water samples for bacteriological density analysis in accordance with WAC 246-290-664 and 246-290-694 as applicable.

TABLE 2

MINIMUM MONTHLY ROUTINE COLIFORM SAMPLING REQUIREMENTS FOR GROUP A SYSTEMS

Population Served[1] During Month	Minimum Number of Routine Samples/Month When NO samples with a coliform presence were collected during the previous month	When ANY samples with a coliform presence were collected during the previous month
1 - 1,000	1 [2]	5
1,001 - 2,500	2	5
2,501 - 3,300	3	5
3,301 - 4,100	4	5
4,101 - 4,900	5	5
4,901 - 5,800	6	6
5,801 - 6,700	7	7
6,701 - 7,600	8	8
7,601 - 8,500	9	9
8,501 - 12,900	10	10
12,901 - 17,200	15	15
17,201 - 21,500	20	20
21,501 - 25,000	25	25
25,001 - 33,000	30	30

33,001 - 41,000	40	40
41,001 - 50,000	50	50
50,001 - 59,000	60	60
59,001 - 70,000	70	70
70,001 - 83,000	80	80
83,001 - 96,000	90	90
96,001 - 130,000	100	100
130,001 - 220,000	120	120
220,001 - 320,000	150	150
320,001 - 450,000	180	180
450,001 - 600,000	210	210
600,001 - 780,000	240	240
780,001 - 970,000	270	270
970,001 - 1,230,000[3]	300	300

[1] Does not include population of utilities wholesaled to, except as provided under WAC 246-290-300 (1)(c).

[2] Noncommunity systems using only protected ground water sources and serving less than 25 individuals, may collect and submit for analysis, one sample every three months.

[3] Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.

(3) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical standards.

(i) Primary chemical and physical standards are arsenic, barium, cadmium, chromium, fluoride, ((~~lead,~~)) mercury, nitrate (as N), selenium, ((~~silver,~~)) sodium, and turbidity.

(ii) Secondary chemical and physical standards are chloride, color, ((~~copper,~~)) hardness, iron, manganese, specific conductivity, silver, sulfate*, total dissolved solids*, and zinc.

*Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Samples taken for inorganic chemical analyses shall be collected at the source before treatment.

(c) Monitoring frequency.

(i) Purveyors of **community** systems shall have one complete analysis from each surface water source every twelve months;

(ii) Purveyors of **community** systems shall have one complete analysis from each ground water source or well field every thirty-six months;

(iii) Purveyors of **NTNC, TNC,** and **Group B** systems shall have one initial complete analysis from each source or well field. The department may waive or reduce the minimum requirement for the initial complete analysis if available information shows, to the department's satisfaction, that the aquifer provides water of satisfactory inorganic chemical quality; and

(iv) After the initial complete analysis, **NTNC**, **TNC**, and **Group B** systems shall have one nitrate sample analyzed from each source or well field every thirty-six months.

(d) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, samples shall be taken for the specific contaminant or contaminants before and after treatment. The department shall determine the frequency of sampling.

(4) Turbidity.

(a) Purveyors of **Group A** water systems with surface water or GWI sources and installing filtration, and other Group A water systems as directed by the department, shall monitor turbidity ((~~at least~~)) a minimum of once ((~~a~~)) per day((~~.~~

~~(b) The purveyor shall monitor turbidity~~)) at ((~~or before~~)) the entry ((~~point~~)) to the distribution system ((~~and where needed for treatment process control~~)).

(b) For purveyors of systems installing filtration, the monitoring requirement of (a) of this subsection is effective between written department notification of the filtration requirement and installation of filtration. Once filtration is installed, the purveyor shall monitor turbidity in accordance with WAC 246-290-664.

(c) Purveyors of **Group A** water systems with surface water or GWI sources not subject to the requirements specified in (a) of this subsection, shall monitor turbidity in accordance with Subpart B or Subpart D of Part 6 of chapter 246-290 WAC, whichever is applicable.

(d) The department shall determine monitoring requirements for **Group B** water systems.

(((~~d) The purveyor shall ensure that turbidimeters are designed to meet the criteria listed under standard methods, and that turbidimeters are properly operated, maintained, and calibrated at all times, based on the manufacturer's recommendations~~)) (e) Purveyors conducting turbidity measurements shall ensure that analytical requirements are met, in accordance with WAC 246-290-638, at all times the system serves water to the public.

(5) Trihalomethanes.

(a) Purveyors of **community** systems serving a population of ten thousand or more and providing water treated with chlorine or other halogenated disinfectant shall monitor as follows:

(i) Ground water sources. The purveyor shall collect one sample from each treated spring, well, or well field every twelve months. This sample shall be taken at the source before treatment or at the extreme end of the distribution system. The sample shall be analyzed for maximum total trihalomethane potential (MTTP); or

(ii) Surface water sources. The purveyor shall collect four samples per treated source every three months. The samples shall be taken within a twenty-four-hour period. The purveyor shall take one of the samples from the extreme end of the distribution system and three samples from representative locations in the distribution system. The samples shall be analyzed for total trihalomethanes (TTHM), the sum of trichloromethane, bromodichloromethane, dibromochloromethane, and tribromomethane. After one year of monitoring, the department may reduce the monitoring frequency to one sample every three months per treatment plant if the TTHM levels are less than 0.10 mg/L. The purveyor shall take the sample at the extreme end of the distribution system; or

(iii) Purchased surface water sources. The purveyor shall collect one water sample per each purchased surface source every three months. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM.

(b) Purveyors of **community** systems shall monitor for TTHM when serving a population less than ten thousand and providing surface water treated with chlorine or other halogenated disinfectant. The purveyor shall collect one water sample per treated source every three months for one year. The sample shall be taken at the extreme end of the

PROPOSED

distribution system and analyzed for TTHM. After the first year, the purveyor shall monitor surface water sources every thirty-six months.

(c) Purveyors of **community** systems shall monitor for TTHM when serving less than ten thousand people and purchasing surface water treated with chlorine or other halogenated disinfectant or adding a halogenated disinfectant after purchase. The purveyor shall collect one water sample every three months at the extreme end of the distribution system or at a department-acceptable location. The sample shall be analyzed for TTHM. After the first year, the purveyor shall monitor every thirty-six months.

(6) Pesticides.

Purveyors of **community** systems with surface water sources shall monitor for pesticides for which MCLs are established every thirty-six months. The purveyor shall collect the water sample during the time of year the department designates as the time when pesticide contamination is most likely to occur.

(7) Radionuclides.

(a) The purveyor's monitoring requirements for gross alpha particle activity, radium-226 and radium-228 shall be:

(i) **Community** systems shall monitor once every forty-eight months. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals;

(ii) The purveyor may omit analysis for radium-226 and radium-228 if the gross alpha particle activity is less than five pCi/L; and

(iii) If the results of the initial analysis are less than half of the established MCL, the department may allow compliance with the monitoring requirements based on analysis of a single sample collected every forty-eight months.

(b) The purveyor's monitoring requirements for man-made radioactivity shall be:

(i) Purveyors of **community** systems using surface water sources and serving more than one hundred thousand persons and other department-designated water systems shall monitor for man-made radioactivity (beta particle and photon) every forty-eight months. Compliance shall be based on the analysis of a composite of four consecutive quarterly samples or the analysis of four quarterly samples; and

(ii) The purveyor((s)) of ((~~any~~)) a water system((~~, as directed by the department,~~)) located downstream from a nuclear facility as determined by the department, shall monitor once every three months for gross beta and iodine-131, and monitor once every twelve months for strontium-90 and tritium. The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity if the department determines that such data is applicable to a particular public water system.

(8) Volatile organic chemicals (VOCs).

(a) ((~~Prior to January 1, 1992,~~)) Purveyors of **community** and **NTNC** systems shall monitor each source for all chemicals listed in Table 3. If a source is treated, VOC samples shall be collected after treatment. ((~~The department shall contact the purveyor to schedule sample collection. Purveyors shall submit VOC samples to a certified lab for analysis within ninety days of contact by the department.~~))

TABLE 3

LIST 1: VOLATILE ORGANIC CHEMICALS (VOCs) WITH MCLs

Trichloroethylene
Carbon Tetrachloride
Vinyl Chloride[1]
1,2-Dichloroethane
Benzene
para-Dichlorobenzene
1,1-Dichloroethylene
1,1,1-Trichloroethane

1 Purveyors shall monitor for vinyl chloride if their source sampling has verified one or more of the following:

Trichloroethylene;
1,2-Dichloroethane;
1,1-Dichloroethylene;
1,1,1-Trichloroethane;
Chloroethane;
trans-1,2-Dichloroethylene;
cis-1,2-Dichloroethylene;
1,1-Dichloroethane;
1,1,2-Trichloroethane;
1,1,1,2-Tetrachloroethane;
1,1,2,2-Tetrachloroethane; or
Tetrachloroethylene.

LIST 2: VOCs WITHOUT MCLs

Bromobenzene
Bromomethane
Chlorobenzene
Chloroethane
Chloromethane
((~~o-Chlorotolune~~))
o-Chlorotoluene
p-Chlorotoluene
Dibromomethane
m-Dichlorobenzene
o-Dichlorobenzene
trans-1,2-Dichloroethylene
cis-1,2-Dichloroethylene
Dichloromethane
1,1-Dichloroethane
1,1-Dichloropropene
1,2-Dichloropropane
1,3-Dichloropropane
1,3-Dichloropropene
2,2-Dichloropropane
Ethylbenzene
Styrene
1,1,2-Trichloroethane
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethylene
1,2,3-Trichloropropane
Toluene
p-Xylene
O-Xylene
m-Xylene
Bromochloromethane
n-Butylbenzene
Dichlorodifluoromethane
Fluorotrichloromethane
Hexachlorobutadiene
Isopropylbenzene
p-Isopropyltoluene
Naphthalene
n-Propylbenzene
Sec-butylbenzene
Tert-butylbenzene
1,2,3-Trichlorobenzene
1,2,4-Trichlorobenzene
1,2,4-Trimethylbenzene
1,3,5-Trimethylbenzene
Trihalomethanes:
Bromodichloromethane
Dibromochloromethane
Tribromomethane
Trichloromethane

LIST 3: VOCs WITHOUT MCLs WHICH ARE REQUIRED FOR SELECTED SOURCES

Ethylene dibromide (EDB)
1,2-Dibromo-3-Chloropropane (DBCP)

(b) During the first twelve months of VOC monitoring, purveyors shall sample surface water and ground water sources once every three months or as directed by the department. If no VOCs (exclusive of THMs) are detected in the first sample from a ground water source, the purveyor shall sample that source once more during that twelve-month period.

(c) If no VOCs (exclusive of THMs) are verified after the initial twelve months of monitoring, purveyors of **community** and **NTNC** water systems shall monitor each source at least once every thirty-six months.

(d) Purveyors may ask the certified lab to composite samples representing as many as five individual sources. If VOCs (exclusive of THMs) are detected in a composite sample, the lab shall analyze the duplicate sample for each source in the composite at the purveyor's expense. If duplicate samples are not available, the purveyor shall repeat sample each individual source within fourteen days of contact by the department. Analysis of all VOC samples shall occur within fourteen days of collection. The following restrictions shall apply to compositing of samples:

(i) Samples shall not be composited in the field;

(ii) Multiple source samples, such as samples representing well fields, shall not be composited;

(iii) Ground water sources shall not be composited with surface water sources; and

(iv) The following shall not be composited:

(A) Seasonal sources;

(B) Sources treated for the presence of synthetic organic chemicals; and

(C) Sources with synthetic organic chemicals, exclusive of THMs, detected within the last five years.

(e) Purveyors with emergency and seasonal sources shall monitor the sources when the sources are in use.

(f) If five or fewer separate sources are combined through a common pipe before entering the distribution system, and before a domestic service, the department may consider those sources as one for the purpose of sampling. The purveyor shall collect the distribution samples as directed by the department. If VOCs, exclusive of THMs, are detected, the department shall require repeat samples from each individual source.

(g) The department may require the purveyor to repeat sample for confirmation of results.

(h) The department shall not require purveyors of **community** systems serving less than two hundred fifty people and **NTNC** systems to monitor for the List 2 VOCs after purveyors complete the first twelve months of VOC monitoring for both List 1 and List 2 VOCs, provided no VOCs, exclusive of THMs, are detected and no changes have occurred indicating a need to take additional samples.

(i) Purveyors of **community** and **NTNC** systems shall monitor for List 3 VOCs if the department determines their sources are located in an area where the chemicals may have been applied, transported, handled, manufactured, or stored. The department shall notify purveyors of **community** and **NTNC** systems if this requirement applies.

(j) When water is purchased from another system, the department shall not require the purveyor of the purchasing system to monitor that source for VOCs. However, the department's requirement may still apply for a purveyor to monitor for trihalomethanes under subsection (5) of this section.

(k) Only samples analyzed after January 1, 1988, by a laboratory certified for VOC analysis of drinking water may be used to meet the requirements of this subsection.

(9) Other substances.

On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.

TABLE 4

MONITORING LOCATION

Sample Type	Sample Location
Bacteriological	From representative points throughout distribution system.
Complete Inorganic Chemical and Physical	From a sample point as close to the source as possible.
Nitrate	From a sample point as close to the source as possible.
Turbidity - Surface Water	From a location at or before the entry point to the distribution system.
Trihalomethanes - Surface Water	From representative points in the distribution system.
- Ground Water	From the source before treatment.
Pesticides - Surface Water	From the source.
Radionuclides	From the source.
VOCs	After treatment, if any, at entry points to distribution systems.
Other Substances	As directed by the department.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-310 Maximum contaminant levels (MCLs). (1) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its maximum contaminant level (MCL), the purveyor shall take follow-up action in accordance with WAC 246-290-320.

(2) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(3) Bacteriological.

(a) MCLs under this subsection ((~~(3) of this section~~)) shall be considered primary standards.

(b) Notwithstanding subsection (1) of this section, if coliform presence is detected in any sample, the purveyor shall take follow-up action in accordance with WAC 246-290-320(2).

(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:

(i) Fecal coliform presence in a repeat sample;

(ii) E. coli presence in a repeat sample; or

(iii) Coliform presence in a set of repeat samples collected as a follow-up to a sample with fecal coliform or E. coli presence.

(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:

(i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or

(ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence.

(e) MCL compliance. The purveyor shall determine compliance with the coliform MCL for each month the

PROPOSED

system provides drinking water to the public. In determining MCL compliance, the purveyor shall:

(i) Include:

(A) Routine samples;

(B) Repeat samples; and

(C) Samples collected under WAC 246-290-300 (2)(d).

(ii) Not include:

(A) Samples invalidated under WAC 246-290-320 (2)(d); and

(B) Special purpose samples.

(4) Inorganic chemical and physical.

The primary and secondary MCLs are listed in Table 5 and 6:

TABLE 5

INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Arsenic (As)	0.05
Barium (Ba)	1.0
Cadmium (Cd)	0.01
Chromium (Cr)	0.05
Fluoride (F)	4.0
((~~Lead (Pb)~~	~~0.05~~))
Mercury (Hg)	0.002
Nitrate (as N)	10.0
Selenium (Se)	0.01
Sodium (Na)	*

Substance	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
((~~Copper (Cu)~~	~~1.0~~))
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO_4)	250.0
Zinc (Zn)	5.0

Note: Although the state board of health has not established an MCL for sodium, there is enough public health significance connected with sodium levels to require inclusion in inorganic chemical and physical monitoring.

TABLE 6

PHYSICAL CHARACTERISTICS

Substance	Primary MCL
Turbidity	1 NTU

Substance	Secondary MCLs
Color	15 Color Units
Hardness	None established
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(5) Turbidity.

(a) The department shall consider standards under this subsection ((~~(5) of this section~~)) primary standards.

(b) The MCL for turbidity is in effect for systems using surface water or GWI sources until the treatment technique requirements of Part 6 of chapter 246-290 WAC become effective as listed in Table 9, 12, 13, or 14, whichever is applicable.

(c) The MCL((s)) for turbidity ((~~are:~~

(~~i~~)) is one NTU, ((~~based on~~)) as determined by a monthly average of the ((~~maximum~~)) daily turbidity, where the ((~~maximum~~)) daily turbidity is defined as the average of the:

(((~~A~~))) (i) Highest two hourly readings over a twenty-four hour period when continuous monitoring is used; or

(((~~B~~))) (ii) Daily grab samples taken ((~~within one~~)) the same hour every day when daily monitoring is used.

((~~The department may increase the MCL to five NTUs if the purveyor can show the source is within a controlled watershed and the source meets the requirements under WAC 246-290-210 and 246-290-450.~~

~~(ii) Five NTUs based on an average of the maximum daily turbidity for two consecutive days.~~))

(6) Trihalomethanes.

(a) The department shall consider standards under this subsection ((~~(6) of this section~~)) primary standards.

(b) The MCL for total trihalomethanes (TTHM) is 0.10 mg/L calculated on the basis of a running annual average of quarterly samples. The concentrations of each of the trihalomethane compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane) are added together to determine the TTHM level.

(c) There is no MCL for maximum total trihalomethane potential (MTTP). When the MTTP value exceeds 0.10 mg/L, the purveyor shall follow up as described under WAC 246-290-320(5).

(7) Pesticides.

(a) The department shall consider standards under this subsection ((~~(7) of this section~~)) primary standards.

(b) The MCLs for pesticides are:

(i) Chlorinated hydrocarbons:

Substance	MCL (mg/L)
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005

(ii) Chlorophenoxys:

Substance	MCL (mg/L)
2, 4-D	0.1
2, 4, 5-TP Silvex	0.01

(8) Radionuclides.

(a) The department shall consider standards under this subsection ((~~(8) of this section~~)) primary standards.

(b) The MCLs for radium-226, radium-228, and gross alpha particle radioactivity are:

Substance	MCL (pCi/L)
Radium-226	3
Combined Radium-226 and Radium-228	5

Gross alpha particle activity (excluding uranium)	15

(c) The MCL for beta particle and photon radioactivity from man-made radionuclides is: The average annual concentration shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.

The department shall assume compliance with the four millirem/year dose limitation if the average annual concentration for gross beta activity, tritium, and strontium-90 are less than 50 pCi/L, 20,000 pCi/L, and 8 pCi/L respectively. When both tritium and strontium-90 are present, the sum of their annual dose equivalents to bone marrow shall not exceed four millirem/year.

(9) Volatile organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) The VOCs with MCLs are:

Substance	MCL (mg/L)
Benzene	.005
Carbon Tetrachloride	.005
1,2-Dichloroethane	.005
Trichloroethylene	.005
para-Dichlorobenzene	.075
1,1-Dichloroethylene	.007
1,1,1-Trichloroethane	.200
Vinyl Chloride	.002

(c) The department shall determine compliance with this subsection based on the running annual average of results for each sample location. The purveyor is in violation of an MCL when:

(i) The running annual average for one location is greater than the MCL (sum of all sample results in one year divided by ((~~four~~)) the number of samples taken > MCL); or

(ii) Any one sample result causes the running annual average to exceed the MCL.

(10) The state board of health shall determine maximum contaminant levels for any additional substances.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-320 Follow-up action. (1) General.

(a) If water quality exceeds any MCLs listed under WAC 246-290-310, the purveyor shall notify the department and take follow-up action as described in this section.

(b) When a primary standard violation occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify the consumers served by the system in accordance with WAC 246-290-330;

(iii) Determine the cause of the contamination; and

(iv) Take action as directed by the department.

(c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.

(2) Bacteriological.

(a) When coliform bacteria are present in any sample and the sample is not invalidated under (d) of this subsection, the purveyor shall ensure the following actions are taken:

(i) The sample is analyzed for fecal coliform or E. coli. When a sample with a coliform presence is not analyzed for E. coli or fecal coliforms, the sample shall be considered as having a fecal coliform presence for MCL compliance purposes;

(ii) Repeat samples are collected in accordance with (b) of this subsection;

(iii) The department is notified in accordance with WAC 246-290-480; and

(iv) The cause of the coliform presence is determined and corrected.

(b) Repeat samples.

(i) The purveyor shall collect and submit for analysis a set of repeat samples for every sample in which the presence of coliforms is detected. A set of repeat coliform samples consists of:

(A) Four repeat samples for **Group A** systems collecting one routine coliform sample each month;

(B) Three repeat samples for all **Group A** systems collecting more than one routine coliform sample each month; and

(C) Two repeat samples for **Group B** systems.

(ii) The purveyor shall collect repeat sample sets according to Table 7;

(iii) The purveyor shall collect one set of repeat samples for each sample with a coliform presence, as follows:

(A) For **Group A** systems, all samples in a set of repeat samples shall be collected on the same day and submitted for analysis within twenty-four hours after notification by the laboratory of a coliform presence. If the purveyor can demonstrate to the satisfaction of the department, that logistical problems beyond the purveyor's control make analysis of the samples in the repeat sample set impractical because the time between sample collection and analysis will exceed thirty hours, then the purveyor shall collect the required set of repeat samples as directed by the department; and

(B) For **Group B** systems, as soon as possible after the notification by the laboratory of a sample with a coliform presence.

(iv) When repeat samples have coliform presence, the purveyor shall:

(A) Contact the department and collect a minimum of one additional set of repeat samples as directed by the department; or

(B) Collect one additional set of repeat samples for each sample where coliform presence was detected.

(v) The purveyor of a system providing water to consumers via a single service shall collect repeat samples from the same location as the sample with a coliform presence. The set of repeat samples shall be collected:

(A) On the same collection date; or

(B) Over consecutive days with one sample collected each day until the required samples in the set of repeat samples are collected.

(vi) If a sample with a coliform presence was collected from the first two or last two active services, the purveyor shall monitor as directed by the department;

PROPOSED

(vii) The purveyor may change a previously submitted routine sample to a sample in a set of repeat samples when the purveyor:

(A) Collects the sample within five adjacent service connections of the location from which the initial sample with a coliform presence was collected;

(B) Collects the sample after the initial sample with a coliform presence was submitted for analysis;

(C) Collects the sample on the same day as other samples in the set of repeat samples, except under (b)(iii) of this subsection; and

(D) Notifies the department of the change.

(viii) The department may determine that sets of repeat samples specified under this subsection are not necessary during a month when a nonacute coliform MCL violation is determined for the system.

Table 7
REPEAT SAMPLE REQUIREMENTS

SYSTEM GROUP (# OF ROUTINE SAMPLES COLLECTED EACH MONTH)	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
GROUP A (1 routine sample each month)	4	• Site of previous sample with a coliform presence • Within 5 active services upstream of site of sample with a coliform presence • Within 5 active services downstream of site of sample with a coliform presence • At any other active service
GROUP A (more than 1 routine sample each month)	3	• Site of previous sample with a coliform presence • Within 5 active services upstream of site of sample with a coliform presence • Within 5 active services downstream of site of sample with a coliform presence
GROUP B	2	• Site of the previous sample with a coliform presence • From active service other than the site of the previous sample with a coliform presence

(c) Monitoring frequency following a coliform presence. **Group A** systems having one or more coliform presence samples that were not invalidated during the previous month shall collect and submit for analysis the minimum number of samples shown in the last column of Table 2.

(i) The department may reduce the monitoring frequency requirement when one or more samples with a coliform presence were collected during the previous month, if the purveyor proves to the satisfaction of the department;

(A) The cause of the sample with a coliform presence; and

(B) The problem is corrected before the end of the next month the system provides water to the public.

(ii) If the department reduces this monitoring frequency requirement:

(A) The purveyor shall collect and submit at least the minimum number of samples required when no samples with a coliform presence were collected during the previous month; and

(B) The department shall make available a written description explaining:

(I) The specific cause of the coliform presence; and

(II) Action taken by the purveyor to correct the cause of coliform presence.

(d) Invalid samples.

(i) The department shall consider coliform samples with no coliform presence detected invalid when:

(A) Multiple tube technique cultures are turbid without appropriate gas production;

(B) Presence-absence technique cultures are turbid in the absence of an acid reaction;

(C) There are confluent growth patterns or growth of TNTC (too numerous to count) colonies without a surface sheen using a membrane filter analytic technique; or

(D) There is excess debris in the sample.

(ii) The department may invalidate a coliform sample when:

(A) The analyzing laboratory establishes that improper sample analysis occurred;

(B) The department determines a domestic or nondistribution system problem is indicated by:

(I) All samples in the set of repeat samples collected at the same location as the original coliform presence sample also are coliform presence; and

(II) All other samples in the set of repeat samples are free of coliform.

(C) The department determines a coliform presence result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, when the department invalidates a sample:

(I) The purveyor shall collect a set of repeat samples following the sample invalidation in accordance with Table 7; and

(II) The department's rationale for invalidating the sample shall be documented in writing and made available to the public. The documentation shall state the specific cause of the coliform presence, and what action the purveyor has taken, or will take.

(iii) When a coliform sample is determined invalid, the purveyor shall collect and submit for analysis:

(A) An additional coliform sample from the same location as each invalid sample within twenty-four hours of notification of the invalid sample; or

(B) Additional coliform samples as directed by the department.

(iv) When the department or laboratory invalidates a sample, the sample shall not count towards the purveyor's minimum coliform monitoring requirements.

(3) Inorganic chemical and physical. When an initial analysis of a substance exceeds the MCL, the purveyor shall:

(a) For nitrate, immediately take one additional sample from the same sampling point. If the average of the two samples exceeds the MCL, a violation is confirmed; or

(b) For all other inorganic chemical and physical substances, collect three additional samples from the same sample point within thirty days. If the average of all four samples exceeds the MCL, a violation is confirmed.

(4) Turbidity.

(a) Purveyors using sources not subject to Part 6 of chapter 246-290 WAC and monitoring turbidity in accordance with WAC 246-290-300(4), shall notify the department as soon as possible, but in no case later than the end of the next business day, when:

(i) The turbidity is monitored continuously, and exceeds ((~~the MCL identified under WAC 246-290-310~~)) one NTU for longer than one hour ((~~monitored continuously, the purveyor shall report to the department within forty-eight hours.~~)); or ((~~When~~))

(ii) The results of ((~~a manual~~)) turbidity analysis of grab samples exceeds ((~~the MCL~~)) one NTU, ((~~the purveyor shall collect another~~)) and a repeat sample taken within one hour((~~. When the repeat sample confirms the MCL is~~

~~exceeded, the purveyor shall notify the department~~)) also exceeds one NTU.

(b) Purveyors monitoring turbidity in accordance with Part 6 of chapter 246-290 WAC shall provide follow-up in accordance with WAC 246-290-634.

(5) Trihalomethanes. When the average of all samples taken during any twelve-month period exceeds the MCL for total trihalomethanes, the violation is confirmed and the purveyor shall take corrective action as required by the department. When the maximum trihalomethane potential (MTTP) result is equal to or greater than 0.10 mg/L and the result is confirmed by a repeat sample, the purveyor shall monitor according to WAC 246-290-300(5) for one year or more.

(6) Volatile organic chemicals (VOCs). The purveyor shall be responsible for the following follow-up actions:

(a) After the purveyor's receipt of the first VOC analysis results from the laboratory, the purveyor shall provide notice to persons served by the system as described under WAC 246-290-330(5).

(b) When a List 1 VOC is verified at a concentration above the detection limit, the purveyor shall, at a minimum:

(i) Sample the source once every three months for at least three years; and

(ii) Make analysis results available to consumers within three months of receipt from the laboratory as described under WAC 246-290-330(5).

(c) When a List 1 VOC is verified at a concentration greater than a MCL, and the level will not cause the running annual average to exceed the MCL, the purveyor shall repeat sample the source as soon as possible. If a concentration greater than an MCL is confirmed, the purveyor shall:

(i) Notify the department within seven days of receipt of the repeat sample analysis results((.));

(ii) Provide consumer information in accordance with WAC 246-290-330 (5)(b)((.));

(iii) Submit documentation to the department describing the water system's strategy for gathering and analyzing additional data and identify plans for keeping the public informed((.)); and

(iv) Sample the source a minimum of once every three months for at least three years.

(d) When the running annual average of a List 1 VOC is greater than an MCL, or one sample analysis result causes the annual average to exceed an MCL, the purveyor shall:

(i) Notify the department within ((~~seven days~~)) forty-eight hours of receipt of analysis results.

(ii) Notify the public as described under WAC 246-290-330, including mandatory health effects language.

(iii) Submit an action plan to the department for approval addressing follow-up activities, including corrective action. The purveyor shall submit the action plan within four months of receipt of department notice that the annual average exceeds the MCL. The purveyor's action plan shall, at a minimum, contain a:

(A) Tabulation of VOC sample analysis results, including the location where VOCs were detected;

(B) Description of monitoring plans for system sources;

(C) Strategy for informing the public of monitoring results and investigations; and

(D) Description of short and long-term plans to minimize exposure and/or eliminate the source of contamination.

(iv) Implement the action plan within one year of the department's approval. The department may require the purveyor's earlier compliance if necessary to eliminate an immediate health threat or may require a revision of the action plan based upon additional sample results. The department may extend the purveyor's period of compliance when the department determines:

(A) Substantial construction is required; and

(B) The purveyor has taken all appropriate measures to protect the health of consumers served by the public water system.

If the department grants the purveyor an extension, the purveyor shall issue a notice identifying the MCL exceeded and the amount by which the repeat sample analysis results exceeded the MCL. The purveyor shall include the notice in all bills mailed to affected customers until the department determines that the purveyor complies with the MCL.

(v) Sample the source a minimum of once every three months for at least three years.

(e) When a List 2 or List 3 VOC is verified at a concentration above the detection limit, the purveyor shall:

(i) Submit the sample analysis results to the department within seven days of receipt from the laboratory; and

(ii) Sample the source a minimum of once every three months for one year and then annually thereafter during the three-month period when the highest previous measurement occurred.

(f) If the department determines that a List 2 or List 3 VOC is verified at a level greater than a state advisory level (SAL), the department shall notify the purveyor in writing. The purveyor shall repeat sample the source as soon as possible after initial department notice that a SAL has been exceeded. The purveyor shall submit the analysis results to the department within seven days of receipt from the laboratory. If any repeat sample confirms that a SAL has been exceeded, the purveyor shall:

(i) Provide consumer information in accordance with WAC 246-290-330 (5)(b);

(ii) Sample the source a minimum of once every three months for at least three years; and

(iii) Submit documentation to the department listing VOC analysis results, describing the water systems' strategy for gathering and analyzing additional data, and identifying plans for keeping the public informed. The purveyor shall submit this information to the department within six months of the date of the first notice from the department that a SAL has been exceeded.

(g) The department may reduce the purveyor's monitoring requirement for a source detecting a List 1 VOC if, after three years of quarterly monitoring, all analysis results are less than the MCL. The purveyor's reduced monitoring frequency shall be no less than one sample per year.

(h) The department may reduce the purveyor's monitoring requirement for a source detecting a List 2 or List 3 VOC if the source has been monitored annually for at least three years, and all analysis results are less than the SAL.

(i) In establishing SAL's for List 2 and List 3 VOCs, the department shall use the most recent edition of the department document titled ((")) *Procedures And References For Determination Of State Advisory Levels For Drinking Water Contaminants* ((")) which has been approved by the

state board of health. Copies are available from the department upon request.

(j) When List 1, List 2 (exclusive of THMs), or List 3 VOCs are verified in well fields, the purveyor shall repeat sample individual wells within the well field.

(k) When the sum of all trihalomethanes detected exceeds 0.100 mg/L, the purveyor shall sample within three months for total trihalomethanes as required under WAC 246-290-300(5).

(l) The department may collect samples from a water system or may require that specified quality assurance techniques be used to collect samples.

(7) The department shall determine the purveyor's follow-up action when a substance not included in this chapter is detected.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-330 Public notification. (1) ((~~Responsibility~~)) Required notification.

(a) The purveyor of a **Group A** water system shall notify the water system users when the system:

(i) Violates a primary ((~~MCL~~)) standard as described under WAC 246-290-310;

(ii) Fails to comply with ((a)):

(A) ((~~Prescribed~~)) Treatment technique requirements under Part 6 of chapter 246-290 WAC;

(B) Monitoring requirements under WAC 246-290-300, 246-290-664, 246-290-674, or 246-290-694; ((~~or~~))

(C) ((~~Testing procedure~~)) Analytical requirements of WAC 246-290-638 or chapter 246-390 WAC;

(D) A departmental order; or

(E) A variance or exemption schedule prescribed by the state board of health.

(iii) Is identified as a source of waterborne disease outbreak as determined by the department;

(iv) Is issued a category red operating permit;

(v) Is issued a departmental order; or

(vi) Is operating under a variance or exemption((~~; or (iv) Fails to meet a variance or exemption schedule~~)).

(b) The purveyor of a **Group B** water system may be required to notify water system users when ((~~any of the conditions listed in (a)(i) through (iv) of this subsection occur~~)) directed by the department.

(2) Content. Notices shall provide:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with subsection (4) of this section;

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary; and

(f) The purveyor's name and phone number.

The purveyor may provide additional information to further explain the situation.

(3) Distribution.

(a) Purveyors of **community** systems in violation of a primary MCL, treatment technique or variance or exemption schedule shall provide:

(i) Newspaper notice to water system users as defined in (e) of this subsection, within fourteen days of violation;

(ii) Direct mail notice or hand delivery to all consumers served by the system within forty-five days of the violation. The department may waive the purveyor's mail or hand delivery if the violation is corrected within forty-five days. The waiver shall be in writing and made within the forty-five day period;

(iii) Notice to radio and television stations serving the area within seventy-two hours of violation of an acute coliform MCL under WAC 246-290-310(3)(c), a nitrate MCL under WAC 246-290-310(4), occurrence of a waterborne disease outbreak or other acute violation as determined by the department; and

(iv) Repeat mail or hand delivery every three months until the violation is corrected.

(b) Purveyors of **community** systems shall provide newspaper notice as defined in (e) of this subsection, to water system users within three months of the following:

(i) Violation of a monitoring requirement or testing procedure; ((~~or~~))

(ii) Receipt of a departmental order;

(iii) Receipt of a category red operating permit; or

(iv) Granting of a variance or exemption.

Purveyors shall also provide repeat notice by mail or hand delivery to all consumers served by the system every three months until the situation is corrected or for as long as the variance or exemption remains in effect.

(c) Purveyors of **NTNC** and **TNC** systems ((~~in~~)) shall post a notice within fourteen days of the following:

(i) Violation of a primary MCL((~~,~~));

(ii) Violation of a treatment technique((~~,~~)) requirement; or

(iii) Violation of a variance((~~,~~)) or exemption schedule ((~~shall post a notice within fourteen days of the violation~~)). If the violation is acute, the department shall require posting within seventy-two hours.

(d) Purveyors of **NTNC** and **TNC** systems shall post a notice within three months of the:

(i) Violation of a monitoring requirement or testing procedure; ((~~or~~))

(ii) Receipt of a category red operating permit; or

(iii) Granting of a variance or exemption.

(e) Newspaper notice, as used in this section, means publication in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the area. The purveyor may substitute a community or homeowner's association newsletter or similar periodical publication if the newsletter reaches all affected consumers within the specified time.

(f) The purveyor shall substitute a posted notice in the absence of a newspaper of general circulation or homeowner's association newsletter or similar periodical publication. The purveyor shall post the notice within the timeframe specified in this subsection.

(g) The purveyor shall place posted notices in conspicuous locations and present the notices in a manner making them easy to read. Notices shall remain posted until the violation is corrected or for as long as the variance or

exemption remains in effect. When appropriate, notices shall be multi-lingual.

(h) The purveyor of a **community** water system shall give a copy of the most recent public notice for all outstanding violations to all new billing units or new hookups before or at the time water service begins.

(i) The purveyor shall provide the department with a copy of the public notification at the time the purveyor notifies the public.

(4) Mandatory language.

(a) The purveyor shall provide specific health effects language in the notice when a violation involves:

(i) A primary VOC MCL;

(ii) A primary or secondary fluoride MCL;

(iii) An acute coliform MCL;

(iv) A nonacute coliform MCL;

(v) A treatment technique requirement under Part 6 of chapter 246-290 WAC;

(vi) Granting or continuation of exemption or variance; or

((~~(vi)~~)) (vii) Failure to comply with a variance or exemption schedule.

(b) The purveyor shall provide specific mandatory language in its notification when the purveyor receives a category red operating permit.

(c) Required specific language is contained in the department guideline titled ((~~"health effects~~)) *Mandatory Language For Drinking Water Public Notification.*((~~"~~))

(5) VOC notification procedure.

(a) Availability of results. After receipt of the first analysis results, the purveyor of a **community** or **NTNC** water system shall notify persons served by the system of the availability of the results and shall supply the name and telephone number of a contact person. Purveyors with surface water sources shall include a statement that additional monitoring will be conducted for three more quarters, with results available on request.

(i) The purveyor shall initiate notification within three months of the purveyors receipt of the first VOC analysis results. This notification is only required one time.

(ii) Notification shall occur by:

(A) Inclusion in the first set of water bills issued after receipt of the results;

(B) Newspaper notice which shall run at least one day each month for three consecutive months;

(C) Direct mail;

(D) Posting for at least one week if an **NTNC** system; or

(E) Any other method approved by the department.

(iii) Within three months of receipt of analysis results, purveyors selling water to other public water systems shall provide copies of the analysis results to the purchasing system.

(iv) Within thirty days of receipt of analysis results, purveyors purchasing water shall make results available to their customers. The purveyor's notification shall occur by the method outlined under (a)(i) of this subsection.

(b) Consumer information.

(i) The purveyor shall provide consumer information within twenty-one days of receipt of confirmation sample results when:

(A) A List 1 VOC is confirmed at a concentration greater than a MCL, and the level will not cause the running annual average to exceed the MCL; or

(B) The department determines that a List 2 or List 3 VOC is confirmed at a level greater than a SAL.

(ii) Consumer information shall include:

(A) Name and level of VOC detected;

(B) Location where the VOC was detected;

(C) Any health effects that the VOC could cause at its present concentration;

(D) Plans for follow-up activities; and

(E) Phone number to call for further information.

(iii) Consumer information shall be distributed by any of the following methods:

(A) Notice placed in the major newspaper in the affected area;

(B) Direct mail to customers;

(C) Posting for at least one week if an **NTNC** system; or

(D) Any other method approved by the department.

(6) Fluoride notification procedure.

When a primary or secondary MCL violation occurs or a variance or exemption is issued or a variance or exemption schedule is violated, the purveyor of a **community** water system shall send notice, including mandatory language, to:

(a) The department annually;

(b) Water system users annually; and

(c) New billing units added while the violation exists.

(7) When circumstances dictate the purveyor give a broader or more immediate notice to protect public health, the department may require the purveyor's notification by whatever means necessary.

(8) When the state board of health grants a public water system a waiver, the purveyor shall notify customers and new billing units or new hookups before water service begins. The purveyor shall provide a notice annually and send a copy to the department.

(9) The department may give notice to the water system users as required by this section on behalf of the water purveyor. However, the purveyor remains responsible for ensuring the department's requirements are met.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-420 Reliability. (1) ((~~Any~~)) All public water systems ((~~or expansion or modification of an existing system~~)) shall provide an adequate quantity and quality of water in a reliable manner at all times.

(a) In determining whether a proposed public water system or an expansion or modification of an existing system is capable of providing an adequate quantity of water, the department shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.

(b) In determining whether an existing public water system is providing an adequate quantity of water, the department shall consider the needs of the system's existing consumers exclusively, unless, in the department's discretion, consideration of the needs of potential consumers is in the public interest.

(2) The purveyor shall ensure the system is constructed, operated, and maintained to protect against failures of the power supply, treatment process, equipment, or structure with appropriate back-up facilities. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities, and the distribution system are under the strict control of the purveyor.

(3) Where fire flow is required, a positive pressure at the water meter or property line shall be maintained throughout the system under fire flow conditions.

(4) Water pressure at the customer's service meter or property line if a meter is not used shall be maintained at the approved design pressure under ((~~MID~~)) peak hourly design flow conditions. In no case shall the pressure be less than twenty psi ((~~under MID conditions~~)).

(5) Water use restrictions as a designed operation practice shall not be allowed. However, water use restrictions may be allowed in times of drought.

(6) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(7) A purveyor shall provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information. The purveyor shall also maintain twenty-four-hour phone availability and shall respond to customer concerns and service complaints in a timely manner.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-440 ((~~Treatment facility~~)) Operations. (1) The purveyor shall ensure that the system is operated:

(a) In accordance with the operations program as established in the approved water system plan required under WAC 246-290-100; and

(b) In accordance with good operations procedures such as those available in texts, handbooks, and manuals available from the following sources:

(i) American Water Works Association (AWWA), 666 West Quincy Avenue, Denver, Colorado 80235;

(ii) American Society of Civil Engineers (ASCE), 345 East 47th Street, New York, New York 10017-2398;

(iii) Ontario Ministry of the Environment, 135 St. Clair Avenue West, Toronto, Ontario M4V1B5, Canada;

(iv) The Chlorine Institute, 2001 "L" Street NW, Washington, D.C. 20036;

(v) California State University, 600 "J" Street, Sacramento, California 95819;

(vi) Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224; and

(vii) Any other standards acceptable to the department.

(2) The purveyor shall not establish nor maintain a bypass ((~~shall neither be established nor maintained~~)) to divert water around any feature of a treatment process, except ((~~with the~~)) by written approval ((~~of~~)) from the department.

(((~~2~~))) (3) The ((~~water~~)) purveyor ((~~may allow treatment by other organizations or individuals only in a manner approved by the department.~~

(3) When chlorine is used on a)) of a system using ground water ((~~source for disinfection or as otherwise directed by the department, and the Ph does not exceed 8.0, the purveyor shall maintain a minimum free chlorine residual of 0.2 milligrams per liter (mg/L) in all active parts of the distribution system. The~~)) and required to disinfect, shall meet the following disinfection requirements, unless otherwise directed by the department:

(a) Minimum contact time ((~~provided~~)) at a point at or before the first customer ((~~shall be~~)) of:

(((~~a~~))) (i) Thirty minutes if 0.2 mg/L free chlorine residual is maintained, or

(((~~b~~))) (ii) Ten minutes if 0.6 mg/L free chlorine residual is maintained.

(b) Minimum free chlorine residual of 0.2 milligrams per liter (mg/L) in all active parts of the distribution system.

(4) The department may require the purveyor to provide longer contact times, higher chlorine residuals, or additional treatment ((~~for the following sources:~~

~~(a) Surface water,~~

~~(b) Shallow wells,~~

~~(c) Springs,~~

~~(d) Infiltration galleries,~~

~~(e) Those with high turbidity,~~

~~(f) Those with high pH, and~~

~~(g) Other sources particularly susceptible to contamination as identified by the department~~)) to protect the health of consumers served by the public water system.

(5) ((~~All water~~)) The purveyor of a system using surface water or GWI shall meet disinfection requirements specified in Part 6 of chapter 246-290 WAC.

(6) The purveyor((~~s using chlorination~~)) of a system providing disinfection shall monitor ((~~chlorine~~)) disinfectant residual concentration at representative points in the system on a daily basis or as approved by the department. The analyses shall be conducted ((~~per the most recently published edition of~~)) in accordance with "standard methods ((~~for the Examination of Water and Waste Water~~))." ((~~Reports shall be sent to the department, in a format acceptable to the department, within ten days of the end of the reporting month. In order~~)) To assure adequate monitoring of chlorine residual, the department may require the use of continuous chlorine residual analyzers and recorders.

(7) A certified operator is required under chapter 70.119 RCW and chapter 246-292 WAC for Group A public water systems:

(a) Serving one hundred services or more in use at any one time; or

(b) Using a surface water or GWI source.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-470 Distribution reservoirs. Existing uncovered distribution reservoirs shall be operated based on a plan of operation approved by the department. The plan of operation shall address the following elements as a minimum:

(1) Continuous disinfection((~~,~~)) at all times water is being delivered to the public, including the reliability provisions outlined in WAC 246-290-420;

(2) Control of debris and undesirable growths of algae or other aquatic organisms((~~,~~));

(3) Control of surface water runoff;

(4) Control of airborne contamination((~~,~~)) (atmospheric or avian-borne);

(((~~4~~))) (5) Construction((~~,~~));

(((~~5~~))) (6) Security((~~,~~)); and

(((~~6~~))) (7) Monitoring and reporting.

AMENDATORY SECTION (Amending Order 241B, filed 2/4/92, effective 3/6/92)

WAC 246-290-480 ((~~Analyses and records,~~)) Recordkeeping and reporting. (1) Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) ((~~Records of~~)) Bacteriological and turbidity ((~~analyses~~)) analysis results shall be kept for five years. ((~~Records of~~)) Chemical ((~~analyses~~)) analysis results shall be kept for as long as the system is in operation. Records of daily source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. **Group A** systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample ((~~as to whether it was a~~)) type (routine distribution system sample, ((~~check~~)) repeat sample, ((~~raw~~)) source or ((~~drinking~~)) finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical ((~~technique/~~))method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water ((~~regulations and~~)) standards. For each violation, copies of public notifications shall be kept for three years after the last corrective action taken ((~~with respect to the particular violation involved~~)).

(c) Copies of any written reports, summaries, or communications, relating to CSEs of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the CSE involved.

(d) Copies of project reports, construction documents, and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, daily records ((~~of operation and analyses shall include the following~~)) including:

(i) Chlorine residual;

(ii) Fluoride level;

(iii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity,

(B) Amount of water treated, and

(C) Results of analyses.

(iv) Turbidity; ((~~and~~))

(v) Source meter readings; and

(vi) Other information as specified by the department.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours:

(i) The failure to comply with the primary standards or treatment technique requirements under this chapter;

(ii) The failure to comply with the monitoring requirements under this chapter; and

(iii) The violation of a primary MCL.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) Daily source meter readings shall be made available to the department on request.

(d) Water facilities inventory and report form (WFI).

((~~(i) Purveyors of community systems shall submit an annual WFI update to the department;~~

~~(ii) Purveyors of NTNC, TNC, and Group B systems shall submit an updated WFI to the department as requested; and~~

~~(iii) The purveyor shall also submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system.~~

~~(d)~~)) (i) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system;

(ii) Purveyors of **community** systems shall submit an annual WFI update to the department;

(iii) Purveyors of **NTNC, TNC,** and **Group B** systems shall submit an updated WFI to the department as requested; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(e) Total annual water production. Purveyors of **Group A** systems shall report total annual water production for each source to the department upon request.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or E. coli in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

(ii) When a coliform MCL violation is determined, the purveyor shall:

(A) Notify the department within twenty-four hours of determining acute coliform MCL violations;

(B) Notify the department before the end of the next business day when a nonacute coliform MCL is determined; and

(C) Notify water system users in accordance with WAC 246-290-330.

(iii) When a monitoring violation occurs, including invalid or expired CSEs, the purveyor shall:

(A) Notify the department of the violation within ten days; and

(B) Notify water system users in accordance with WAC 246-290-330.

(f) VOCs.

Systems monitoring for VOCs in accordance with WAC 246-290-300 (8)(a) Table 3 List 2 and 3, shall send a copy of the results of such monitoring and any public notice to the department within thirty days of receipt of analytical results.

NEW SECTION

WAC 246-290-601 Purpose of surface water treatment. (1) Part 6 of chapter 246-290 WAC establishes filtration and disinfection as treatment technique requirements for water systems using surface or GWI sources. The Part 6 treatment technique requirements are established in lieu of maximum contaminant levels (MCLs) for the following contaminants:

(a) *Giardia lamblia*;

(b) Viruses;

(c) Heterotrophic plate count bacteria;

(d) *Legionella*; and

(e) Turbidity.

(2) Turbidity MCLs found in WAC 246-290-310 shall remain in effect for systems using surface or GWI sources until applicable Part 6 treatment technique requirements become effective. The effective dates are indicated in Tables 9, 12, 13, or 14, whichever is applicable.

NEW SECTION

WAC 246-290-610 Definitions relating to surface water treatment. Abbreviations and acronyms:

C - residual disinfectant concentration in mg/L;

CT - the mathematical product in mg/L - minutes of "C" and "T";

gpm - gallons per minute;

HPC - heterotrophic plate count;

T - disinfectant contact time in minutes; and

SWTR - Surface Water Treatment Rule.

"Alternate filtration technology" means a filtration process for substantial removal of particulates (generally ≥2 log *Giardia lamblia* cysts) by physical straining through a fixed medium. It does not include conventional, direct, diatomaceous earth, or slow sand filtration processes.

"C" means the residual disinfectant concentration in mg/L at a point before or at the first customer.

"Coagulant" means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

"Coagulation" means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles.

"Completely treated water" means water from a surface or GWI source which receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of chapter 246-290 WAC as determined by the department.

"Continuous monitoring" means determining water quality with automatic recording analyzers which operate without interruption twenty-four hours per day.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration which together result in substantial particulate removal (≥2.5 log *Giardia lamblia* cysts).

"CT" or **"CTcalc"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T".

"$CT_{99.9}$" means the CT value required for 99.9 percent(3 log) inactivation of *Giardia lamblia* cysts.

"CTreq" means the CT value a filtered system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts as directed by the department.

"Diatomaceous earth filtration" means a filtration process for substantial removal of particulates (≥2 log *Giardia lamblia* cysts) in which:

A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) which together result in substantial particulate removal (≥2 log *Giardia lamblia* cysts).

"Disinfectant contact time ("T" in CT)" means:

When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the C measurement point for which the particular T is being calculated.

"DOH SWTR Guidance Manual" means the departmental handbook which provides guidance on implementation of Part 6 of chapter 246-290 WAC.

"Emergency" means an unforeseen natural or man-made event which causes damage, disrupts normal operations, and requires prompt action to protect public health.

"Emergency source" means a department-approved source, physically disconnected from the system, and used only in emergencies.

"Filtration" means a process for removal of particulate matter from water by passage through porous media.

"Flocculation" means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

"Heterotrophic plate count bacteria (HPC)" means a broad class of bacteria, including innocuous, opportunistic, and pathogenic bacteria, which use organic nutrients for growth. The density of these bacteria in drinking water is measured as HPC.

"Inactivation" means a process which renders pathogenic microorganisms incapable of producing disease.

"Inactivation ratio" means:

$$\left[\frac{CTcalc}{CT_{99.9}}\right]$$ for unfiltered systems; and

$$\left[\frac{CTcalc}{CTreq}\right]$$ for filtered systems.

"Incompletely treated water" means water from a surface or GWI source which receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of chapter 246-290 WAC as determined by the department.

"In-line filtration" means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) which together result in particulate removal.

"*Legionella*" means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' Disease.

"Peak hourly flow" means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

"Point of disinfectant application" means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

"Primary turbidity standard" means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") which is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

"Pressure filter" means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

"Removal credit" means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

"Sedimentation" means a process which uses gravity to remove suspended particles before filtration.

"Slow sand filtration" means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft^2) which results in substantial particulate removal (≥ 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

"Source water" means untreated water which is not subject to recontamination by surface runoff and:

For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

"Tracer study" means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

"Treatment technique requirement" means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A "treatment technique requirement" is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

"Turbidity event" means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

"T10" means the time it takes water with ten percent of an initial tracer concentration to appear at the outlet of the system component used for *Giardia lamblia* cyst and virus inactivation, when a tracer study is conducted at peak hourly flow.

"Water treatment facility" means, for the purposes of Part 6 of chapter 246-290 WAC, a facility which provides filtration and disinfection treatment to reduce physical contaminants and remove and inactivate pathogens; such facilities are designed and operated to achieve a water quality standard or comply with a treatment technique requirement to prevent acute or chronic health effects in consumers served by the system. Facilities which only add chemicals to the water for disinfection, corrosion control and/or dental prevention purposes are not included in this definition.

"Wellhead protection program" means a program designed to protect ground water based public water sources from contamination. A wellhead protection program includes elements such as:

A delineated wellhead protection area;

Identification of local jurisdictions having land use authority within the wellhead protection area;

Inventory of contaminant sources;

Contingency plans for the location and provision of alternate drinking water sources in the event of source contamination or loss; and

A spill response plan for the wellhead protection area.

"Virus" means a virus of fecal origin which is infectious to humans and transmitted through water.

NEW SECTION

WAC 246-290-620 Applicability of surface water treatment requirements. (1) The requirements of Part 6 of chapter 246-290 WAC apply to **Group A** water systems which:

(a) Use surface sources or ground water sources under the direct influence of surface water (GWI); or

(b) Purchase surface or GWI water from an approved public water system or other entity acceptable to the department.

(2) The requirements of Part 6 of chapter 246-290 WAC do not apply to **Group A** water systems which use unfiltered surface or GWI sources as emergency sources, if the purveyor meets the following conditions:

(a) Has a department-approved emergency response plan; and

(b) Provides disinfection treatment which meets the requirements under WAC 246-290-662 (2)(e).

NEW SECTION

WAC 246-290-630 General requirements. (1) The purveyor shall ensure that treatment is provided for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of chapter 246-290 WAC.

(2) The purveyor shall install and properly operate water treatment processes to ensure at least:

(a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; and

(b) 99.99 percent (4 log) removal and/or inactivation of viruses.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first customer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of chapter 246-290 WAC meet the requirements under chapter 70.119 RCW and chapter 246-292 WAC.

(6) The purveyor of a **Group A community** system serving water to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either the:

(a) Filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively; or

(b) Criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a **Group A noncommunity** system serving water to the public before January 1, 1991, shall install filtration and meet the filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively.

(8) The purveyor of a Group A system first serving water to the public after December 31, 1990, shall meet the filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively.

(9) The department shall provide notification to the purveyor of the requirement to install filtration. The purveyor of a system required to install filtration may abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved source. Purveyors that choose this option and develop alternate ground water sources or purchase water from a department-approved public water system using a ground water source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) Part 6 compliance options are summarized in Table 8.

Table 8
COMPLIANCE OPTIONS FOR GROUP A SYSTEMS USING SURFACE OR GWI SOURCES

SYSTEM TYPE	SURFACE WATER OPTIONS (system subject to Part 6)	ALTERNATE GROUND WATER SOURCE OPTIONS (system not subject to Part 6)
Community systems serving water to the public before January 1, 1991	• Provide filtration and disinfection; • Remain unfiltered, meet all criteria to remain unfiltered, and provide disinfection; or • Purchase from a system using a surface or GWI source.	Existing systems may abandon surface or GWI sources and develop alternate department-approved ground water sources. Existing systems which develop ground water sources or purchase ground water from a department-approved public water system shall not be subject to the requirements of Part 6, once the alternate source is approved by the department and is on-line.
All other Group A systems using surface or GWI sources	• Provide filtration and disinfection; or • Purchase completely treated surface water or GWI water from an approved public water system.	

NEW SECTION

WAC 246-290-632 Treatment technique violations. (1) A treatment technique violation shall be considered a violation of a primary drinking water standard and in the case of an unfiltered system, may result in the purveyor of an unfiltered system being required to install filtration.

(2) A treatment technique violation occurs when a system using a surface or GWI source is identified by the department as the source of a waterborne disease outbreak or any of the following occur as applicable:

(a) The purveyor providing filtration fails to meet one or more of the following requirements by June 29, 1993:

(i) Filtration treatment in accordance with WAC 246-290-660; or

(ii) Disinfection treatment in accordance with WAC 246-290-662.

(b) The purveyor required to install filtration:

(i) Fails to meet the interim disinfection requirements in accordance with WAC 246-290-672 or as otherwise directed by the department; or

(ii) Fails to install filtration or develop an alternate source by the applicable dates specified in WAC 246-290-670.

(c) The purveyor of an unfiltered surface water or GWI source:

(i) Delivers water with a turbidity level exceeding 5 NTU; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-692 after the dates specified in WAC 246-290-686.

NEW SECTION

WAC 246-290-634 Follow-up to treatment technique violations. When a treatment technique violation occurs, the purveyor:

(1) Shall report to the department in accordance with:

(a) WAC 246-290-666 for purveyors providing filtration;

(b) WAC 246-290-674 for purveyors installing filtration; or

(c) WAC 246-290-696 for purveyors not providing filtration;

(2) Shall notify the public in accordance with WAC 246-290-330;

(3) Shall determine the cause of the violation;

(4) Shall take action as directed by the department; and

(5) May be subject to enforcement under WAC 246-290-050.

NEW SECTION

WAC 246-290-636 Determination of disinfectant contact time (T). (1) The purveyor shall calculate T at peak hourly flow.

(2) For pipelines, the purveyor shall calculate T by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe.

(3) For all other system components used for *Giardia lamblia* cyst and virus inactivation, the purveyor shall use tracer studies or empirical methods to determine T.

(4) The purveyor shall use the T10 value determined by tracer studies or other methods acceptable to the department as T in all CT calculations.

(a) For existing water treatment facilities, the purveyor shall ensure that the T10 value is determined by June 29, 1993; and

(b) For unfiltered systems, the purveyor shall ensure that the T10 value is determined before the purveyor begins conducting the monitoring under WAC 246-290-694 to demonstrate that the system meets the criteria to avoid filtration.

(5) Tracer studies.

(a) The purveyor shall conduct field tracer studies on all system components with configurations (geometry and/or baffling) for which analogous contact times are not documented.

(b) Before conducting tracer studies, the purveyor shall obtain the department's approval of a tracer study plan. The plan shall identify at a minimum:

(i) How the purveyor will conduct the study;

(ii) The tracer material to be used;

(iii) Flow rates to be used; and

(iv) The names, titles, and qualifications of the persons conducting the study.

(c) A professional engineer registered in the state of Washington shall direct the conduct of all tracer studies.

(d) Tracer studies shall be conducted in accordance with good engineering practices using methods acceptable to the department such as those described in the *DOH SWTR Guidance Manual.*

(e) The department may require the purveyor to conduct additional tracer studies when:

(i) Modifications impacting flow distribution or T are made; or

(ii) Increases in flow exceed the conditions of the previous tracer studies.

(6) Empirical methods.

(a) Empirical methods may be used to calculate T10, if the purveyor demonstrates to the department's satisfaction that system components have configurations analogous to components on which tracer studies have been conducted and results have been documented.

(b) The purveyor shall submit to the department for review and approval engineering justification for determining T10 using empirical methods. As-built drawings of system components in their current configurations shall be submitted with the engineering justification.

(c) A professional engineer registered in the state of Washington shall prepare the engineering justification for determining T10 using empirical methods.

NEW SECTION

WAC 246-290-638 Analytical requirements. (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified shall mean:

(a) A person certified under chapter 246-292 WAC;

(b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department;

(c) A state or local health agency professional experienced in conducting these measurements.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods."

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

(a) Collected and transported in accordance with department-approved methods; and

(b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct such analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

(i) Bench model turbidimeter; and

(ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

(i) Designed to meet the criteria in "standard methods"; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

(i) Calibrate turbidity equipment based upon a primary standard in the expected range of measurements; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using a properly calibrated bench model turbidimeter.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment on-line within five working days of failure.

NEW SECTION

WAC 246-290-639 SWTR records. (1) Purveyors using surface or GWI sources shall maintain accurate and complete operations records.

(2) Operations records shall include, but not be limited to, the following as applicable:

(a) Results of all monitoring conducted under Part 6 of chapter 246-290 WAC;

(b) Quantity of water produced, plant flow rates, and hours of operation;

(c) Types and quantities of chemicals used;

(d) Dates and information pertaining to filter and/or disinfection system maintenance;

(e) Dates and results of filter and/or disinfection system inspections including records of filtration and backwash rates; and

(f) Dates and descriptions of major equipment and/or treatment process failures and corrective actions taken.

(3) Operations records not reported to the department under WAC 246-290-666 or 246-290-696 shall be maintained at the purveyor's treatment facility.

NEW SECTION

WAC 246-290-640 Determination of GWI sources. (1) For **Group A** systems, the department shall notify the purveyor when a source has been identified as a potential GWI source. Until the department has made a source determination, the purveyor shall monitor in accordance with WAC 246-290-300 as directed by the department and provide follow-up in accordance with WAC 246-290-320.

(2) The purveyor using a source identified as a potential GWI shall provide to the department all information necessary to determine whether the source is under direct surface water influence. Information shall include but not be limited to:

(a) Site-specific source water quality data;

(b) Documentation of source construction characteristics;

(c) Documentation of hydrogeology;

(d) Distance to surface water; and

(e) Water quality results from nearby surface water(s) if requested by the department.

(3) Based on information provided by the purveyor, the department shall determine which ground water sources are under the direct influence of surface water and notify the purveyor of the source determination.

(4) The purveyor may modify a department-determined GWI source to eliminate direct surface influence. In such cases, the purveyor shall, at a minimum:

(a) Submit a proposed schedule for source modification to the department for review and approval;

(b) Provide disinfection treatment and conduct monitoring and reporting as directed by the department to protect the health of consumers served by the water system until:

(i) Modification is complete; and

(ii) The department determines the source is no longer subject to direct surface influence.

(c) Comply with subsection (2) of this section upon completion of source modifications to be considered for source reclassification.

(5) The department may reevaluate a ground water source for direct surface influence, if conditions impacting source classification have changed.

NEW SECTION

WAC 246-290-650 Compliance requirements for filtered systems. (1) In addition to the requirements of Parts 1 through 5 of chapter 246-290 WAC, Subpart B of Part 6 of chapter 246-290 WAC applies to purveyors of systems using surface or GWI sources and providing filtration, including:

(a) Systems with water treatment facilities which produced water served to the public before January 1, 1991;

(b) Unfiltered systems installing filtration, once the new water treatment facilities are on-line; and

(c) New systems using surface or GWI sources. For the purpose of the Part 6 chapter 246-290 WAC requirements, new systems are defined as systems first serving water to the public after December 31, 1990.

(2) The purveyor shall be subject to the effective dates, compliance requirements and violations specified in Table 9.

(3) The purveyor of a new system using a surface or GWI source shall comply with the requirements of Part 6 subparts A and B chapter 246-290 WAC and be subject to the treatment technique violations specified in WAC 246-290-632 beginning when the system first serves water to the public and thereafter.

Table 9
PART 6 COMPLIANCE REQUIREMENTS FOR SYSTEMS WITH EXISTING WATER TREATMENT FACILITIES

REQUIREMENTS EFFECTIVE FROM	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Date specified in written department notification through June 28, 1993	Analytical, Monitoring and Reporting requirements only	Still in effect	Not in effect yet
June 29, 1993 and thereafter	Part 6 Subparts A and B	No longer in effect	In effect

NEW SECTION

WAC 246-290-652 Filtration technology and design criteria for existing filtered systems. (1) The purveyor shall treat all surface and GWI sources using one of the following filtration technologies unless another technology is acceptable to the department:

(a) Conventional;

(b) Direct;

(c) Diatomaceous earth; or

(d) Slow sand.

(2) Purveyors not using one of the filtration technologies in subsection (1) of this section or not complying with the design criteria specified in WAC 246-290-676 shall submit a project report to the department which demonstrate's to the department's satisfaction that the existing water treatment facility can be operated to reliably produce, by June 29, 1993, water meeting the operating and performance requirements of WAC 246-290-654 and 246-290-660, respectively. The project report shall comply with the requirements of WAC 246-290-110.

(3) The purveyor shall make the demonstration required under subsection (2) of this section using the latest twelve months of operating data, results of special studies conducted to test the performance of the water treatment facility under

adverse water quality conditions or other means acceptable to the department.

(4) For water treatment facilities currently unable to meet the performance and operation requirements, the project report shall specify the modifications needed to upgrade the facility. Purveyors upgrading existing water treatment facilities shall comply with the design and reliability requirements under WAC 246-290-676 and 246-290-678, respectively.

(5) The purveyor of a new system using a surface or GWI source shall be subject to the:

(a) Design and reliability requirements under WAC 246-290-676 and 246-290-678, respectively; and

(b) Operating criteria for new water treatment facilities under WAC 246-290-680.

NEW SECTION

WAC 246-290-654 Treatment criteria for filtered systems. (1) The purveyor shall operate filters at flow rates not to exceed those specified in Table 10. The purveyor may operate filters at higher flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2 log) removal of *Giardia lamblia* cysts and meets the turbidity performance requirements of Table 11.

Table 10
FILTRATION OPERATION CRITERIA

FILTRATION TECHNOLOGY/MEDIA	FILTRATION RATE (gpm/ft²)
Conventional, Direct and In-Line	
Gravity, Single Media	3
Gravity, Deep Bed, Dual or Mixed Media	6
Pressure, Single Media	2
Pressure, Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Diatomaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst removal by one of the following methods:

(a) Turbidity reduction method:

(i) When source turbidity is greater than or equal to 2.5 NTU, the purveyor shall achieve the turbidity performance requirements specified in WAC 246-290-660(1);

(ii) When source turbidity is less than 2.5 NTU but greater than 0.25 NTU, the purveyor shall achieve an 80% reduction in source turbidity; or

(iii) When source turbidity is less than 0.25 NTU, the purveyor shall achieve a filtered water turbidity less than or equal to 0.05 NTU;

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at least the following log reduction of *Giardia lamblia* cyst-sized particles as applicable;

(A) 2.5 log reduction for systems using conventional filtration:

(B) 2.0 log reduction for systems using direct or in-line filtration;

(c) Microscopic particulate analysis method. The purveyor shall:

(i) Use a protocol acceptable to the department; and

(ii) Demonstrate at least the following log reduction of *Giardia lamblia* cysts and/or *Giardia lamblia* cyst surrogate indicators as applicable;

(A) 2.5 log reduction for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ensure continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing how water delivered to the public will be continuously and adequately disinfected; and

(c) Implement such plan during an emergency affecting disinfection.

(5) Operations plan.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations plan and make it available to the department for review upon request.

(b) The plan shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC 246-290-410).

(c) The plan shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations plan.

(e) The operations plan shall include, but not be limited to, a description of:

(i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);

(ii) Procedures used to determine chemical dose rates;

(iii) How and when each unit process is operated;

(iv) Unit process equipment maintenance program;

(v) Treatment plant performance monitoring program;

(vi) Laboratory procedures;

(vii) Records;

(viii) Reliability features; and

(ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations plan is:

(i) Readily available at the water treatment facility for use by operators and for department inspection;

(ii) Consistent with department guidelines for operations procedures such as those described in the *DOH SWTR Guidance Manual* and *Planning Handbook*; and

(iii) Updated as needed to reflect current water treatment facility operations.

(6) Pressure filters. Purveyors using pressure filters shall: (a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;

(b) Maintain, and make available for department review, a written record of pressure filter inspections; and

(c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

NEW SECTION

WAC 246-290-660 Filtration. (1) Turbidity performance requirements.

(a) The purveyor shall ensure that the turbidity level of representative filtered water samples:

(i) Complies with the performance standards in Table 11; and

(ii) Never exceeds 5.0 NTU.

Table 11
TURBIDITY PERFORMANCE REQUIREMENTS

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month
Conventional, Direct and In-line	0.5
Slow Sand	1.0
Diatomaceous Earth	1.0
Alternate Technology	1.0

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0 NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will not endanger the health of consumers served by the system.

(2) *Giardia lamblia* and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

(i) Existing filtration facilities based on periodic evaluations of performance and operation; and

(ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.

(b) Conventional, direct, and in-line filtration.

(i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

	Percent Removal Credit (log)	
Filtration Technology	*Giardia*	Virus
Conventional	99.7 (2.5)	99 (2.0)
Direct and in-line	99 (2.0)	90 (1.0)

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

(A) Turbidity performance requirements under subsection (1) of this section; and

(B) Operations requirements of WAC 246-290-654.

(iii) The department may grant a higher level of *Giardia lamblia* and virus removal credit than listed under (b)(i) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(iv) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(v) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration which:

(A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section;

(B) Fails to meet the operating requirements under WAC 246-290-654.

(vi) The purveyor granted no removal credit shall:

(A) Provide treatment in accordance with WAC 246-290-662 (2)(e); and

(B) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:

(I) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and

(II) Identify the proposed schedule for implementation.

(c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternate filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst and virus removal credit for systems using alternate filtration technology based on results of product testing acceptable to the department.

NEW SECTION

WAC 246-290-662 Disinfection for filtered systems. (1) General requirements.

(a) The purveyor shall provide continuous disinfection to ensure that filtration and disinfection together achieve, at all times the system serves water to the public, at least the following:

(i) 99.9 percent (3 log) inactivation and removal of *Giardia lamblia* cysts; and

(ii) 99.99 percent (4 log) inactivation and removal of viruses.

(b) Where sources receive sewage discharges and/or agricultural runoff, purveyors may be required to provide greater levels of removal and inactivation of *Giardia lamblia* cysts and viruses to protect the health of consumers served by the system.

(c) Regardless of the removal credit granted for filtration, purveyors shall, at a minimum, provide continuous

disinfection to achieve at least 68 percent (0.5 log) inactivation of *Giardia lamblia* cysts and 99 percent (2 log) inactivation of viruses.

(2) Establishing the level of inactivation.

(a) The department shall establish the level of disinfection (log inactivation) to be provided by the purveyor.

(b) The required level of inactivation shall be based on source quality and expected levels of *Giardia lamblia* cyst and virus removal achieved by the system's filtration process.

(c) Based on period review, the department may adjust, as necessary, the level of disinfection the purveyor shall provide to protect the health of consumers served by the system.

(d) The purveyor using alternate filtration technology shall ensure that disinfection achieves at least the following at all times water is served to the public:

(i) 90 percent (1 log) inactivation of *Giardia lamblia* cysts when granted 99 percent (2 log) *Giardia lamblia* cyst removal credit, or 99.9 percent (3 log) inactivation of cysts when granted less than 99 percent (2 log) *Giardia lamblia* cyst removal credit; and

(ii) 99.9 percent (3 log) inactivation of viruses when granted 90 percent (1 log) virus removal credit, or 99.99 percent (4 log) inactivation of viruses when granted no virus removal credit.

(e) Systems granted no *Giardia lamblia* cyst removal credit.

(i) Unless directed otherwise by the department, the purveyor of a system granted no *Giardia lamblia* cyst removal credit shall provide interim disinfection:

(A) To ensure compliance with the monthly coliform MCL under WAC 246-290-310;

(B) Achieve at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts; and

(C) Maintain a detectable residual disinfectant concentration, or an HPC level less than 500/ml, within the distribution system in accordance with subsection (5) of this section.

(ii) The purveyor shall comply with the interim disinfection requirements until the system can demonstrate to the department's satisfaction that it complies with the operating requirements and turbidity performance requirements under WAC 246-290-654 and 246-290-660(1), respectively.

(3) Determining the level of inactivation.

(a) Unless the department has approved a reduced CT monitoring schedule for the system, each day the system serves water to the public, the purveyor, using procedures and CT values acceptable to the department such as those presented in the *DOH SWTR Guidance Manual,* shall determine:

(i) CTcalc values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department.

(b) The department may allow a purveyor to determine the level of inactivation using lower CT values than those specified in (a) of this subsection, provided the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved.

(4) Determining compliance with the required level of inactivation.

(a) A purveyor shall be considered in compliance with the inactivation requirement when a total inactivation ratio equal to or greater than one is achieved.

(b) Failure to provide the required level of inactivation on more than one day in any calendar month shall be considered a treatment technique violation.

(5) Disinfectant residual entering the distribution system.

The purveyor shall ensure that all water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public.

(6) Disinfectant residuals within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least 95 percent of the samples taken each calendar month.

(b) Water in the distribution system with an HPC less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

NEW SECTION

WAC 246-290-664 Monitoring for filtered systems. (1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of disinfectant application and before coagulant chemical addition; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to 10 percent of the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater up to a maximum of one sample per day.

(2) Source turbidity monitoring.

(a) The purveyor using conventional, direct, or in-line filtration shall measure source turbidity at least once per day on a representative sample collected before disinfection and coagulant addition.

(b) Grab sampling or continuous turbidity monitoring and recording may be used to meet the requirement specified in (a) of this subsection.

(c) Purveyors using continuous turbidity monitoring shall record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule.

(3) Filtered water turbidity monitoring.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative samples of the system's combined filter effluent, prior to clearwell storage; and

(ii) In accordance with the analytical techniques under WAC 246-290-638.

(b) Purveyors using slow sand filtration or an alternate filtration technology may reduce filtered water turbidity monitoring to one grab sample per day with departmental approval. Reduced turbidity monitoring shall be allowed only where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers served by the water system.

(4) Monitoring the level of inactivation and removal.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation and removal of *Giardia lamblia* cysts and viruses achieved.

(b) The purveyor shall determine the total level of inactivation and removal based on:

(i) *Giardia lamblia* cyst and virus removal credit granted by the department for filtration; and

(ii) Level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(c) At least once per day, purveyors shall monitor the following to determine the level of inactivation achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(d) Each day during peak hourly flow (based on historical information), the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point shall be located before or at the first customer.

(e) The department may reduce CT monitoring requirements for purveyors which demonstrate to the department's satisfaction that the required levels of inactivation are consistently exceeded. Reduced CT monitoring shall only be allowed where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers.

(5) Monitoring the disinfectant residual entering the distribution system.

(a) Systems serving more than thirty-three hundred (>3300) people per month.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less($\leq$ 3300) people per month.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) Purveyors of **community** systems choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the disinfectant residual grab samples at peak hourly flow; and

(C) The remaining samples evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) Purveyors of **noncommunity** systems choosing to take grab samples shall collect samples for disinfectant residual concentration entering the distribution system as directed by the department.

(iv) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, purveyors shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring disinfectant residuals within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration at representative points within the distribution system on a daily basis or as approved by the department.

(b) At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

NEW SECTION

WAC 246-290-666 Reporting for filtered systems. (1) The purveyor shall notify the department, as soon as possible, but no later than the end of the next business day, when:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of the combined filter effluent exceeds 5.0 NTU at any time;

(c) The residual disinfection concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored within four hours to 0.2 mg/L or more; or

(d) An event occurs which may affect the ability of the water treatment facility to produce drinking water which complies with this chapter including, but not limited to:

(i) Spills of hazardous materials in the watershed; and

(ii) Treatment process failures.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-664 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water treatment facility operations information;

(b) Turbidity monitoring results. Continuous measurements shall be reported at equal intervals, at least every four hours, in accordance with a department-approved schedule;

(c) Disinfection monitoring information including:

(i) Level of inactivation achieved;

(ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(d) Total level of removal and inactivation; and

(e) A summary of water quality complaints received from consumers served by the water system.

(4) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

NEW SECTION

WAC 246-290-668 Watershed control. (1) The purveyor shall, to the extent possible, exercise surveillance over conditions and activities in the watershed affecting source water quality. The purveyor shall develop and implement a department-approved watershed control program.

(2) The purveyor shall ensure that an evaluation of the watershed is completed at least every five years.

(3) A professional engineer registered in the state of Washington shall direct the conduct of the watershed evaluation and develop a watershed evaluation report.

(4) The purveyor shall submit the report to the department within sixty days of completion of the watershed evaluation.

(5) The report shall describe the watershed, characterize the watershed hydrology, and discuss the purveyor's watershed control program. The report shall also describe:

(a) Conditions/activities in the watershed which are adversely affecting source water quality;

(b) Changes in the watershed which could adversely affect source water quality that have occurred since the last watershed evaluation;

(c) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(d) Recommendations for improved watershed control.

NEW SECTION

WAC 246-290-670 Compliance requirements for existing unfiltered systems installing filtration. (1) The purveyor of an existing unfiltered system installing a water treatment facility which first produces filtered water served to the public after January 1, 1991, shall be subject to:

(a) The effective dates, compliance requirements, and treatment technique violations specified in Table 12; and

(b) All other applicable sections of this chapter.

(2) The purveyor under an enforcement action or compliance agreement which is dated prior to the effective date of Part 6 of chapter 246-290 WAC, shall adhere to the compliance schedule for installation of filtration established in the departmental order or bilateral compliance agreement in lieu of the dates specified in Table 12.

Table 12
COMPLIANCE REQUIREMENTS FOR EXISTING UNFILTERED SYSTEMS NOTIFIED BY THE DEPARTMENT TO INSTALL FILTRATION

EFFECTIVE DATE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Until the new water treatment facility produces filtered water served to the public.	Subpart C treatment, monitoring and reporting requirements	Still in effect	As defined in WAC 246-290-632
When the new water treatment facility first serves filtered water to the public, but no later than: a. June 29, 1993, for systems notified by the department before December 30, 1991 to install filtration; or b. 18 months after department notification, for systems notified by the department after December 30, 1991 to install filtration.	Subparts A and B	No longer in effect	As defined in WAC 246-290-632

(3) The purveyor required to install filtration shall submit an action plan and schedule to the department for review and approval. The plan shall:

(a) Be submitted within ninety days of departmental notification; and

(b) Document the purveyor's plan and implementation schedule to comply with one of the following:

(i) Subparts A and B of Part 6 of chapter 246-290 WAC, if continuing to use the surface or GWI source as a permanent source and installing filtration;

(ii) Subparts A and D of Part 6 of chapter 246-290 WAC, if abandoning the surface or GWI source and purchasing completely treated water from a department-approved public water system using surface or GWI water; or

(iii) All other applicable sections of this chapter, if abandoning the surface or GWI source and developing an alternate department-approved ground water source.

(4) Between written departmental notification of the filtration requirement and installation of filtration, the purveyor shall meet:

(a) The interim disinfection requirements under WAC 246-290-672 or as otherwise directed by the department;

(b) The interim monitoring and reporting requirements under WAC 246-290-674; and

(c) All other applicable requirements of this chapter.

(5) The purveyor installing filtration shall ensure that when completed, the final treatment processes, consisting of filtration and disinfection, will comply with the requirements under WAC 246-290-660 and 246-290-662, respectively.

NEW SECTION

WAC 246-290-672 Interim treatment requirements. (1) Purveyors of existing unfiltered systems installing filtration shall provide interim disinfection treatment to:

(a) Ensure compliance with the monthly coliform MCL under WAC 246-290-310;

(b) Achieve at least 99 percent (2 log) inactivation of *Giardia lamblia* cysts on a daily basis each month the system serves water to the public unless otherwise directed by the department; and

(c) Maintain a detectable residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, or combined chlorine in 95 percent or more of the samples taken each calendar month. Water in the distribution system with an HPC level less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

(2) Failure to provide the required level of inactivation in subsection (1)(b) of this section on more than one day in any calendar month shall be considered a treatment technique violation.

(3) The department may require the purveyor to provide higher levels of treatment than specified in subsection (1)(b) of this section when necessary to protect the health of consumers served by the public water system.

(4) Interim treatment requirements shall be met in accordance with a schedule acceptable to the department.

NEW SECTION

WAC 246-290-674 Interim monitoring and reporting. (1) Monitoring. Unless directed otherwise by the department, the purveyor of an existing unfiltered system installing filtration shall:

(a) Conduct interim monitoring in accordance with WAC 246-290-300 and 246-290-320; and

(b) Measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2).

(2) Reporting.

(a) The purveyor installing filtration shall report to the department as soon as possible, but no later than the end of the next business day, when:

(i) A waterborne disease outbreak potentially attributable to the water system occurs;

(ii) The turbidity of water delivered to the public exceeds 5.0 NTU; or

(iii) The interim disinfection requirements under WAC 246-290-672 are not met.

(b) The purveyor shall report results of monitoring to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(c) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(i) Water quality information, including results of monitoring in accordance with WAC 246-290-300 and 246-290-320;

(ii) Disinfection monitoring information;

(iii) A summary of water quality complaints received from consumers served by the system.

NEW SECTION

WAC 246-290-676 Filtration technology and design criteria. (1) General.

(a) The purveyor proposing to construct new water treatment facilities or to make additions to existing water treatment facilities for surface and GWI sources shall ensure that the facilities comply with the treatment, design, and reliability requirements of Part 6 of chapter 246-290 WAC.

(b) The purveyor shall submit an engineering report to the department describing how the treatment facilities will be designed to comply with the requirements specified in Subparts A, B, and C of Part 6 of chapter 246-290 WAC.

(2) Filtration technology.

(a) The purveyor shall select a filtration technology acceptable to the department using criteria such as those outlined in the *DOH SWTR Guidance Manual.* The following filtration technologies are considered acceptable:

(i) Conventional;

(ii) Direct;

(iii) Diatomaceous earth; and

(iv) Slow sand.

(b) In addition to the technologies specified in subsection (1) of this section, alternate filtration technologies may be acceptable, if the purveyor demonstrates to the department's satisfaction all of the following:

(i) Through acceptable third party testing, that system components do not leach or otherwise add substances to the finished water that would violate drinking water standards or food and drug administration regulations, or otherwise pose a threat to public health;

(ii) The technology's effectiveness in achieving at least 99 percent (2 log) removal of *Giardia lamblia* cysts or cyst surrogate particles. On a case-by-case basis, the department may allow, with adequate engineering justification, installation of an alternate filtration technology which achieves less than 99 percent (2 log) removal. Alternate technologies which achieve less than 1.5 log removal shall be considered unacceptable. The purveyor shall demonstrate the technology's removal capability through research conducted:

(A) By a party acceptable to the department; and

(B) In accordance with protocol and standards acceptable to the department.

(iii) Through on-site pilot plant studies or other means, that the filtration technology:

(A) In combination with disinfection treatment consistently achieves 99.9 percent (3 log) removal and inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) removal and inactivation of viruses; and

(B) Meets the applicable turbidity performance requirements in Table 11.

(3) Pilot studies.

(a) The purveyor shall ensure pilot studies are conducted for all proposed filtration facilities, except where waived based on engineering justification acceptable to the department.

(b) The purveyor shall obtain department approval for the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken.

(c) The pilot study plan shall identify at a minimum:

(i) Pilot filter design;

(ii) Water quality and operational parameters to be monitored;

(iii) Type of data to be collected, frequency of data collection, and length of pilot study; and

(iv) Pilot plant operator qualifications.

(d) The purveyor shall ensure that the pilot study is:

(i) Conducted to simulate proposed full-scale design conditions;

(ii) Conducted over a time period that will demonstrate the effectiveness and reliability of the proposed treatment system during changes in seasonal and climatic conditions; and

(iii) Designed and operated in accordance with good engineering practices and that ANSI/NSF standards 60 and 61 are considered.

(e) When the pilot study is complete, the purveyor shall submit a project report to the department for approval in accordance with WAC 246-290-110.

(4) Design criteria.

(a) The purveyor shall ensure that water treatment facilities for surface and GWI sources are designed and constructed in accordance with good engineering practices documented in references such as those identified in WAC 246-290-200.

(b) Filtration facilities.

(i) The purveyor shall ensure that all new filtration facilities and improvements to any existing filtration facilities (excluding disinfection) are designed to achieve at least:

(A) 99 percent (2 log) removal of *Giardia lamblia* cysts; and

(B) 90 percent (1 log) removal of viruses.

(ii) The purveyor proposing to use an alternate filtration technology which doesn't meet the requirements of (b)(i)(B) of this subsection shall demonstrate to the department's satisfaction that the potential for viral contamination of the source is low. The purveyor shall base the demonstration on results of a watershed evaluation acceptable to the department.

(c) Disinfection systems.

(i) The purveyor shall ensure that disinfection systems for new filtration facilities using other than alternate filtration technologies and improvements to existing disinfection facilities are designed to achieve at least:

(A) 90 percent (1 log) inactivation of *Giardia lamblia* cysts; and

(B) 99.9 percent (3 log) inactivation of viruses.

(ii) The purveyor proposing to use an alternate filtration technology shall ensure that the disinfection system is designed to comply with the following requirements as applicable:

(A) If the department has rated the filtration technology as capable of achieving at least 99 percent (2 logs) removal of *Giardia lamblia* cysts, the purveyor shall ensure that the disinfection system provides at least 90 percent (1 log) inactivation of *Giardia lamblia* cysts; or

(B) If the department has rated the filtration technology as capable of achieving less than 99 percent (2 logs) removal of *Giardia lamblia* cysts, the purveyor shall ensure that the disinfection system provides at least 99.9 percent (3 logs) inactivation of *Giardia lamblia* cysts; and

(C) If the department has determined the filtration technology is not capable of removing viruses, the purveyor shall ensure that the disinfection system achieves at least 99.99 percent (4 log) inactivation of viruses.

NEW SECTION

WAC 246-290-678 Reliability for filtered systems. (1) The purveyor shall ensure that reliability features are included in all water treatment facilities used to treat surface or GWI sources.

(2) Reliability features shall include but not be limited to:

(a) Alarm devices to provide warning of treatment process failures including coagulation, filtration, and disinfection. Alarm devices shall warn individuals responsible for taking corrective action and/or provide for automatic plant shutdown until corrective action can be taken;

(b) Standby replacement equipment available to assure continuous operation and control of coagulation, filtration and disinfection processes;

(c) Multiple filter units which provide redundant capacity when filters are out of service for backwash or maintenance, except where waived based on engineering justification acceptable to the department.

(3) The department may accept alternatives to the requirements specified in subsection (2) of this section, if the purveyor demonstrates to the department's satisfaction that the proposed alternative will assure an equal degree of reliability.

NEW SECTION

WAC 246-290-680 Operating criteria for new water treatment facilities. (1) The purveyor shall not serve water produced by a new water treatment facility without departmental approval.

(2) To obtain department approval, the purveyor shall demonstrate to the department's satisfaction compliance with the requirements for filtered systems in Subparts A and B of Part 6 of chapter 246-290 WAC. The purveyor shall make such a demonstration by operating the facility for a department-determined trial period. During the trial period of operation, the purveyor shall, at a minimum, conduct monitoring in accordance with WAC 246-290-664 and as otherwise directed by the department.

NEW SECTION

WAC 246-290-686 Compliance requirements for unfiltered systems. (1) The purveyor using an unfiltered surface or GWI source shall comply with:

(a) Subparts A and D of Part 6 of chapter 246-290 WAC; and

(b) All other applicable sections of this chapter.

(2) The purveyor shall be subject to the effective dates, compliance requirements, and violations specified in:

(a) Table 13, when using an unfiltered surface source; or

(b) Table 14, when using an unfiltered GWI source.

Table 13
COMPLIANCE REQUIREMENTS
FOR SYSTEMS USING UNFILTERED SURFACE WATER SOURCES

REQUIREMENTS EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
From January 1, 1991 through December 29, 1991	Only Analytical, Monitoring and Reporting requirements (WAC 246-290-638, 246-290-694, and 246-290-696 respectively)	Still in effect	Not in effect yet
Beginning December 30, 1991 and thereafter	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

Table 14
COMPLIANCE REQUIREMENTS
FOR SYSTEMS USING UNFILTERED GWI SOURCES

REQUIREMENTS BECOME EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Six months after GWI determination	Only Analytical, Monitoring and Reporting requirements (WAC 246-290-638, 246-290-694, and 246-290-696 respectively)	Still in effect	Not in effect yet
Eighteen months after GWI determination	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

(3) The purveyor of a system purchasing completely treated surface or GWI water shall comply with the monitoring and reporting requirements under WAC 246-290-694 (6)(b) and 246-290-696(4), respectively.

(4) Purveyors of systems purchasing incompletely treated surface or GWI water shall comply with the treatment technique, monitoring and reporting requirements of Subpart D of Part 6 of chapter 246-290 WAC as directed by the department.

(5) Purveyors of **Group A community** systems using surface water sources had the option to remain unfiltered if they demonstrated compliance with the department's criteria to remain unfiltered by December 30, 1991.

(6) A purveyor using a department-determined GWI may remain unfiltered, if within eighteen months of GWI determination, the purveyor complies with Part 6 of chapter 246-290 WAC and in particular source water quality and site-specific conditions under WAC 246-290-690 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(7) After the department makes an initial determination that a system may remain unfiltered, the purveyor shall comply with the source water quality and site-specific conditions under WAC 246-290-690 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(8) The purveyor shall install filtration when:

(a) The system fails to meet one or more of the source water quality and site-specific conditions under WAC 246-290-690; or

(b) The department determines that installation of filtration is necessary to protect the health of consumers served by the water system.

(9) The department shall provide written notification to the purveyor of:

(a) A filtration requirement; and

(b) An initial determination that the system may remain unfiltered.

(10) The purveyor may comply with the requirements to install filtration by abandoning the surface water or GWI source, and:

(a) Developing an alternate, department-approved ground water source; or

(b) Purchasing completely treated water from a department-approved public water system.

NEW SECTION

WAC 246-290-690 Criteria to remain unfiltered. (1) For a system to remain unfiltered, the purveyor using a surface water or GWI source shall meet the source water quality and site-specific conditions under this section, as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(2) Source water quality conditions necessary to remain unfiltered.

(a) Coliform limits.

(i) The purveyor shall ensure that representative source water samples taken before the first point of disinfection have a fecal coliform density less than or equal to 20/100 ml in 90 percent or more of all samples taken during the six previous calendar months the system served water to the public. Samples collected on days when source water turbidity exceeds 1.0 NTU shall be included when determining compliance with this requirement.

(ii) The purveyor shall submit a written report to the department if no source fecal coliform data has been submitted for days when source turbidity exceeded 1.0 NTU. The report shall document why sample results are not available and shall be submitted with the routine monitoring reports for the month in which the sample results are not available.

(b) Turbidity limits.

(i) The purveyor shall ensure that the turbidity level in representative source water samples taken immediately downstream from the intake and before disinfection does not exceed 5.0 NTU.

(ii) A system failing to meet the turbidity requirements in (b)(i) of this subsection may remain unfiltered, if:

(A) The purveyor demonstrates to the department's satisfaction that the most recent turbidity event was caused by unusual and unpredictable circumstances; and

(B) Including the most recent turbidity event, there have not been more than:

(I) Two turbidity events in the twelve previous calendar months the system served water to the public; or

(II) Five turbidity events in the one-hundred-twenty previous calendar months the system served water to the public.

(iii) The purveyor of a system experiencing a turbidity event shall submit a written report to the department documenting why the turbidity event(s) occurred. The purveyor shall submit the report with the routine monitoring reports for the month in which the turbidity event(s) occurred.

(iv) The purveyor of a system with alternate, department-approved sources or sufficient treated water storage may avoid a turbidity event by implementing operational adjustments to prevent water with a turbidity exceeding 5.0 NTU from being delivered to consumers.

(v) When an alternate source or treated water storage is used during periods when the turbidity of the surface or GWI source exceeds 5.0 NTU, the purveyor shall not put the surface or GWI source back on-line, until the source water quality criteria listed in (a) and (b) of this subsection are met.

(3) Site-specific conditions to remain unfiltered.

(a) Level of inactivation.

(i) The purveyor shall ensure that the *Giardia lamblia* cyst and virus inactivation levels required under WAC 246-290-692(1) are met in at least eleven of the twelve previous calendar months that the system served water to the public.

(ii) A system failing to meet the inactivation requirements during two of the twelve previous calendar months that the system served water to the public may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that at least one of the failures was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(b) Redundant disinfection components or automatic shut-off.

The purveyor shall ensure that the requirement for redundant disinfection system components or automatic shut-off of water to the distribution system under WAC 246-290-692(3) is met at all times the system serves water to the public.

(c) Disinfectant residual entering the distribution system.

(i) The purveyor shall ensure that the requirement for having a residual entering the distribution system under WAC 246-290-692(4) is met at all times the system serves water to the public.

(ii) A system failing to meet the disinfection requirement under (c)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(d) Disinfectant residuals within the distribution system.

(i) The purveyor shall ensure that the requirement for maintaining a residual within the distribution system under WAC 246-290-692(5) is met on an ongoing basis.

(ii) A system failing to meet the disinfection requirements under (d)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by something other than a deficiency in source water treatment.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(e) Watershed control.

(i) The purveyor shall develop and implement a department-approved watershed control program.

(ii) The purveyor shall monitor, limit, and control all facilities and activities in the watershed affecting source quality to preclude degradation of the physical, chemical, microbiological (including viral), and radiological quality of the source. The purveyor shall demonstrate, through ownership and/or written agreements acceptable to the department, control of all human activities which may adversely impact source quality.

(iii) A department guideline, titled *DOH SWTR Guidance Manual*, is available to assist purveyors with development and implementation of a watershed control program. At a minimum, the purveyor's watershed control program shall:

(A) Characterize the watershed hydrology and land ownership;

(B) Identify watershed characteristics and activities which may adversely affect source water quality; and

(C) Monitor the occurrence of activities which may adversely affect source water quality.

(iv) If the department determines significant changes have occurred in the watershed, the purveyor shall submit, within ninety days of notification, an updated watershed control program to the department for review and approval.

(v) The department may require an unfiltered system to conduct additional monitoring to demonstrate the adequacy of the watershed control program.

(vi) A purveyor shall be considered out of compliance when failing to:

(A) Have a department-approved watershed control program;

(B) Implement the watershed control program to the satisfaction of the department; or

(C) Conduct additional monitoring as directed by the department.

(vii) The purveyor using a GWI source may use a department-approved wellhead protection program to meet the watershed control program requirements under (e) of this subsection with departmental approval.

(f) On-site inspections.

(i) The department shall conduct on-site inspections to assess watershed control and disinfection treatment.

(ii) The department shall conduct annual inspections unless more frequent inspections are deemed necessary to protect the health of consumers served by the system.

(iii) For a system to remain unfiltered, the on-site inspection shall indicate to the department's satisfaction that the watershed control program and disinfection treatment comply with (e) of this subsection and WAC 246-290-692, respectively.

(iv) The purveyor with unsatisfactory on-site inspection results shall take action as directed by the department in accordance with a department-established schedule.

(g) Waterborne disease outbreak.

(i) To remain unfiltered, a system shall not have been identified by the department as the cause of a waterborne disease outbreak attributable to a failure in treatment of the surface or GWI source.

(ii) The purveyor of a system identified by the department as the cause of a waterborne disease outbreak may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that system facilities and/or operations have been sufficiently modified to prevent another waterborne disease outbreak.

(h) Total coliform MCL.

(i) For a system to remain unfiltered, the purveyor shall ensure that the MCL for total coliform under WAC 246-290-310 is met in at least eleven of the twelve previous calendar months the system served water to the public.

(ii) A system with total coliform MCL violations may remain unfiltered, if the department determines the violations

were not caused by a deficiency in source water treatment, and the system had two or less MCL violations in the twelve previous calendar months the system served water to the public.

(iii) The department shall determine the adequacy of source water treatment based on results of total coliform monitoring at the entry to the distribution system in accordance with WAC 246-290-694(2).

(i) THM MCL and monitoring.

For a system to remain unfiltered, the purveyor shall comply with the THM monitoring and MCL requirements under WAC 246-290-300 and 246-290-310, respectively.

(j) Laboratory services.

(i) For a system to remain unfiltered, the purveyor shall retain the services of the public health laboratory or another laboratory certified by the department to analyze samples for total and fecal coliform. Laboratory services shall be available on an as needed basis, seven days a week, including holidays. The purveyor shall identify in the annual comprehensive report required under WAC 246-290-696 the certified laboratory providing these services.

(ii) The department may waive this requirement, if the purveyor demonstrates to the department's satisfaction that an alternate, department-approved source is used when the turbidity of the surface or GWI source exceeds 1.0 NTU.

NEW SECTION

WAC 246-290-692 Disinfection for unfiltered systems. (1) General requirements.

(a) The purveyor shall provide continuous disinfection treatment to ensure at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) inactivation of viruses at all times the system serves water to the public.

(b) The department may require the purveyor to provide greater levels of inactivation of *Giardia lamblia* cysts and viruses to protect the health of consumers.

(c) Failure to provide the required inactivation level on more than one day in any calendar month the system serves water to the public shall be considered a violation.

(2) Determining the level of inactivation.

(a) Each day the system serves water to the public, the purveyor, using procedures and $CT_{99.9}$ values specified in 40 CFR 141.74, Vol. 54, No. 124, published June 29, 1989, copies of which are available from the department, shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department. For purposes of determining compliance with the inactivation requirements specified in subsection (1) of this section, no credit shall be granted for disinfection applied to a source water with a turbidity greater than 5.0 NTU.

(b) The purveyor shall be considered in compliance with the daily inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

(c) The purveyor of a system using a disinfectant other than chlorine may use CT values lower than those specified in (a) of this subsection, if the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved using the lower CT values.

(d) The purveyor of a system using preformed chloramines or adding ammonia to the water before chlorine shall demonstrate to the department's satisfaction that the system achieves at least 99.99 percent (4 log) inactivation of viruses.

(3) The purveyor shall ensure that disinfection facilities provide either:

(a) Redundant components, including an auxiliary power supply with automatic start-up and alarm, to ensure continuous disinfection. Redundancy shall ensure that both the minimum inactivation requirements and the requirement for a 0.2 mg/L residual disinfectant concentration at entry to the distribution system are met at all times water is delivered to the distribution system; or

(b) Automatic shut-off of delivery of water to the distribution system when the residual disinfectant concentration in the water is less than 0.2 mg/L. Automatic shut-off shall be allowed only in systems where the purveyor demonstrates to the department's satisfaction that automatic shutoff will not endanger health or interfere with fire protection.

(4) Disinfectant residual entering the distribution system.

The purveyor shall ensure that water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public.

(5) Disinfectant residuals within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least 95 percent of the samples taken each calendar month.

(b) The purveyor of a system which purchases completely treated surface or GWI water as determined by the department shall comply with the requirements specified in (a) of this subsection.

(c) Water in the distribution system with an HPC level less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

NEW SECTION

WAC 246-290-694 Monitoring for unfiltered systems. (1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of disinfectant application; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) The purveyor shall ensure source samples are collected for fecal coliform analysis each week the system serves water to the public based on the following schedule:

Population Served	Minimum Number/week*
25 - 500	1
501 - 3,300	2
3,301 -10,000	3
10,001 -25,000	4
>25,000	5

* Must be taken on separate days.

(c) Each day the system serves water to the public and the turbidity of the source water exceeds 1.0 NTU, the purveyor shall ensure one representative source water sample is collected before the first point of disinfectant application and analyzed for fecal coliform density. This sample shall count towards the weekly source coliform sampling requirement.

(d) A purveyor shall not be considered in violation of (c) of this subsection, if the purveyor demonstrates to the department's satisfaction that, for valid logistical reasons outside the purveyor's control, the additional fecal coliform sample could not be analyzed within a timeframe acceptable to the department.

(2) Coliform monitoring at entry to distribution.

(a) The purveyor shall collect and have analyzed one coliform sample at the entry point to the distribution system each day that a routine or repeat coliform sample is collected within the distribution system under WAC 246-290-300(2) or 246-290-320(2), respectively.

(b) The purveyor shall use the results of the coliform monitoring at entry to distribution along with inactivation ratio monitoring results to demonstrate the adequacy of source treatment.

(3) Source turbidity monitoring.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative source water samples before the first point of disinfectant application; and

(ii) In accordance with the analytical techniques under WAC 246-290-638.

(b) If source water turbidity is not the same as the turbidity of water delivered to consumers, the purveyor shall continuously monitor and record turbidity of water delivered.

(4) Monitoring the level of inactivation.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(b) At least once per day, the purveyor shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(c) Each day during peak hourly flow, the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point must be before or at the first customer.

(5) Monitoring the disinfectant residual entering the distribution system.

(a) Systems serving more than thirty-three hundred(>3300) people.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less(≤3300) people.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) A purveyor choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the disinfectant residual grab samples at peak hourly flow based on historical flows for the system; and

(C) The remaining sample or samples at intervals evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, the purveyor shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring disinfectant residuals within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2) or once per day, whichever is greater.

(b) The purveyor of a system which purchases completely treated surface or GWI water as determined by the department shall comply with the requirements of (a) of this subsection subject to departmental approval.

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

NEW SECTION

WAC 246-290-696 Reporting for unfiltered systems. (1) The purveyor shall report to the department as soon as possible, but no later than the end of the next business day, when:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of water delivered to the public exceeds 5.0 NTU;

(c) The minimum level of inactivation required by the department is not met;

(d) The residual disinfectant concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within four hours; or

(e) The surface or GWI source is taken off-line due to an emergency.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-694 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water quality information, including the results of both:

(i) Source coliform monitoring; and

(ii) Source turbidity monitoring.

(b) Disinfection monitoring information, including:

(i) Level of inactivation achieved;

(ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(c) A summary of water quality complaints received from consumers served by the water system.

(4) The purveyor of a system which purchases completely treated water shall:

(a) Report results of distribution system residual disinfectant concentration monitoring to the department using department-approved forms or format; and

(b) Submit forms to the department in accordance with subsection (1) of this section.

(5) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

(6) Beginning in 1992, by October 10th of each year, the purveyor shall submit to the department an annual comprehensive report which summarizes the:

(a) Effectiveness of the watershed control program and identifies, at a minimum, the following:

(i) Activities in the watershed which are adversely affecting source water quality;

(ii) Changes in the watershed that have occurred within the previous year which could adversely affect source water quality;

(iii) Activities expected to occur in the watershed in the future and how the activities will be monitored and controlled;

(iv) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(v) Special concerns about the watershed and how the concerns are being addressed;

(b) System's compliance with the criteria to remain unfiltered under WAC 246-290-690; and

(c) Significant changes in system design and/or operation which have occurred within the previous year which impact the ability of the system to comply with the criteria to remain unfiltered.

(7) The purveyor of a system attempting to remain unfiltered shall submit a *Filtration Decision Report* at the request of the department. The report shall:

(a) Provide the information needed by the department to initially determine whether a system meets the criteria to remain unfiltered; and

(b) Be submitted by the deadline specified by the department.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-290-210	Source protection.
WAC 246-290-400	Operator certification.
WAC 246-290-450	Watershed control.

WSR 93-04-127
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION

[Filed February 3, 1993, 11:38 a.m.]

Original Notice.

Title of Rule: WAC 390-16-031 Forms for statement of contributions deposit; and 390-16-041 Forms—Summary of total contributions and expenditures.

Purpose: WAC 390-16-031 adopts a form for candidates/committees to use to report contributions received; and WAC 390-16-041 adopts a form for reporting total contributions and expenditures.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: WAC 390-16-031 and 390-16-041, technical changes needed to improve efficiency.

Reasons Supporting Proposal: Input from users.

Name of Agency Personnel Responsible for Drafting: Vicki Rippie, Public Disclosure Commission, Olympia, 753-1111; Implementation and Enforcement: Graham E. Johnson, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: Public Disclosure Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 390-16-031, this rule adopts a form for use by candidates and committees to report the receipt of campaign funds. Technical changes were made to the form to make it more efficient; and WAC 390-16-041, this rule adopts a form for use by candidates/committees to report summary totals of campaign contributions and expenditures. Technical changes were made to the form to make it more efficient to use.

Proposal does not change existing rules.

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

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98501, on March 23, 1993, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by March 10, 1993.

Date of Intended Adoption: March 23, 1993.

February 2, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89)

WAC 390-16-031 Forms for statement of contributions deposit. The official form for statement of contributions deposit is designated "C-3", revised ((~~1/90~~)) 3/93. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

PROPOSED

STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

CASH RECEIPTS
MONETARY CONTRIBUTIONS

C3 1/90

PDC OFFICE USE
POST MARK
RECEIVED

Candidate or committee name (Do not abbreviate. Use full name.)

Address

City | ZIP code | Office Sought (candidates)

1. MONETARY CONTRIBUTIONS DEPOSITED IN ACCOUNT

Date Received	*Please type or print clearly in ink.*	Amount	Total
	a. Anonymous or unidentified		
	b. Candidate personal funds deposited in the bank (Include candidate loans in 1c)		
	c. Loans, notes, security agreements. Attach Schedule L		
	d. Miscellaneous receipts (interest, refunds, auctions, other). Attach explanation		
	e. Small contributions $25.00 or less not itemized and number of persons giving _____ (persons)		

2. CONTRIBUTIONS OVER $25.00

Date received	Contributor's Name	Address	City	Amount	Total given by this person during campaign or year
			Sub-total		
	☐ Check here if additional pages are attached		Amount from attached pages		

3. TOTAL FUNDS RECEIVED AND DEPOSITED OR CREDITED TO ACCOUNT

Sum of parts 1 and 2 above. Enter this amount in line 1, Schedule A to C4.

This report includes contributions deposited

on (date)

in (name of bank)

I certify that this report is true and complete to the best of my knowledge

Treasurer's Signature | Date

PDC form C-3 (rev. 1/90) -1499-

SEE INSTRUCTIONS ON REVERSE

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM **C3** (1/90) — CASH RECEIPTS AND MONETARY CONTRIBUTIONS

INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

GENERAL GUIDELINES

1) All contributions and miscellaneous receipts must be deposited into the campaign bank account. Complete a C-3 for each bank deposit. File the reports as described below.

2) Anonymous contributions (those for which you do not have the contributor's name and address) are limited to the larger of $300 or 1% of the total contributions received to date for this election. Unidentified small contributions raised through qualifying fund raising events do not count toward the anonymous contribution limit.

3) A candidate's cash contributions to the campaign are reported on Form C-3. Loans from the candidate are reported on line 1c of the C-3 as well as Schedule L. Unreimbursed out-of-pocket expenditures are reported as in-kind contributions on Schedule B to the C-4. Reimbursed out-of-pocket expenditures are reported on Schedule A to the C-4.

4) Contributions of $25 or less may be combined and the total amount reported on line 3e of the C-3. While the names and addresses of contributors giving $25 or less need not be reported, treasurers must keep a private list of these small contributors and the amounts given. When the total donated by any of these contributors exceeds $25, that person's name and address must be included on the relevant C-3 report.

5) During the 21 days before the general election, contributions from one source may not exceed $50,000 to a statewide candidate or $5,000 to any other candidate or committee. These limits do not apply to contributions received from major WA State political parties.

WHO MUST FILE

Treasurer of each candidate and political committee using Full Reporting. No C-3s are filed with Mini and Abbreviated Reporting. C-3 reports may be signed by designated deputy treasurers.

FILING DATES

During the four months or more before the general or a special election (prior to July 1 for general elections), file C-3s each time a C-4 report is filed.

Within four months or less before the general or special election (beginning July 1 for general elections), file the C-3 on the same day the bank deposit is made. (Contributions are to be deposited within five business days of receipt.)

WHERE TO FILE

Send original C-3 reports, along with Schedule L's if necessary, to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

CONTRIBUTIONS OVER $500

During the 7 days before the primary and the 21 days before the general election, candidates and committees must file special reports of each contribution received that exceeds $500. The report discloses the amount of the contribution, the date received, the name and address of the donor as well as the name and address of the recipient.

If possible, a written report (C-3 form, telegram, mailgram, or nightletter) of these large contributions should be delivered to PDC within 48 hours (or the first working day after receipt). Otherwise, call PDC with the information required within the 48-hour or first-working-day timeframe and mail written confirmation of this telephone report within two days of receiving the contribution.

Any political committee, lobbyist or lobbyist employer which makes a contribution over $500 during the 7 days before the primary or 21 days before the general election must notify PDC and the recipient of the contribution within 24 hours or the first working day after the contribution was made.

For assistance, call or write PDC!

PDC PUBLIC DISCLOSURE COMMISSION

CASH RECEIPTS MONETARY CONTRIBUTIONS

C3 (3/93)

PDC OFFICE USE

POST MARK

RECEIVED

Candidate or committee name (Do not abbreviate. Use full name.)

Mailing Address

City | Zip + 4 | Office Sought (candidates)

1. MONETARY CONTRIBUTIONS DEPOSITED IN ACCOUNT

Date Received	*Please type or print clearly in ink.*	Amount	Total
	a. Anonymous		
	b. Candidate's personal funds deposited in the bank (include candidate loans in 1c)		
	c. Loans, notes, security agreements. Attach Schedule L		
	d. Miscellaneous receipts (interest, refunds, auctions, other). Attach explanation		
	e. Small contributions $25.00 or less not itemized and number of persons giving ______ (persons)		

2. CONTRIBUTIONS OVER $25.00

Date received	Contributor's Name	Street Address	City	State	Zip	Amount	Total given by this person during campaign or year
						Sub-total	
	☐ Check here if additional pages are attached					Amount from attached pages	

3. TOTAL FUNDS RECEIVED AND DEPOSITED OR CREDITED TO ACCOUNT

Sum of parts 1 and 2 above. Enter this amount in line 1, Schedule A to C4.

This report includes contributions deposited on (date)

Treasurer's Daytime Telephone No.:

I certify that this report is true and complete to the best of my knowledge

Treasurer's Signature Date

PDC form C-3 (rev. ~~4/90~~ ~~1490~~) 3/93

SEE INSTRUCTIONS ON REVERSE

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM C3 (rev 8/93) CASH RECEIPTS AND MONETARY CONTRIBUTIONS

INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

GENERAL GUIDELINES

1) All contributions and miscellaneous receipts must be deposited into the campaign bank account. Complete a C-3 for each bank deposit. File the reports as described below.

2) Anonymous contributions (those for which you do not have the contributor's name and address) are limited to the larger of $300 or 1% of the total contributions received to date for this election. Unidentified small contributions raised through qualifying fund raising events do not count toward the anonymous contribution limit.

3) A candidate's cash contributions to the campaign are reported on Form C-3. Loans from the candidate are reported on line 1c of the C-3 as well as Schedule L. Unreimbursed out-of-pocket expenditures are reported as in-kind contributions on Schedule B to the C-4. Reimbursed out-of-pocket expenditures are reported on Schedule A to the C-4.

4) Contributions of $25 or less may be combined and the total amount reported on line 3e of the C-3. While the names and addresses of contributors giving $25 or less need not be reported, treasurers must keep a private list of these small contributors and the amounts given. When the total donated by any of these contributors exceeds $25, that person's name and address must be included on the relevant C-3 report.

5) During the 21 days before the general election, contributions from one source may not exceed $50,000 to a state-wide candidate or $5,000 to any other candidate or committee. These limits do not apply to contributions received from major WA State political parties.

WHO MUST FILE

Treasurer of each candidate and political committee using Full Reporting. No C-3s are filed with Mini and Abbreviated Reporting. C-3 reports may be signed by designated deputy treasurers.

FILING DATES

During the four months or more before the general or a special election (prior to July 1 for general elections), file C-3s each time a C-4 report is filed.

Within four months or less before the general or special election (beginning July 1 for general elections), file the C-3 on the same day the bank deposit is made. (Contributions are to be deposited within five business days of receipt.)

WHERE TO FILE

Send original C-3 reports, along with Schedule L's, if necessary, to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

CONTRIBUTIONS OVER $500

During the 7 days before the primary and the 21 days before the general election, candidates and committees must file special reports of each contribution received that exceeds $500. The report discloses the amount of the contribution, the date received, the name and address of the donor as well as the name and address of the recipient.

If possible, a written report (C-3 form, telegram, mailgram, or nightletter) of these large contributions should be delivered to PDC within 48 hours (or the first working day after receipt). Otherwise, call PDC with the information required within the 48-hour or first-working-day timeframe and mail written confirmation of this telephone report within two days of receiving the contribution.

Any political committee, lobbyist or lobbyist employer which makes a contribution over $500 during the 7 days before the primary or 21 days before the general election must notify PDC and the recipient of the contribution within 24 hours or the first working day after the contribution was made.

For assistance, call or write PDC!

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

AMENDATORY SECTION (Amending WSR 92-18-002, filed 8/20/92)

WAC 390-16-041 Forms—Summary of total contributions and expenditures. (1) The official form for reports of contributions and expenditures by candidates and political committees who use the "full" reporting option is designated "C-4", revised ((~~1/90~~)) 3/93, and includes Schedule A, revised ((~~1/90~~)) 3/93, Schedule B, revised ((~~1/90~~)) 3/93, Schedule C, revised 1/90 and Schedule L, revised 1/90.

(2) The official form for reports of contributions and expenditures by candidates for the state legislature or state executive office and who use the "full" reporting option is designated C-4, revised 1/90, and includes Schedule A-s/l, revised 10/91, Schedule B-s/l, revised 10/91, Schedule C, revised 1/90, and Schedule L, revised 1/90.

(3) The official form for reports of contributions and expenditures by candidates and political committees who use the "abbreviated" reporting option is designated "C-4abb," revised 7/92.

(4) Copies of these forms are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

STATE OF WASHINGTON
PDC PUBLIC DISCLOSURE COMMISSION

SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

C4 1/90

PDC OFFICE USE
POST MARK
RECEIVED

Candidate or committee name (Do not abbreviate. Include full name.)

Address

City County Zip

Report Period Covered From: (last C-4) To: (end of period)

RECEIPTS

1. Previous total cash and in kind contributions (From line 8, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) .....
2. Cash received (From line 2, Schedule A) .....
3. In kind contributions received (From line 1, Schedule B) .....
4. Total cash and in kind contributions received this period (Line 2 plus 3) .....
5. Loan principal repayments made (From line 2, Schedule L) ..... ( )
6. Corrections (From line 1 or 3, Schedule C) ..... Show + or (-)
7. Net adjustments this period (Combine lines 5 & 6) ..... Show + or (-)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7) .....
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

10. Previous total cash and in kind expenditures (From line 17, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) .....
11. Total cash expenditures (From line 4, Schedule A or line 5 Schedule A-s/l) .....
12. In kind expenditures (goods & services) (From line 1, Schedule B) .....
13. Total cash and in kind expenditures made this period (Line 11 plus line 12) .....
14. Loan principal repayments made (From line 2, Schedule L) ..... ( )
15. Corrections (From line 2 or 3, Schedule C) ..... Show + or (-)
16. Net adjustments this period (Combine lines 14 & 15) ..... Show + or (-)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16) .....

CANDIDATES

Please complete:

	Won	Lost	Unopposed	Name not on ballot
Primary election	☐	☐	☐	☐
General election	☐	☐	☐	☐

CASH SUMMARY

18. Cash on hand (Line 8 minus line 17) ..... (Line 18 should equal your checkbook balance.)
19. Liabilities: (Sum of loans and debts owed) ..... ( )
20. Balance (Surplus or deficit) (Line 18 minus line 19) .....

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true to the best of my knowledge.

Candidate's Signature Date | Treasurer's Signature (if a political committee) Date

PDC form C4 (Rev. 1/90) -1499-

See instructions on reverse

PROPOSED

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM **C4** (1/90)

CONTRIBUTION AND EXPENDITURE SUMMARY

INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

1) File with C-1 (Registration) if you received contributions or made expenditures before registering.

2) File on the 10th of each month if contributions or expenditures were over $200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)

3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file

- **21 days prior to the election**
- **7 days prior to the election**
- **10th of the first month after the election***

(*Not required after primary from candidates who will be in the general election or from continuing political committees.)

4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

SCHEDULES AND ATTACHMENTS

State executive and legislative candidates will file Schedules A-s/l, B-s/l, C and L, as appropriate, along with the C-4. (The C-4x form has been eliminated.)

Judicial and local office candidates and all political committees will file Schedules A, B, C and L, as appropriate, along with their C-4 reports.

All candidates and committees must attach any C-3 reports that were due but not filed.

WHERE TO SEND REPORTS

Send original C-4 reports along with any attachments to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

OTHER REPORTS

C-3 (Cash Receipts Report): Used with Full Reporting only.

C-4 (Contribution and Expenditure Report): Used with Full Reporting only.

C-4 ABB (Receipts and Expenditures Summary): Filed by candidates using Abbreviated Reporting.

Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of another candidate or committee.

For assistance, call or write PDC!

PROPOSED

STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

C4 (3/93)

POST MARK RECEIVED

PDC OFFICE USE

Candidate or committee name (Do not abbreviate. Include full name.)

Mailing Address

City County Zip + 4

Report Period Covered From: (last C-4) To: (end of period)

Is this your final report? Yes _____ No _____

RECEIPTS

1. Previous total cash and in kind contributions (From line 8, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) .....
2. Cash received (From line 2, Schedule A) .....
3. In kind contributions received (From line 1, Schedule B) .....
4. Total cash and in kind contributions received this period (Line 2 plus 3) .....
5. Loan principal repayments made (From line 2, Schedule L) ..... ( )
6. Corrections (From line 1 or 3, Schedule C) ..... Show + or (-)
7. Net adjustments this period (Combine lines 5 & 6) ..... Show + or (-)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7) .....
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

10. Previous total cash and in kind expenditures (From line 17, last C-4) (If beginning a new campaign or calendar year, see instruction booklet) .....
11. Total cash expenditures (From line 4, Schedule A or line 5 Schedule A-s/l) .....
12. In kind expenditures (goods & services) (From line 1, Schedule B) .....
13. Total cash and in kind expenditures made this period (Line 11 plus line 12) .....
14. Loan principal repayments made (From line 2, Schedule L) ..... ( )
15. Corrections (From line 2 or 3, Schedule C) ..... Show + or (-)
16. Net adjustments this period (Combine lines 14 & 15) ..... Show + or (-)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16) .....

CANDIDATES

Please complete:

	Won	Lost	Unopposed	Name not on ballot
Primary election	☐	☐	☐	☐
General election	☐	☐	☐	☐

Treasurer's Daytime Telephone No.:

( )

CASH SUMMARY

18. Cash on hand (Line 8 minus line 17) .....
(Line 18 should equal your checkbook balance plus your petty cash balance.)
19. Liabilities: (Sum of loans and debts owed) ..... ( )
20. Balance (Surplus or deficit) (Line 18 minus line 19) .....

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true to the best of my knowledge.

Candidate's Signature Date Treasurer's Signature Date

PDC form C4 (Rev. ~~1-90~~ 3/93) -1499-

See instructions on reverse

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM C4 (1/90) 3/93

CONTRIBUTION AND EXPENDITURE SUMMARY

INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

1) File with C-1 (Registration) if you received contributions or made expenditures before registering.

2) File on the 10th of each month if contributions or expenditures were over $200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)

3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file

- **21 days prior to the election**
- **7 days prior to the election**
- **10th of the first month after the election***

(*Not required after primary from candidates who will be in the general election or from continuing political committees.)

4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

SCHEDULES AND ATTACHMENTS

State executive and legislative candidates will file Schedules A-s/l, B-s/l, C and L, as appropriate, along with the C-4.

Judicial and local office candidates and all political committees will file Schedules A, B, C and L, as appropriate, along with their C-4 reports.

All candidates and committees must attach any C-3 reports that were due but not filed.

WHERE TO SEND REPORTS

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OTHER REPORTS

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C-4 (Contribution and Expenditure Report): Used with Full Reporting only.

C-4 ABB (Receipts and Expenditures Summary): Filed by candidates using Abbreviated Reporting.

Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of another candidate or committee.

For assistance, call or write PDC!

PROPOSED

((CASH RECEIPTS AND EXPENDITURES

SCHEDULE A to C4 (1/90)

Candidate or committee name (Do not abbreviate. Use full name)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4 ______

3. CASH EXPENDITURES. List all expenses since last C-4 report was filed. Amount

a. Total expenditures each $50 or less not itemized below (including petty cash) .... ______

b. Payments and reimbursements to candidate or committee officials. Attach a sheet listing each payment, the person paid, the original vendor and the purpose of the expenditure. Attach a copy of each receipt or invoice. .... ______

EXPENDITURES OVER $50.00. ITEMIZE EACH BELOW.

Date paid	Name and address of recipient or vendor paid	Purpose of expenditure	

Check here ☐ if continued on attached sheet Total from attached pages ______

4. TOTAL CASH EXPENDITURES Enter also on line 11 of C4 ______))

PDC form C4A (rev. 1/90) -1499-

CASH RECEIPTS AND EXPENDITURES

SCHEDULE A to C4 (3/93)

Candidate or committee name (Do not abbreviate. Use full name)

2. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4 _____

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are: 1) if expenditures are in-kind or earmarked contributions to another candidate or committee or independent expenditures that benefit another candidate or committee, identify that candidate or committee in the Description block; and 2) when reporting payments to vendors for travel expenses, identify the traveller in the Description block.

CODE DEFINITIONS ON REVERSE

- C - Contributions (monetary, in-kind & transfers)
- I - Independent Expenditures
- L - Literature, Brochures, Printing
- B - Broadcast Advertising (Radio, TV)
- N - Newspaper and Periodical Advertising
- O - Other Advertising (yard signs, buttons, etc.)
- P - Postage, Mailing Permits
- S - Surveys and Polls
- F - Fundraising Event Expenses
- T - Travel, Accommodations, Meals
- M - Management/Consulting Services
- W - Wages, Salaries, Benefits
- G - General Operation and Overhead

3. EXPENDITURES

a) Expenditures of $50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
b) Itemize each expenditure of more than $50 by date paid, name and address of vendor, code/description, and amount.
c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of detailed expenses or copies of receipts/invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
N/A	Expenses of $50 or less	N/A	N/A	

Total from attached pages _____

4. TOTAL CASH EXPENDITURES Enter also on line 11 of C4 _____

CODE DEFINITIONS ON REVERSE

EXPENDITURE CODE DEFINITIONS AND USES

"C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."

"I" INDEPENDENT EXPENDITURES (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."

"L" LITERATURE. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.

"B" BROADCAST ADVERTISING. Use "B" for expenditures associated with the production and purchase of radio and television advertising.

"N" NEWSPAPER & PERIODICAL ADVERTISING. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.

"O" OTHER ADVERTISING. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.

"P" POSTAGE. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.

"F" FUNDRAISING EVENTS. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.

"S" SURVEYS AND POLLS. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.

"T" TRAVEL, ACCOMMODATIONS, MEALS. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.

"M" MANAGEMENT AND CONSULTING SERVICES. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).

"W" WAGES, SALARIES, BENEFITS. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.

"G" GENERAL OPERATION AND OVERHEAD. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A)

Page _____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount

Page Total _____

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS

SCHEDULE B to C4 (1/90)

Candidate or committee name (Do not abbreviate. Use full name)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date received	Contributor's name and address	Description of contribution	Fair market value	Total given by this person during campaign or year
		TOTAL (Enter also on line 3 and line 12 of C4)		

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of $100.00 or more.

Date you were notified of pledge	Name and address of person making pledge (including organizations)	Amount	Total given by this person during campaign or year
	TOTAL (Include new pledges above and all other outstanding pledges.) (Enter also on line 9 of C4)		

3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

a. List each debt, obligation or estimated expenditure which is more than $250.00.
b. List each debt, obligation or estimated expenditure which is more than $50.00 and has been outstanding for over 30 days.

Expenditure date	Vendor's/Recipient's name and address	Amount owed	Purpose of expenditure
	TOTAL (Include in line 19 of C4)		

PDC form C4B (rev 1/90) -1500-

PROPOSED

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS, DEBTS, OBLIGATIONS

SCHEDULE B to C4 (3/93)

Candidate or committee name (Do not abbreviate. Use full name)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date received	Contributor's name and address	Description of contribution	Fair market value	Total given by this person during campaign or year
		TOTAL (Enter also on line 3 and line 12 of C4)		

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of $100.00 or more.

Date you were notified of pledge	Name and address of person making pledge (including organizations)	Amount	Total given by this person during campaign or year
	TOTAL (Include new pledges above and all other outstanding pledges.) (Enter also on line 9 of C4)		

3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

a. List each debt, obligation or estimated expenditure which is more than $250.00.
b. List each debt, obligation or estimated expenditure which is more than $50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code*	OR	Description of Obligation
	TOTAL (Include in line 19 of C4)				

PDC form C4B (rev ~~1/90~~ 3/93) -1500-

*Code Definitions on Reverse

EXPENDITURE CODE DEFINITIONS AND USES

"C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."

"I" INDEPENDENT EXPENDITURES (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."

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"S" SURVEYS AND POLLS. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.

"T" TRAVEL, ACCOMMODATIONS, MEALS. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.

"M" MANAGEMENT AND CONSULTING SERVICES. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).

"W" WAGES, SALARIES, BENEFITS. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.

"G" GENERAL OPERATION AND OVERHEAD. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

PROPOSED

CORRECTIONS

SCHEDULE C to C4

Candidate or committee name (Do not abbreviate. Use full name.) Date

1. CONTRIBUTIONS AND RECEIPTS (Include mathematical corrections.)

Date of report	Contributor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)

Total corrections to contributions
Enter on line 6 of C4. Show + or (-).

2. EXPENDITURES (Include mathematical corrections.)

Date of report	Vendor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)

Total corrections to expenditures
Enter on line 15 of C4. Show + or (-).

3. REFUNDS. The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report, line 1d.

Date of refund	Source/person making refund	Amount of refund

Total refunds
Enter as (-) on line 6 & line 15 of C4.

PDC form C4C (rev. 1/90) -1318-

LOANS

See instructions and examples on reverse

SCHEDULE TO C3 OR C4 **L** (1/90)

Candidate or committee name

1. LOAN RECEIVED.

Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Repayment schedule	Date due

Also include this amount on line 1c, C3 report →

Name and address of each endorser, co-signer, guarantor or other person liable for the loan:

2. LOAN PAYMENTS.

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed

Total Principal Paid → (Enter also on lines 5 and 14, C-4 report)

Total Payments → (Enter as an expenditure on Schedule A)

3. LOAN FORGIVEN.

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed

4. LOANS STILL OWED. List each loan which has previously been reported and still has a balance due.

Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed

Subtotal

New loans received during this reporting period

Total Loans Owed (Include in total on line 19, C-4 report)

☐ Check here if continued on attached sheet.

PDC form C4L (1/90) -1500-

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

SCHEDULE TO C3 OR C4	L (1/90)	LOANS

INSTRUCTIONS

Please consult PDC instruction manuals when completing this schedule.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE Each candidate and political committee using full reporting that receives one or more campaign loans.

FILING DATES

When a loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. **Use a separate schedule for each loan received.**

When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.

When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

LOAN RECEIVED (Information would appear on separate Schedule L)

LOAN PAYMENTS

LOAN FORGIVEN

LOANS STILL OWED

LOANS SCHEDULE TO C3 OR C4 **L**

Candidate or committee name: Adrian Adams for State House

1. LOAN RECEIVED.

Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Repayment schedule	Date due
2/10/9X	Candidate	$5,000	12%	$200/month	Not fixed

Also include this amount on line 16, C3 report → $5,000

Name and address of each endorser, co-signer, guarantor or other person liable for the loan:

Commercial loan to the candidate from Washington State Bank. Loan co-signed by Sam P. Smith, 145 Boulevard Drive, Podunk, WA and Jane S. Paul, 541 B Street, Podunk, WA. Each guaranteed $2,500 of the loan.

2. LOAN PAYMENTS.

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed
3/30/9X	Candidate	$200	$50	$250	$4,800
3/31/9X	Michael Murray	$100	None	$100	$ 400

Total Principal Paid (Enter also on lines 8 and 14, C-4 report) → $300

Total Payments (Enter as an expenditure on Schedule A) → $350

3. LOAN FORGIVEN.

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed
3/15/9X	Kelly Adams	$250	None	$150	$100

4. LOANS STILL OWED. List each loan which has previously been reported and still has a balance due.

Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed
2/10/9X	Candidate	$5,000	$200	$4,800
1/22/9X	Michael Murray	500	100	400
3/01/9X	Kelly Adams	250	150	100
3/11/9X	K.M. Lawrence	1,000	0	1,000
			Subtotal	$6,300
			Show loans received during this reporting period	0
			Total Loans Owed (Include in total on line 19, C-4 report)	$6,300

☐ Check here if continued on attached sheet.

CASH RECEIPTS AND EXPENDITURES
STATE EXECUTIVE AND LEGISLATIVE CANDIDATES

SCHEDULE to C4 **A-S/L** (10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit since last C4 report was submitted.

Date of Deposit	Amount	Date of Deposit	Amount	Date of Deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS Enter also on line 2 of C4 _____

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are: 1) if expenditures are in-kind or earmarked contributions to another candidate or committee or independent expenditures that benefit another candidate or committee, identify that candidate or committee in the Description block; and 2) when reporting payments to vendors for travel expenses, identify the traveller in the Description block.

CODE DEFINITIONS ON REVERSE

"C" - Contributions (monetary, in-kind & transfers)
"I" - Independent Expenditures
"L" - Literature, Brochures, Printing
"B" - Broadcast Advertising (Radio, TV)
"N" - Newspaper and Periodical Advertising
"O" - Other Advertising (yard signs, buttons, etc.)
"P" - Postage, Mailing Permits
"S" - Surveys and Polls
"F" - Fundraising Event Expenses
"T" - Travel, Accommodations, Meals
"M" - Management/Consulting Services
"W" - Wages, Salaries, Benefits
"G" - General Operation and Overhead

3. **EXPENDITURES**
a) Expenditures of $50 or less, including those from petty cash, need not be itemized. Add up these expenditures by category (Own Campaign, Contribution to Others, etc.), and show the categorical subtotals in the appropriate column on the first line below.
b) Itemize each expenditure of more than $50 by date paid, name and address of vendor, code/description, and amount. Put the amount in the appropriate expense category column.
c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of expenses or copies of receipts/ invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Own Campaign	Contribution to Others	Public Office	Non-Campaign Misc.
N/A	Expenses of $50 or Less	N/A	N/A				
			Totals From Attached Pages				
4. TOTALS BY EXPENSE CATEGORY							
				1	2	3	4

5. TOTAL CASH EXPENDITURES (Sum of columns 1, 2, 3 & 4) Enter also on line 11 of C4 _____

PDC Form C4, Sch. A-s/l (Rev. 10/91)—1 CODE DEFINITIONS ON REVERSE

EXPENDITURE CODE DEFINITIONS AND USES

"C" **MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."

"I" **INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."

"L" **LITERATURE.** Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.

"B" **BROADCAST ADVERTISING.** Use "B" for expenditures associated with the production and purchase of radio and television advertising.

"N" **NEWSPAPER & PERIODICAL ADVERTISING.** Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.

"O" **OTHER ADVERTISING.** Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.

"P" **POSTAGE.** Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.

"F" **FUNDRAISING EVENTS.** Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.

"S" **SURVEYS AND POLLS.** Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.

"T" **TRAVEL, ACCOMMODATIONS, MEALS.** Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.

"M" **MANAGEMENT AND CONSULTING SERVICES.** Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).

"W" **WAGES, SALARIES, BENEFITS.** Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.

"G" **GENERAL OPERATION AND OVERHEAD.** Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

IN KIND CONTRIBUTIONS, PLEDGES, ORDERS DEBTS, OBLIGATIONS

SCHEDULE to C4 **B-S/L** (10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Total given by this person during campaign or year
		TOTAL (Enter also on lines 3 and 12 of C4)		

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of $100.00 or more.

Date Notified of Pledge	Name and Address of Person Making Pledge (including organizations)	Amount	Total given by this person during campaign or year
N/A	Sum of outstanding pledges previously itemized on Schedule B →		N/A
	TOTAL (Enter also on line 9 of C4)		

3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

a. List each debt, obligation or estimated expenditure which is more than $250.00.
b. List each debt, obligation or estimated expenditure which is more than $50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code*	OR	Description of Obligation
	TOTAL (Include in line 19 of C4)				

DC form C4B (Rev 10/91)—I

*Code Definitions on Reverse

EXPENDITURE CODE DEFINITIONS AND USES

"C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."

"I" INDEPENDENT EXPENDITURES (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."

"L" LITERATURE. Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.

"B" BROADCAST ADVERTISING. Use "B" for expenditures associated with the production and purchase of radio and television advertising.

"N" NEWSPAPER & PERIODICAL ADVERTISING. Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.

"O" OTHER ADVERTISING. Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.

"P" POSTAGE. Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.

"F" FUNDRAISING EVENTS. Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.

"S" SURVEYS AND POLLS. Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.

"T" TRAVEL, ACCOMMODATIONS, MEALS. Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.

"M" MANAGEMENT AND CONSULTING SERVICES. Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).

"W" WAGES, SALARIES, BENEFITS. Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.

"G" GENERAL OPERATION AND OVERHEAD. Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

ABBREVIATED REPORT RECEIPTS AND EXPENDITURES

ABB C4 (7/92)

PDC OFFICE USE
POST MARK RECEIVED

Candidate or Committee Name (Do not abbreviate. Include full name)

Mailing Address

City County Zip + 4

1. PERIOD COVERED BY REPORT: From:_____ To:_____ Final Report: Yes ___ No. ___

a. **Candidates:** Start of campaign through the end of the month in which the election occurred.

b. **Ballot Measure Committees:** Start of campaign through the end of the month in which the election occurred.

c. **Continuing Committees filing post-election report:** January 1 through end of the month in which election occurred.

d. **Continuing Committees filing annual report:** Calendar year (January 1 through December 31).

2. RECEIPTS

a. Cash on hand from previous campaign or year (Include money in checking, savings and other accounts) .....

b. Cash contributions received this campaign or year (Include monetary contributions, loans, fund raising and cash contributions by a candidate) .....

c. Total cash receipts (Add lines 2a + 2b) .....

d. Other contributions, including in-kind (Include candidate's and committee workers' out of pocket expenditures, donated goods and services, filing fees paid by others and similar non-cash contributions) .....

e. Total contributions (Add lines 2c + 2d) .....

3. EXPENSES

a. Cash expenditures .....

b. Other expenditures. (Enter the amount shown on line 2d above here. Non-cash contributions are listed as both received and expended. Disregard any materials which may remain on hand.) .....

c. Total expenditures (Add lines 3a + 3b) .....

4. SURPLUS/DEFICIT

a. Cash on hand at end of reporting period (Subtract: line 3a from 2c) .....

b. Debts and obligations owed .....

c. Surplus or deficit .....

CANDIDATES		Won	Lost	Unopposed	Name not on ballot
Please complete:	Primary election		☐		
	General election	☐	☐	☐	☐

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge.

Candidate's signature Date | Treasurer's signature (if a political committee) Date

PDC form C4ABB (Rev. 7/92) Frame

See Instructions on reverse

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM ABB **C4** (7/92)

ABBREVIATED RECEIPTS & EXPENDITURES REPORT

INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE Each candidate and political committee using Abbreviated Reporting.

FILING DATES

1) Special election candidates and political committees supporting or opposing special election candidates or ballot issues file on the 10th of the month following the election.

2) Candidates who lose in the primary and political committees supporting or opposing primary election ballot issues file on October 10.

3) Candidates who are in the general election and political committees making expenditures supporting or opposing general election candidates or ballot measures file on December 10.

4) Continuing political committees not taking part in elections during a year file annual reports on January 10 cover the preceding calendar year.

5) A final report is filed whenever a candidate's committee or a political committee ceases operation, disposes of any surplus campaign funds and has a zero account balance. Final reports may be filed at any time and may coincide with one of the due dates listed above.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

WHERE TO FILE Send original C-4 ABB report to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

For assistance, call or write PDC!

WSR 93-04-001
PERMANENT RULES
SECRETARY OF STATE
(Division of Archives and Records Management)
[Filed January 21, 1993, 9:50 a.m.]

Date of Adoption: January 21, 1993.

Purpose: Prescribes rules for implementation of chapter 40.14 RCW, informs state agencies of their responsibilities for the management of public records, prescribes duties of the state archivist, the state records committee and agency records officers.

Statutory Authority for Adoption: Chapter 40.14 RCW.

Pursuant to notice filed as WSR 92-21-085 on October 21, 1992.

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

January 21, 1993
Sidney F. McAlpin
State Archivist

Chapter 434-600 WAC
PROMULGATION

NEW SECTION

WAC 434-600-010 General purpose. These regulations are adopted under the provisions of chapter 40.14 RCW as amended by section 1, chapter 10, Laws of 1971 ex. sess. and chapter 54, Laws of 1973, in order to furnish procedures for the management, disposition, and preservation of public records of state and local agencies.

Chapter 434-610 WAC
DEFINITIONS

NEW SECTION

WAC 434-610-010 "Agency" defined. "Agency" means any department, office, commission, board, or division of state government; and any county, city, district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

NEW SECTION

WAC 434-610-020 "Public record" defined. "Public records" means any paper, correspondence, completed form, record book, photograph, map, or drawing, regardless of physical form or characteristics, and including records stored on magnetic, electronic, or optical media, and including all copies thereof, that have been made by any agency or received by it in connection with the transaction of public business. And includes any writing containing information relating to the conduct of government or the performance of government or proprietary function prepared, owned, used, or retained by the state or local agency regardless of physical form or characteristics.

NEW SECTION

WAC 434-610-025 "Writing" defined. "Writing" means handwriting, typewriting, printing, photostatting, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all papers, maps, magnetic tape, punched cards, discs, drums, and other documents.

NEW SECTION

WAC 434-610-030 "Records classification" defined. "Records classification" means the designation of a record as either an official public record or as an office file and memorandum, as those terms are defined by RCW 40.14.010 and by these regulations.

NEW SECTION

WAC 434-610-040 "Official public records" defined. "Official public records" means all original or most important copies of vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records and documents required by law to be filed with or kept by the state of Washington or any agency thereof; all legislative records as defined in section 2, chapter 1, Laws of 1971, ex. sess., and chapter 2, Laws of 1971 ex. sess.; and all other documents or records determined by the state or local records committees to be official public records.

NEW SECTION

WAC 434-610-050 "Office files and memoranda" defined. "Office files and memoranda" means all records, correspondence, exhibits, record books, booklets, drawings, maps, completed forms, or documents produced or received by the agency but not defined and classified as official public records; all documents and reports made for the internal administration of the office to which they pertain, but not required by law to be filed or kept with such agency; and all other documents or records determined by the state or local records committees to be office files and memoranda.

NEW SECTION

WAC 434-610-060 "Record series" defined. "Record series" means any group of related records which is filed and used as a unit and which permits evaluation as a unit for disposition purposes.

NEW SECTION

WAC 434-610-070 "Retention period" defined. "Retention period" means the period of time that must elapse before a specific record is eligible for disposal or transfer in accord with approved retention schedules.

PERMANENT

NEW SECTION

WAC 434-610-080 "Long term records" defined. "Long term records" means records which have an enduring administrative, legal, or financial value and in consequence thereof, must be retained and preserved more than six year.

NEW SECTION

WAC 434-610-090 "Archival records" defined. "Archival records" means those public records of state and local government agencies which are determined by the state archivist as having continued historical value, must be permanently preserved and have been or may be transferred to the custody of the division of archives after their approved retention has been met.

NEW SECTION

WAC 434-610-100 "Retention schedule" defined. "Retention schedule" means a compilation of records of an office by name and description which indicates the length of time each record series must be retained and authorizing its disposition.

NEW SECTION

WAC 434-610-110 "Scheduled records" defined. "Scheduled records" are those public records which have been inventoried in accord with these regulations and approved for disposition and/or transfer to the records center but remain under the jurisdiction of the agency of origin.

NEW SECTION

WAC 434-610-120 "Division records" defined. "Division records" are those records pertaining to the operations of the division of archives and records management.

Chapter 434-615 WAC
CUSTODY OF PUBLIC RECORDS

NEW SECTION

WAC 434-615-010 Public records as public property. All public records shall be and remain the property of the state or local agency. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed, and otherwise managed, only in accordance with the provisions of chapter 40.14 RCW or as otherwise provided for by law and by these regulations.

NEW SECTION

WAC 434-615-020 Custody. Unless otherwise provided by law, public records must remain in the legal custody of the office in which they were originally filed, which shall be considered the office of record, or shall be destroyed or transferred pursuant to instructions from the state or local records committee as required by chapter 40.14 RCW. They shall not be placed in the legal or physical custody of any other person or agency, public or private, or released to individuals, except for disposition pursuant to law or unless otherwise expressly provided by law or by these regulations.

NEW SECTION

WAC 434-615-030 Authority to transfer records. In lieu of office retention, all state agency records not required in the current operation of the office where they are made or kept, and all records of every state agency, commission, committee, or any other activity of state or local government which may be abolished or discontinued, shall be transferred to the state archives and records center until eligible for disposition in accord with approved records retention schedules. State records designated by the state archivist as being archival or potentially archival shall be transferred to the legal and physical custody of the state archives or to a repository designated by the state archivist so that the valuable historical records of the state may be centralized, made more widely available for research, and insured permanent preservation.

Local government agency records designated by the state archivist as of primarily historical interest may be transferred to the state archives, or one of its designated regional depositories, in order to relieve local offices of the burden of housing them, to insure their preservation, and to make them available for reference or study. Officials of local agencies are authorized to transfer records in their custody which are no longer in current use to the Washington state archives. The state archives is not under obligation to acquire such records and will accept only records deemed valuable as a historical source. Any transfer must be by concurrent agreement, excepting wherein records are selected for preservation as historical sources from records retention schedules submitted to the local records committee for disposition authorization.

Chapter 434-620 WAC
POWERS AND DUTIES OF THE STATE ARCHIVIST

NEW SECTION

WAC 434-620-010 Powers and duties of the state archivist. The division of archives and records management is established in the office of the secretary of state. The division is administered by the state archivist and is the primary archival and records management agency of Washington state government. In order to insure the proper management and safekeeping of public records, the state archivist, through the several sections of the division, carries out the following functions:

(1) Manages the archives of the state of Washington;

(2) Centralizes the archives of the state of Washington to make them available for reference and scholarship, and to insure their proper preservation;

(3) Inspects, inventories, catalogs, and arranges records retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) Insures the maintenance and security of all state public records and establishes safeguards against unauthorized removal or destruction;

(5) Establishes and operates such state records centers as may from time to time be authorized by appropriation for

the purpose of preserving, servicing, screening, and protecting all state public records which must be retained temporarily or permanently, but which need not be kept in office space and equipment;

(6) Adopts rules under chapter 34.05 RCW:

(a) Establishing standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, or reproduction of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of photographic, optical, electronic, or other images used as public records;

(d) Carrying out other provisions of chapter 40.14 RCW.

(7) Operates a central microfilm bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; approves microfilming projects undertaken by state departments and other agencies of state government; and maintains proper standards for this work;

(8) Maintains necessary facilities for the review of records approved for destruction and for their economical disposition; directly supervise such destruction of records as should be authorized by law;

(9) Provides assistance to agencies of local government in records management related matters;

(10) Manages a state-wide essential records protection program including the operation of an essential records storage facility, and serves as depository for essential record microfilms for state and local government agencies.

Chapter 434-624 WAC
POWERS AND DUTIES OF THE STATE RECORDS COMMITTEE

NEW SECTION

WAC 434-624-010 Membership. The chief examiner of the division of departmental audits of the state auditor's office, the state archivist, a representative appointed by the attorney general and a representative appointed by the director of the office of financial management shall constitute a committee to be known as the state records committee.

NEW SECTION

WAC 434-624-020 Committee officers—Duties. The chief examiner of the division of departmental audits of the state auditor's office shall be ex officio chairperson of the state records committee. The representative appointed by the attorney general shall be vice-chairperson. The state archivist shall act as secretary and shall be responsible for the proper recording of its proceedings.

NEW SECTION

WAC 434-624-030 General powers of the committee. The state records committee may adopt appropriate procedures for records disposition authorization, scheduling, and other matters relating to the retention, preservation, or destruction of public records of state agencies; may exercise such further powers as are granted by chapter 40.14 RCW or by any other statute.

NEW SECTION

WAC 434-624-040 General duties of the committee. The committee shall review records retention and disposition schedules submitted to it for authorization and may veto, approve, or amend the schedule or any or all records series contained therein. Approval of a schedule or amended schedule shall be by majority vote of the state records committee members.

NEW SECTION

WAC 434-624-050 Committee meetings. The state records committee shall meet in open session on the first Wednesday of each month at 9:00 a.m. to consider all business relevant to the duties of the committee, at the office of the state archivist, Olympia, Washington.

Chapter 434-626 WAC
POWERS AND DUTIES OF STATE AGENCY RECORDS OFFICERS

NEW SECTION

WAC 434-626-010 Designation. The head of each agency of state government shall designate a records officer to supervise the agency records management program and to represent the agency in all its contacts with the state records committee and the division of archives and records management.

NEW SECTION

WAC 434-626-020 Powers and duties of agency records officers. To facilitate the state records management program, agency records officers shall have reasonable access to all records of the agency, wherever kept, for the purposes of inventorying and scheduling their retention and transfer and shall perform the following duties.

(1) Approve all records inventory and destruction requests which are submitted to the state records committee by agency offices.

(2) Review the inventory, or manage the inventory, of all agency public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and the state records committee.

(3) Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial, and administrative needs.

(4) Review established records retention schedules at least biennially to insure that they are complete and current.

PERMANENT

(5) Consult with other staff of the agency responsible for the maintenance of specific records regarding records retention and transfer recommendations.

(6) Administer the agency essential records program including an annual review and update of the agency essential records schedule in accordance with chapter 40.10 RCW and procedures established by the state archivist. Participate in the agency disaster preparedness plan as it relates to records protection and recovery in accord with guidelines provided by the state archivist.

(7) Exercise internal control over the acquisition of filing, microfilming, and other recording equipment and services.

(8) Coordinate other aspects of the agency records management program pursuant to law or these regulations.

WSR 93-04-004
PERMANENT RULES
LOTTERY COMMISSION
[Filed January 21, 1993, 4:19 p.m.]

Date of Adoption: January 7, 1993.

Purpose: To define "claim" at WAC 315-02-230 and to amend WAC 315-06-120, 315-06-125, and 315-06-130.

Citation of Existing Rules Affected by this Order: Amending WAC 315-06-120, 315-06-125, and 315-06-130.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 92-24-068 on December 1, 1992.

Changes Other than Editing from Proposed to Adopted Version: WAC 316-02-230, modified from proposed version to add emphasis that a ticket must be received by the payor to constitute a claim, not merely placed in a mail service; WAC 315-06-120, modified from proposed version to replace the term "organization" with "claimant" for the purpose of clarity, to state the types of entities which may claim a prize, and to delete subsection (6) as redundant of WAC 316-06-125(4); WAC 315-06-125, the proposed version gave notice that natural persons who hold an interest in a prize winner organization will have their individual shares subjected to the debt collection process mandated by this section. The adopted rule adds a new subsection (6) which provides that the dept collection process will be applied to an individual who claims an interest in a prize claimed by another individual as well as an organization. The adopted rule also adds a new subsection (7) which provides rules for the debt collection process when payment to an individual is discretionary with a third person or is contingent; and WAC 315-06-130, modified from proposed version to change the term "owner" to "winner" throughout the rule.

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

January 20, 1993
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-02-230 Claim defined. "Claim" means actual, physical receipt of a ticket, and claim form if necessary under these rules, by a location authorized to pay the prize sought. Placement of the ticket, and claim form, if necessary, in the United States mail or another mail service does not constitute receipt.

AMENDATORY SECTION (Amending WSR 91-03-036, filed 1/9/91, effective 2/9/91)

WAC 315-06-120 Payment of prizes—General provisions. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of ((~~a single legal entity as claimant, either one individual or one organization~~)) one claimant, which shall be either a natural person, association, corporation, general or limited partnership, club, trust, estate, society, company, joint stock company, receiver, trustee, or another acting in a fiduciary or representative capacity whether appointed by a court or otherwise. A claim which includes one or more tickets with an address label or stamp on the back of the ticket shall be deemed to have been entered in the name of one ((~~individual~~)) claimant: *Provided,* That if the address label or stamp contains the name of more than one ((~~individual~~)) claimant, the prize payment will be made to the one who has signed the ticket and/or claim form or, if there is no signature or two signatures, to the first ((~~individual~~)) claimant listed on the address label or stamp. The claimant must submit his or her Social Security number (SSN) or the federal employer's identification number (FEIN) when claiming any prize exceeding six hundred dollars.

(3) A claim may be entered in the name of ((~~an organization~~)) a claimant other than a natural person only if the ((~~organization~~)) claimant is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the Internal Revenue Service ((~~and~~)), such number is shown on the claim form and the entity's terms comply with subsection (4) of this section. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one ((~~individual~~)) natural person or one legal entity in whose name the claim is to be entered.

((~~(3)~~)) (4) The terms governing a claimant other than a natural person, i.e., articles of incorporation, trust terms, etc., shall be submitted to the director for approval. Terms not in compliance with lottery statutes or rules shall not be approved. Payment shall not be made to a claimant other than a natural person until the director has approved the terms.

All claimants other than natural persons shall have governing terms which:

(a) Prohibit assignment of any right or interest in the claimant and its assets;

(b) Prohibit deletion, amendment, or addition of terms without the director's approval;

(c) State the names of all natural persons who have a direct or indirect right or interest in the claimant, each of their percentage interests and their Social Security numbers;

(d) Acknowledge that the debt collection process mandated by RCW 67.70.255 and WAC 315-06-125 shall be

applied to the natural persons who hold interests in the claimant through their Social Security numbers; and

(e) Provide that in the event the claimant ceases to exist prior to the full payout of the prize, the lottery will not make further payment without court order.

(5) The lottery shall not make payment to a claimant other than a natural person unless the terms governing the claimant include those enumerated in subsection (4) of this section.

(6) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket or submit a request for reconstruction of an alleged winning ticket and sufficient evidence to enable reconstruction and that the claimant had submitted a claim for the prize, if any, for that ticket. The claimant, by submitting the claim or request for reconstruction, agrees to the following provisions:

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

(b) The authorization to use the claimant's name and, upon written permission, photograph for publicity purposes by the lottery.

((~~(4)~~)) (7) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than one hundred eighty days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

((~~(5)~~)) (8) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or retailers, or from a lottery retailer; or

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

((~~(6) The director may delay payment of any prize that exceeds six hundred dollars and debts are owed by the claimant to a state agency or political subdivision, or that the state is authorized to enforce or collect as provided in WAC 315-06-125.~~

~~(7)~~)) (9) No natural person or legal entity entitled to a prize may assign ((~~his or her~~)) the right to ((~~claim it~~)) payment except:

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

(b) For the purposes of paying federal, state or local tax.

((~~(8)~~)) (10) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

((~~(9)~~)) (11) A ticket that has been legally issued by a lottery retailer is a bearer instrument until signed. The person who signs the ticket or has possession of an unsigned ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

((~~(10)~~)) (12) All prizes shall be paid within a reasonable time after the claims are validated by the director and a winner is determined. Provided, prizes paid for claims validated pursuant to WAC 315-10-070(2) shall not be paid prior to one hundred eighty-one days after the official end of that instant game. The date of the first installment payment of each prize to be paid in installment payments shall be the date the claim is validated. Subsequent installment payments shall be made as follows:

(a) If the prize was awarded as the result of a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date of the drawing in accordance with the type of prize awarded; or

(b) If the prize was awarded in a manner other than a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date the claim is validated in accordance with the type of prize awarded.

((~~(11)~~)) (13) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each originally scheduled payment date thereafter.

((~~(12)~~)) (14) If any prize is payable for the life of the ((~~claimant~~)) winner, only a natural person may claim such a prize ((~~and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life~~)).

((~~(13)~~)) (15) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

((~~(14)~~)) (16) Each lottery retailer shall pay all prizes authorized to be paid by the lottery retailer by these rules during its normal business hours at the location designated on its license.

((~~(15)~~)) (17) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

AMENDATORY SECTION (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

WAC 315-06-125 Debts owed the state. (1) The terms used in RCW 67.70.255 and these regulations are defined as follows:

(a) Creditor - Any state agency or political subdivision of this state that maintains records of debts owed to the state or political subdivision, or that the state is authorized to enforce or collect.

PERMANENT

(b) Debt - A judgment rendered by a court of competent jurisdiction or obligations established pursuant to RCW 50.20.190, 51.32.240, 51.48.140, 74.04.300, 74.20A.040, and 74.20A.055 or administrative orders as defined in RCW 50.24.110, 51.32.240, 51.48.150, and 74.20A.020(6).

(c) State - The state of Washington.

(d) Two working days - Two days not to include Saturdays, Sundays, and holidays as defined in RCW 1.16.050 commencing the day following the date the claim was validated by the lottery.

(e) Verification - A facsimile or photo copy of a judgment or final order received by the lottery during the requisite two working day period.

(f) Individual - A natural person.

(2) Any creditor may submit, to the lottery, in a format specified by the director, data processing tapes containing debt information specified by the director. Tapes which do not contain the required information or are not in the proper format will be returned to the creditor. The creditor submitting debt information tapes shall provide replacement tapes on a regular basis at intervals not to exceed one month or less than one week. The creditor shall be solely responsible for the accuracy of the information contained therein.

(3) Creditors submitting data processing tapes to the lottery shall also submit the name or names of designated contact persons.

(4) The lottery shall include the debt information submitted by the creditor in its validation and prize payment process. The lottery shall delay payment of a prize, exceeding six hundred dollars, for a period not to exceed two working days, to any ((~~person owing~~)) individual prize winner or to any other prize winner which has an individual holding a direct or indirect interest in the prize winner, and who owes a debt to a creditor pursuant to the information submitted in subsection (2) of this section. The lottery shall make a reasonable attempt to contact the creditor's designated contact person(s) by phone, followed by written correspondence, to verify the debt. Three phone calls, excluding busy signals, shall constitute a reasonable attempt. The prize or individual's portion thereof shall be paid to the ((~~claimant~~)) individual if the debt is not verified by the submitting creditor within two working days. If the debt is verified, the prize shall be disbursed pursuant to subsection ((~~(6)~~)) (9) of this section.

(5) It shall be the obligation of the prize winner to provide the lottery with the names, Social Security numbers, and percentage interests of the individuals who collectively hold one hundred percent of the interest in the prize.

(6) Where an individual holds an interest in a prize claimed by another individual, the lottery must be informed of that interest, its percentage and the Social Security number (SSN) of the nonclaimant individual who holds the interest, prior to the validation and prize payment process described herein; otherwise, the Social Security number of the claimant individual and the full net amount of the prize will be used in completing the processing required under this section.

(7) Where the right to payment to an individual who holds an interest in a prize winner is discretionary with a third party or is contingent, the tax ID number of the prize winner shall be used in completing the processing required under this section, rather than the Social Security number of said individual.

(8) A creditor shall verify the debt by submitting to the lottery at lottery headquarters in Olympia, Washington within the requisite two working day period, a facsimile or photocopy of a judgment or final order which is the basis for the debt.

((~~(6)~~)) (9) Prior to disbursement, any verified debts owed to a creditor by the individual winner of any lottery prize exceeding six hundred dollars or by an individual holding more than a six hundred dollar interest in a prize winner shall be set off against the prize owing to the individual or against the proportionate interest of the individual in the prize winner. In the event a prize winner or an individual holding more than a six hundred dollar interest in a prize winner owes debts to more than one creditor, and the total prize to that winner or individual is insufficient to pay all debts, the set off shall be paid to the creditors on a pro rata basis based on the amount of debt owed to each creditor unless priority is established by statute.

AMENDATORY SECTION (Amending Order 51, filed 2/7/84)

WAC 315-06-130 Prizes payable after death or disability of ((~~owner~~)) individual winner. (1) All prizes or a portion thereof which remain unpaid at the time of ((~~the~~)) an individual prize winner's death shall be payable to the court appointed representative of the prize winner's estate once satisfactory evidence of said representative appointment has been presented to the director, claim forms have been properly filled out, and the director is satisfied that such payment is lawful and proper.

(2) Prize moneys will be paid according to the law of descent and distribution, chapter 11.04 RCW, of the state of Washington if the ((~~owner~~)) winner thereof dies intestate regardless of whether the prize winner was domiciled at the time of the prize winner's death in the state of Washington.

(3) The director may rely wholly on the presentment of certified copies of a court's appointment of an administrator or executor, guardian, conservator or on any other evidence ((~~of~~)) that a person is entitled to the payment of any prize winnings then due.

(4) The payment to the estate of the deceased ((~~owner~~)) winner of any prize winnings by the director shall absolve the director, the commission and employees of the commission of any further liability for payment of said prize winnings. The director need not look to the payment of the prize winnings beyond the payee thereof.

(5) The estate of a deceased prize winner may elect to have the payment of an installment prize accelerated and paid to the estate at the installment prize's present cash value in lieu of receiving continued payments.

(6) The director may petition any court of competent jurisdiction to request a determination for the payments of any prize winnings which are or may become due the estate of a deceased ((~~owner or an owner~~)) winner or a winner under a disability because of, but not limited to, underage, mental deficiency, or physical or mental incapacity.

(7) If the legatee(s) or heir(s) of a deceased ((~~owner~~)) winner entitled to prize winnings obtains an order from a

court of competent jurisdiction directing payments due and to become due from the director to be paid directly to said legatee(s) or heir(s) or otherwise directs the director to make payments to another in the event of ((~~an owner's~~)) a winner's disability or otherwise, the director shall pay the prize winnings accordingly after application of that process mandated by RCW 67.70.255 and WAC 315-06-125.

(8) A deceased winner's estate shall be considered to be a winner, and payments thereto shall be governed by WAC 315-06-120.

WSR 93-04-006
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 92-07—Filed January 22, 1993, 11:56 a.m.]

Date of Adoption: January 19, 1993.

Purpose: The purpose of the rule is to add chapter 173-420 WAC to the administrative code to comply with the new clean air Washington amendments.

Statutory Authority for Adoption: Chapter 70.94 RCW and RCW 70.94.037.

Pursuant to notice filed as WSR 92-20-114 on October 7, 1992.

Changes Other than Editing from Proposed to Adopted Version: In the opening sentence of WAC 173-420-070(2), the wording was modified to clarify that the Departments of Ecology and Transportation will take the lead in ensuring that the analysis procedures and methodology are current and comply with federal requirements. In WAC 173-420-110, the opening sentence has been rewritten to clarify that these projects do not affect the outcome of any air quality analyses. Subsection (1)(b) has been modified to clarify that only pavement markings that do not add lanes are exempt. The headings in subsections (1), (2), (3), and (4) have been rewritten to clarify that only the subsequently listed types of projects are exempt.

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

January 20, 1993
Terry Husseman
Acting Director

Chapter 173-420 WAC

CONFORMITY OF TRANSPORTATION ACTIVITIES TO AIR QUALITY IMPLEMENTATION PLANS

NEW SECTION

WAC 173-420-010 Title. This chapter shall be known as the "Washington State Clean Air Conformity Act" hereinafter as "this chapter."

NEW SECTION

WAC 173-420-020 Purpose and intent. This chapter implements RCW 70.94.037 of the Washington Clean Air Act (chapter 70.94 RCW). The law requires the departments of ecology and transportation to develop criteria and guidance for demonstrating and assuring conformity of transportation plans, programs, and projects to the purpose of the state implementation plan for attaining and maintaining the national ambient air quality standards and meeting the requirements of the federal Clean Air Act (42 U.S.C. 7401) as amended. This chapter is jointly adopted by the departments of ecology and transportation and can be amended only by agreement between the departments. This chapter sets forth minimum requirements for evaluating transportation plans, programs, and projects for conformity with the purpose and intent of state implementation plans for air quality. This chapter clarifies state policy and procedures to achieve national ambient air quality standards, foster long-range planning for attainment and maintenance of those standards, provide a basis for evaluating conformity determinations, and guide state, regional, and local agencies in making conformity determinations.

NEW SECTION

WAC 173-420-030 Scope. (1) Conformity determinations shall be made for all transportation plans, improvement programs, and projects located in or affecting nonattainment areas for any criteria pollutants.

(2) Regional transportation plans that contain either wholly or partially a nonattainment area for any criteria pollutant shall comply with this chapter. Transportation plans that do not contain either wholly or partially a nonattainment area are exempt from this chapter.

(3) Transportation improvement programs shall comply with this chapter. The regional transportation improvement program shall include projects on the regional transportation system; transportation control measures of local government six-year street and road programs developed pursuant to RCW 36.81.121 and 35.77.010; and transit management plans developed pursuant to RCW 35.58.2795. Transportation improvement programs for areas that do not contain either wholly or partially a nonattainment area for any criteria pollutants are exempt from this chapter.

(4) Projects contained in the regional transportation improvement program of a metropolitan area boundary that either wholly or partially contains a nonattainment area shall comply with this chapter. Projects not on the regional transportation system shall be considered to comply with the general provisions of this chapter; however they must be evaluated by the lead agency during compliance with the requirements of the State Environmental Policy Act (SEPA), (chapter 197-11 WAC), to determine if a conformity analysis and determination based upon this chapter is warranted. Preservation or maintenance projects in WAC 173-420-110 are exempt from the conformity requirements of this chapter.

(5) Projects on the regional transportation system that are located outside a nonattainment area but affect traffic or air quality of a nonattainment area shall comply with WAC 173-420-060 and 173-420-100.

NEW SECTION

WAC 173-420-040 Definitions. The following definitions will apply unless a different meaning is clearly required by context:

"Criteria pollutants" means air pollutants for which a NAAQS has been promulgated under the federal Clean Air

PERMANENT

Act (40 C.F.R. 50) and, for this chapter, applies only to those pollutants for which nonattainment areas have been designated.

"Lead agency" means the agency with primary responsibility for ensuring plan, program, or project compliance with SEPA, (chapter 197-11 WAC).

"Metropolitan area boundary" (MAB) means an area determined by an agreement between the governor and the MPO as defined in 23 U.S.C. 134.

"Metropolitan planning organization" (MPO) means an organization for each urbanized area of more than fifty thousand people as defined in 23 U.S.C. 134, whose responsibilities include development of transportation plans and improvement programs for those areas.

"National ambient air quality standards" (NAAQS) means air quality standards promulgated for criteria pollutants under the federal Clean Air Act (40 C.F.R. 50). The standard for carbon monoxide is thirty-five parts per million over a one-hour period or nine parts per million over an eight-hour period. The standard for ozone is 0.12 parts per million over a one-hour period. The standard for PM10 is fifty $\mu g/m^3$ annual arithmetic mean or 150 $\mu g/m^3$ maximum twenty-four hour average concentration.

"Nonattainment area" means the geographic area designated as not meeting the NAAQS for a criteria pollutant. The boundaries are proposed by the governor, approved by the federal environmental protection agency (EPA), and include that area required to implement plans and programs for attainment of the NAAQS published in the federal register.

"Regional transportation system" means the transportation system identified by an MPO in development of planning requirements under the federal Intermodal Surface Transportation Efficiency Act (ISTEA) (P.L. 102-240).

"State implementation plan" (SIP) means a plan that is intended to eliminate or reduce the severity and number of violations of the national ambient air quality standards and expeditiously achieve those standards.

"Transportation control measure" (TCM) means a transportation project, program, or action listed in the state implementation plan that will aid in elimination or reduction of the severity or number of violations of the national ambient air quality standards and help expeditiously attain and maintain those standards.

"Transportation improvement program" (TIP) means a schedule of intended transportation improvements (or continuation of current activities) as required in section 134 of Title 23 U.S.C. A TIP shall include projects within the MPO's area that are proposed for funding under Title 23 U.S.C. and the federal Transit Act, projects that are part of or consistent with the transportation plan as previously defined, and transportation control measures that are included in the state implementation plan for meeting NAAQS.

"Transportation plan" means a document that is required under the regulation implementing section 134 of Title 23 U.S.C., and section 8 of the federal Transit Act, and is intended to foster a continuing, cooperative, and comprehensive planning process.

"Transportation projects" means an action that expends funds on or approves physical and/or operational alterations to a transportation system.

NEW SECTION

WAC 173-420-050 General provisions. (1) Conformity review will include transportation plans, improvement programs, and projects on the regional transportation system. The review utilizes requirements from the federal Clean Air Act, the Washington Clean Air Act (chapter 70.94 RCW), the Growth Management Act (GMA) (chapter 36.70A RCW), the State Environmental Policy Act (SEPA) (chapter 43.21C RCW), and the federal ISTEA (P.L. 102-240).

(2) Identification of transportation plans and improvement programs that affect nonattainment areas, identification of projects on the regional transportation system, and coordination and consistency among plans shall be accomplished through the planning processes required by the GMA and the ISTEA.

(3) Transportation plans and improvement programs on the regional transportation system within metropolitan area boundaries that contain nonattainment areas shall be coordinated through the MPO using the regional planning process required by ISTEA (P.L. 102-240).

(4) Transportation control measures shall be identified and incorporated into plans and programs through the SIP process required by the federal Clean Air Act.

(5) Early and continuous public participation shall be a component of the conformity process pursuant to requirements of the GMA (chapter 36.70A RCW) and ISTEA (P.L. 102-240). At least one public hearing shall be held on transportation plan and improvement program conformity determinations. Such hearings may be combined with general hearings required for the transportation plans or improvement programs. Public comment on project conformity shall be completed as part of the SEPA process (chapter 197-11 WAC).

(6) Disagreement over a conformity determination for a plan or program shall be presented in writing to the MPO and shall identify the changes considered necessary to achieve conformity. The MPO shall convene a meeting or meetings with the contesting party, parties of record, consulted agencies, and the state departments of ecology and transportation within fifteen working days of receipt of the written document contesting the determination. The meeting shall be to review the written reasons for contesting the determination. A written decision stating the changes, if any, in the conformity determination on the plan or program shall be provided to each of the meeting participants.

(7) Disagreements on project conformity findings shall be addressed through the SEPA process (chapter 197-11 WAC).

NEW SECTION

WAC 173-420-060 General criteria. (1) Transportation plans, improvement programs, and projects shall meet the purpose and intent of the current SIP of eliminating or reducing the severity and number of violations of the NAAQS and expeditiously achieving those standards and shall not preclude the implementation of any transportation control measures identified in the SIP.

(2) All transportation plans, improvement programs, and projects shall comply with the criteria in subsection (3) of this section, in addition to the specific criteria contained in WAC 173-420-080, 173-420-090, and 173-420-100, respectively.

(3) Transportation plans, improvement programs, or projects shall not:

(a) Cause or contribute to any new violation of the NAAQS;

(b) Increase the frequency or severity of any existing violation of the NAAQS; or

(c) Delay the timely attainment of the NAAQS.

NEW SECTION

WAC 173-420-070 Air quality analysis procedures. (1) Air quality analysis for transportation plans, programs, and projects shall be modeled for criteria pollutants using EPA and the federal Department of Transportation approved methods.

(2) Air quality analysis procedures and methodology used in determining conformity for transportation plans and improvement programs shall be determined through consultation with the MPO, the United States Department of Transportation and the Environmental Protection Agency, the state departments of ecology and transportation, the local air authority, and other interested representatives of the public. The specific analysis procedures and methodology selected shall comply with this chapter and the applicable SIP. Agreement on the methods and assumptions including modeling parameters, model accuracy, and the base year against which alternatives are compared, shall be reached on all programs and plans prior to the conformity determination. Procedures, methodologies, and input parameters shall be reviewed and updated at least once every two years under the direction of the departments of ecology and transportation. Such review shall occur prior to conformity determination of transportation plan or TIP revisions.

(3) Procedures, methodologies, and assumptions for project analysis shall be consistent with those procedures, methodologies, and assumptions developed for analysis of transportation plans and improvement programs in subsection (2) of this section.

(4) Each MPO shall conduct conformity analyses of the transportation plan and improvement program developed in its region.

(5) The lead agency shall be responsible for project conformity analysis.

(6) The impact of preferred alternative transportation plans, improvement programs, and projects shall be quantified and compared to SIP requirements. When finding conformity during the period prior to attainment of the NAAQS, if analysis consistent with subsection (2) of this section demonstrates that within the area significantly affected by the preferred alternative the highest concentration exceeds the NAAQS, but the alternative makes progress towards attaining the NAAQS through overall decreases in concentration or emissions, the preferred alternative shall be found to conform with the purpose of the state implementation plan and the requirements of the Clean Air Act (42 U.S.C. 7506(c)), provided that the requirements of WAC 173-420-060(3) are met. Additionally, projects shall conform whenever analysis demonstrates that within the area significantly affected by the preferred alternative the highest concentration is less than the NAAQS. After the date of the attainment demonstration, modeling of the preferred alternative shall not indicate any violations of the NAAQS. If modeling does not indicate that the requirements of this section are met, mitigating measures shall be required and the plan, improvement program, or project remodeled. All else being equal, the alternative with the lowest concentration shall be chosen over all other alternatives.

NEW SECTION

WAC 173-420-080 Transportation plan conformity. Transportation plans shall include policies and provisions that promote the reduction of criteria pollutants. Transportation plans shall identify those aspects of the existing transportation system whose modification offers the best opportunity for improving air quality. Plans shall be analyzed with regional emission analysis for criteria pollutants. Local plans that are consistent under RCW 47.80.030 with a conforming regional transportation plan are deemed to comply with this chapter provided that the requirements of WAC 173-420-050 are met. Upon a conformity finding by the MPO, the plan shall be submitted to the United States Department of Transportation for federal conformity determination.

NEW SECTION

WAC 173-420-090 Transportation improvement program conformity. (1) This section applies to all transportation improvement programs that authorize purchase of right of way or that fund construction of projects on the regional transportation system within a metropolitan area boundary of any region that is contained either wholly or partially in a nonattainment area for each criteria pollutant. The metropolitan planning organization that has responsibility for such a program shall complete all program modeling as required herein and shall conduct an analysis to determine conformity with the current SIP. After a conformity finding by the MPO, the TIP shall be submitted to the United States Department of Transportation for federal conformity determination.

(2) The current SIP is the plan that has been adopted by the department of ecology and submitted to the United States Environmental Protection Agency. Upon adoption of a new state implementation plan, a MPO may use the previous SIP for up to ninety days when making conformity determinations on new TIPs. Ninety days after adoption of a new SIP, MPOs shall use the current SIP when making conformity determinations for new TIPs.

(3) Transportation improvement programs shall comply with WAC 173-420-060. After the attainment year, projects contained in a transportation program shall not cause any violations of the NAAQS. Transportation improvement programs shall be consistent with a conforming transportation plan as described in WAC 173-420-080. Local improvement programs that are consistent with a conforming regional TIP are deemed to comply with this chapter provided that the requirements of WAC 173-420-050 are met.

(4) Metropolitan planning organizations shall update TIP conformity findings whenever the TIP is updated. Projects that are no longer current to the program, or that are no longer intended to begin construction within the period of the program, shall be removed from the conformity analysis.

PERMANENT

(5) Transportation improvement programs that have been approved and found to conform to the state implementation plan before adoption of this chapter need not be updated until two years after the enactment of this chapter.

(6) The lead agency of each transportation project on the regional transportation system within the MPO's jurisdiction shall submit sufficient documentation to support the MPO's modeling efforts. This documentation shall include design speed, anticipated speed limit, number of lanes, and lane capacity as relevant for all transportation projects that must comply with WAC 173-420-100 and that are not exempted under WAC 173-420-110.

(7) The TIP shall include the status of each transportation control measure in the state implementation plan as an attached appendix. All transportation control measures shall be scheduled for implementation and funded for completion before the proposed attainment demonstration date for each criteria pollutant. Projects in the transportation improvement program shall not interfere with or cause a delay in the implementation of a transportation control measure. Those transportation control measures that are no longer viable shall be documented and removed from the status report.

NEW SECTION

WAC 173-420-100 Transportation project conformity. (1) This section applies to all transportation projects on the regional transportation system regardless of funding base within a metropolitan area boundary of any region that is contained either wholly or partially in a nonattainment area. Projects that are exempted from these requirements because they are deemed to have neutral impact on air quality are listed in WAC 173-420-110.

(2) Transportation projects shall meet the analysis requirements of this section before approval of plans, specifications, and estimates; before acquisition of right of way not exempted under WAC 173-420-110; and before expenditure of funds for construction. In no instance shall funds be obligated nor approvals granted that will commit a lead agency to construction of a project if the requirements of this section have not been met.

(3) Transportation projects on the regional transportation system that are located outside a nonattainment area but affect a nonattainment area shall meet the requirements of this section and SEPA (chapter 197-11 WAC). Such transportation projects need not come from a conforming transportation improvement program.

(4) Any temporary construction-related measures shall not prevent a conformity determination, but shall be subject to permit conditions to minimize pollution during construction.

(5) Transportation projects shall be modeled by the lead agency with the methodology determined in WAC 173-420-070. The lead agency shall provide sufficient documentation to demonstrate to the MPO that the requirements of this section are met. Such transportation projects shall be included in a conforming transportation improvement program as described in WAC 173-420-090.

(6) Transportation projects that are not on the regional transportation system and are located in a MAB with a conforming transportation plan and improvement program are deemed to comply with this chapter. Such projects may include, but are not limited to, intersection signalization and channelization, or construction of local or collector streets. In no instances shall the requirements of WAC 173-420-060 be contravened. Transportation projects that are not on a regional transportation system and are not located in a nonattainment area for criteria pollutants are deemed to comply with this chapter.

(7) Transportation projects that are included in a conforming transportation improvement program and that have completed the public comment period of the environmental review requirements of the SEPA or the NEPA before adoption of this chapter, are not required to comply with the conformity requirements of this chapter unless there are significant changes in the project scope.

NEW SECTION

WAC 173-420-110 Exempt projects. The following types of projects because of their nature, will not affect the outcome of any air quality analyses nor add any substance to those analyses and are exempted from all conformity requirements.

(1) Safety, preservation, or maintenance projects of the following type:

(a) Railroad/highway crossing signing;

(b) Pavement marking that does not add lanes or capacity;

(c) Hazard elimination program;

(d) Off-system road safety;

(e) Emergency relief;

(f) Shoulder improvements;

(g) Truck size and weight inspection stations;

(h) Safety improvement program;

(i) Railroad/highway crossing warning devices;

(j) Increasing sight distance that does not require changes in horizontal or vertical alignments;

(k) Guardrails, median barriers, crash cushions;

(l) Pavement resurfacing or rehabilitation;

(m) Widening narrow pavements or bridges (less than one travel lane);

(n) Noise attenuation;

(o) Fencing;

(p) Skid treatments;

(q) Safety roadside rest areas;

(r) Truck climbing lanes;

(s) Lighting improvements;

(t) Median additions.

(2) Mass transit projects of the following type:

(a) Purchase of office, shop, and operating equipment for existing facilities;

(b) Purchase of operating equipment for vehicles, including ferries, trains, and buses;

(c) Construction or renovation of power, signal, and communication systems;

(d) Operating assistance;

(e) Rehabilitation of transit vehicles, including buses, ferries, and trains;

(f) Reconstruction or renovation of transit buildings and structures;

(g) Construction of small passenger shelters and information/ticketing kiosks;

(h) Rehabilitation or reconstruction of track structures, track, and trackbed in existing right of way;

(i) Noise attenuation;

(j) Purchase of vehicles to replace existing vehicles or for minor expansions of fleets to provide new service (less than five percent per year);

(k) Construction of new vehicle storage and maintenance facilities.

(3) Air quality projects of the following type:

(a) Continuation of rideshare and vanpooling promotion activities at current levels;

(b) Bicycle projects;

(c) Pedestrian facilities.

(4) Other projects of the following type:

(a) Acquisition of scenic easements;

(b) Planting and landscaping;

(c) Sign removal;

(d) Wetland mitigation, fish passage mitigation, and other environmental mitigation not related to air quality;

(e) Historical and cultural markers;

(f) Preliminary engineering through design, provided that funds are not expended or assurance is not made that will commit to the construction of a project;

(g) Access permits except when there is a break in full, modified, or partial access control;

(h) Advanced land acquisitions that do not influence the environmental assessment of a project, the decision of the need to construct the project, or the selection of project design or location.

WSR 93-04-007
PERMANENT RULES
GAMBLING COMMISSION
[Order 236—Filed January 22, 1993, 3:29 p.m.]

Date of Adoption: January 15, 1993.

Purpose: To increase maximum prize amounts on cash and merchandise prizes for pull tabs and punchboards.

Citation of Existing Rules Affected by this Order: Amending WAC 230-30-075.

Statutory Authority for Adoption: RCW 9.46.070.

Pursuant to notice filed as WSR 92-21-055 on October 19, 1992.

Changes Other than Editing from Proposed to Adopted Version: Subsection (4)(b) changed to reflect effective date of July 1, 1993, on that portion of the rule.

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

January 22, 1993
Frank L. Miller
Director

AMENDATORY SECTION (Amending Order 154, filed 10/14/85)

WAC 230-30-075 Minimum percentage of prizes for certain gambling activities. No operator shall put out for play and no distributor or manufacturer of punchboards and pull tabs shall sell or otherwise provide to any person in this state or for use in this state any punchboard or pull tab series that does not contain the following minimum percentage in prizes:

(1) Punchboards - a minimum of ((~~60~~)) sixty percent respecting each punchboard placed out for public play.

(2) Pull tabs - a minimum of ((~~60~~)) sixty percent respecting each series of pull tabs placed out for public play.

(3) For the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series under this section, total merchandise prizes shall be computed at the amount actually paid therefor by the licensed operator plus ((~~50~~)) fifty percent of that actual cost.

(4) Single cash prizes on punchboards/pull tabs shall not exceed:

(a) ((~~Two~~)) Five hundred in cash; or

(b) Effective July 1, 1993, a merchandise prize, or combination merchandise prize, for which the operator has not expended more than ((~~three~~)) five hundred dollars.

(5) Multiple winners on an individual pull tab or punch shall not exceed the single cash or merchandise prize limit in subsection (4) ((~~above~~)) of this section.

PERMANENT

WSR 93-04-008
PERMANENT RULES
STATE INVESTMENT BOARD
[Filed January 22, 1993, 4:28 p.m.]

Date of Adoption: December 15, 1992.

Purpose: Repeals existing rules of conduct and adopts new rules which are applicable to all employees and members of the State Investment Board.

Citation of Existing Rules Affected by this Order: Repealing WAC 287-04-030 Rules of conduct.

Statutory Authority for Adoption: RCW 43.33A.110.

Pursuant to notice filed as WSR 92-22-108 on November 4, 1992.

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

January 22, 1993
Helen Small
Deputy Director
Operations

NEW SECTION

WAC 287-04-031 Rules of conduct. This section is promulgated pursuant to RCW 43.33A.110 to ensure compliance with chapter 42.18 RCW and the code of conduct, as adopted by the board. All employees of the board and board members must comply with the code of conduct.

(1) No employee of the board or member of the board shall receive, accept, seek or solicit, directly or indirectly, any gift as defined in chapter 42.18 RCW if such employee or member of the board has reason to believe that:

(a) The donor would not have given the gift but for the employee's or member's office or position with the board;

(b) The donor has or is seeking to obtain a contractual or other business or financial relationship with the board;

(c) The donor has interests which may be affected by the employee's or board's performance or nonperformance of its official duty;

(d) Except that gifts may be accepted as permitted by Executive Order 92-04 (1992).

(2) Personal investments.

(a) "Permissible investment" means any mutual fund or deposit account, certificate of deposit or money market fund maintained with a bank, broker, or other financial institution, any security publicly traded in an organized market or an interest in real estate unless such interest involves a related party transaction.

(b) "Other investment" means any investment not defined as a permissible investment in (a) of this subsection.

(c) "Immediate family" includes the spouse, dependent children, other dependent relatives if living in the household and any other household member, whether or not related.

(d) Board members and employees may purchase "permissible investments" without prior approval.

(e) No employee of the board shall or shall permit any member of his or her immediate family to, purchase or sell any "other investment," without the prior approval of the executive director or his or her designee. The executive director shall not purchase or sell or permit any member of his or her immediate family to purchase or sell any "other investment," without the prior approval of the audit committee of the board. No member of the board shall or shall permit any member of his or her immediate family to purchase or sell any "other investment," without the prior approval of the audit committee of the board.

(f) No employee of the board or board member shall participate in an LBO or venture capitol IPO of which the board has an interest until such shares are available to the general public.

(3) No board member or employee shall participate in any discussion or shall vote in a matter before the board which involves a business, contract, property, or other substantial investment directly or indirectly held by such person if it is reasonably foreseeable that board action on the matter would confer a benefit to such person by or through the business, contract, property, or investment.

(4) No board member or employee shall participate in any discussion or shall vote in a matter before the board if such participation is motivated by something other than the best interests of the board, its members and beneficiaries, in violation of that person's duty of loyalty.

(5) No board member or employee shall borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which the board has a business relationship, except and unless such entities are normally engaged in such lending in the usual course of their business, and then only on terms offered to others under similar circumstances.

(6) Confidential information shall be used solely for the board's purposes and under no circumstances revealed to unauthorized persons, except as may be otherwise required to be disclosed as a public record pursuant to the requirements of chapter 42.17 RCW.

(7) No board member or employee shall divulge state agency or board information or proprietary information in the board's possession, whether labeled confidential or not, to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of, or permitting others to make use of, information not available to the general public.

(8) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to obtain or attempt to obtain private gain or advantage, especially if a detriment to the board will result.

(9) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to assist another in a transaction involving the board, or use his or her influence over the board to obtain or attempt to obtain gain or advantage for the person or entity seeking to transact business with the board.

(10) No member of the board or its staff shall, within a period of two years after termination of such service or employment, appear before the board or receive compensation for any services rendered for or on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which such person was directly concerned and in which that person personally participated during the period of his or her service or employment.

(11) No member of the board or its staff shall accept employment or engage in business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position.

(12) No member of the board or its staff shall have an account with an institutional salesman serving the state.

(13) A board member or employee who is found by the board to have violated this code of conduct may be subject to official reprimand by vote of the board. In the event that the board determines a violation of the code to be so egregious or apparent as to constitute malfeasance, misfeasance, inefficiency, neglect of duty, incapacity, or unfitness to perform his or her fiduciary duties and responsibilities in the exclusive interest of the board and its beneficiaries, and if the offending person is:

(a) A voting board member: The board, in its sole discretion, may refer the matter to the proper appointing authority or the attorney general, as deemed appropriate; or if

(b) A nonvoting board member: The board, in its sole discretion, may take the appropriate steps necessary to and remove the offending member from the board; or if

(c) The executive director: The board, in its sole discretion, may take the appropriate steps to remove the director in compliance with RCW 43.33A.100; or if

(d) An employee of the board governed by the Merit Systems Rules: The executive director may take such disciplinary action as authorized under Title 356 WAC up to and including termination of employment; or if

(e) An exempt employee of the board: The executive director may take whatever disciplinary action deemed appropriate, up to and including termination of employment.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 287-04-030 Rules of conduct.

WSR 93-04-016
PERMANENT RULES
DEPARTMENT OF HEALTH
[Order 329B—Filed January 25, 1993, 2:58 p.m.]

Date of Adoption: December 18, 1992.

Purpose: To clarify meaning of "accepted professional standards."

Citation of Existing Rules Affected by this Order: Amending WAC 246-903-010 and 246-903-020.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 92-22-097 on November 3, 1992.

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

December 18, 1992
Donald Hobbs
Board Chair

AMENDATORY SECTION (Amending Order 277B, filed 5/28/92, effective 6/28/92)

WAC 246-903-010 Definitions. (1) A "nuclear pharmacy" is a class A pharmacy providing radiopharmaceutical services.

(2) "Nuclear pharmacist" means a licensed pharmacist who has submitted evidence to the board of pharmacy that he or she meets the requirements of WAC 246-903-030 of these regulations regarding training, education, and experience, and who has received notification by letter from the board of pharmacy that, based on the evidence submitted, he or she is recognized by the board of pharmacy as qualified to provide radiopharmaceutical services.

(3) "Radiopharmaceutical service" shall mean, but shall not be limited to, the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation management and control of a nuclear pharmacy.

(4) A "radiopharmaceutical" is any substance defined as a drug in section 201(g)(1) of the Federal Food, Drug and Cosmetic Act which exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any such drug which is intended to be made radioactive. This definition includes nonradioactive reagent kits and nuclide generators which are intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing compounds or potassium-containing salts which contain trace quantities of naturally occurring radionuclides.

(5) "Radiopharmaceutical quality assurance" means, but is not limited to, the performance of appropriate chemical, biological and physical tests on radiopharmaceuticals and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment authentication of product history and the keeping of proper records.

(6) "Internal test assessment" means, but is not limited to, conducting those tests of quality assurance necessary to insure the integrity of the test.

(7) "Authentication of product history" means, but is not limited to, identifying the purchasing source, the ultimate fate, and intermediate handling of any component of a radiopharmaceutical.

(8) "Authorized practitioner" means a practitioner duly authorized by law to possess, use, and administer radiopharmaceuticals.

(9) "Accepted professional standards" are those set forth in the *Nuclear Pharmacy Practice Standards* published by the American Pharmaceutical Association, Board of Pharmaceutical Specialties, adopted on March 18, 1986.

AMENDATORY SECTION (Amending Order 191B, filed 8/30/91, effective 9/30/91)

WAC 246-903-020 Nuclear pharmacies. (1) A permit to operate a nuclear pharmacy providing radiopharmaceutical services shall only be issued to a qualified nuclear pharmacist. All personnel performing tasks in the preparation and distribution of radiopharmaceuticals shall be under the supervision of a nuclear pharmacist. The nuclear pharmacist shall be responsible for all operations of the licensed area. In emergency situations, in the nuclear pharmacist's absence, he or she may designate one or more qualified, registered or certified health care personnel to have access to the licensed area. These individuals may obtain radiopharmaceuticals for the immediate emergency and must document such withdrawals in the control system.

(2) Nuclear pharmacies shall have adequate space, commensurate with the scope of services to be provided. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradiopharmaceuticals and shall be secured from access by unauthorized personnel. A nuclear pharmacy handling radiopharmaceuticals exclusively may be exempted from the general space requirements for pharmacies by obtaining a waiver from the state board of pharmacy. Detailed floor plans shall be submitted to the state board of pharmacy and the state radiation control agency before approval of the license.

(3) Nuclear pharmacies shall ((~~only~~)) compound and dispense radiopharmaceuticals ((~~which comply~~)) in accordance with accepted professional standards ((~~of radiopharmaceutical quality assurance~~)).

(4) The board recognizes that the preparation of nuclear pharmaceuticals involves the compounding skills of the nuclear pharmacist to assure that the final drug product meets accepted professional standards.

(5) Nuclear pharmacies shall maintain records of acquisition and disposition of all radiopharmaceuticals in accordance with applicable regulations of the state board of pharmacy, the state radiation control agency and other state and federal agencies.

((~~(5)~~)) (6) For nuclear pharmacies handling radiopharmaceuticals exclusively, the state board of pharmacy may waive regulations pertaining to the pharmacy permits for nonradiopharmaceuticals for requirements that do not pertain to the practice of nuclear pharmacy.

((~~(6)~~)) (7) Radiopharmaceuticals are to be dispensed only upon a prescription from a practitioner authorized to

PERMANENT

possess, use and administer radiopharmaceuticals. A nuclear pharmacy may also furnish radiopharmaceuticals for office use to these practitioners.

((~~(7)~~)) (8) A nuclear pharmacist may transfer to authorized persons radioactive materials not intended for drug use, in accordance with regulations of the state radiation control agency.

((~~(8)~~)) (9) In addition to any labeling requirements of the state board of pharmacy for nonradiopharmaceuticals, the immediate outer container of the radiopharmaceutical to be dispensed shall also be labeled with: ((~~(1)~~)) (a) Standard radiation symbol; ((~~(2)~~)) (b) the words "caution-radioactive material"; ((~~(3)~~)) (c) the name of the radiopharmaceutical; ((~~(4)~~)) (d) the amount of radioactive material contained, in millicuries or microcuries; ((~~(5)~~)) (e) if a liquid, the volume in milliliters; ((~~(6)~~)) (f) the requested calibration time for the amount of radioactivity contained; ((~~(7)~~)) (g) expiration data, if applicable; and ((~~(8)~~)) (h) specific concentration of radioactivity.

((~~(9)~~)) (10) The immediate container shall be labeled with: ((~~(1)~~)) (a) The standard radiation symbol; ((~~(2)~~)) (b) the words "caution-radioactive material"; ((~~(3)~~)) (c) the name of the nuclear pharmacy; ((~~(4)~~)) (d) the prescription number; ((~~(5)~~)) (e) the name of the radiopharmaceutical; ((~~(6)~~)) (f) the date; and ((~~(7)~~)) (g) the amount of radioactive material contained in millicuries or microcuries.

((~~(10)~~)) (11) The amount of radioactivity shall be determined by radiometric methods for each individual preparation immediately prior to dispensing.

((~~(11)~~)) (12) Nuclear pharmacies may redistribute NDA approved radiopharmaceuticals if the pharmacy does not process the radiopharmaceuticals in any manner or violate the product packaging.

((~~(12)~~)) (13) The nuclear pharmacy shall have the current revisions of state laws and regulations of the state board of pharmacy and state radiation control agency.

((~~(13)~~)) (14) The nuclear pharmacy shall maintain a library commensurate with the level of radiopharmaceutical service to be provided. A detailed library listing shall be submitted to the state board of pharmacy and state radiation control agency before approval of the license.

WSR 93-04-017
PERMANENT RULES
DEPARTMENT OF HEALTH
[Order 330B—Filed January 25, 1993, 3:00 p.m.]

Date of Adoption: December 18, 1992.

Purpose: To repeal chapter 246-857 WAC, Practice and procedure.

Citation of Existing Rules Affected by this Order: Repealing chapter 246-857 WAC.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 92-22-077 on November 2, 1992.

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

December 18, 1992
Donald Hobbs
Board Chair

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 246-857-020	Practice and procedure—Adoption by reference.
WAC 246-857-030	Appearance and practice before board—Who may appear.
WAC 246-857-040	Appearance and practice before board—Standards of ethical conduct.
WAC 246-857-050	Appearance and practice before board—Appearance by former employee of board or former member of attorney general's staff.
WAC 246-857-060	Appearance and practice before board—Former employee as expert witness.
WAC 246-857-070	Depositions and interrogatories in contested cases—Right to take.
WAC 246-857-080	Depositions and interrogatories in contested cases—Scope.
WAC 246-857-090	Depositions and interrogatories in contested cases—Officer before whom taken.
WAC 246-857-100	Depositions and interrogatories in contested cases—Authorization.
WAC 246-857-110	Depositions and interrogatories in contested cases—Protection of parties and deponents.
WAC 246-857-120	Depositions and interrogatories in contested cases—Oral examination and cross-examination.
WAC 246-857-130	Depositions and interrogatories in contested cases—Recordation.
WAC 246-857-140	Depositions and interrogatories in contested cases—Signing attestation and return.
WAC 246-857-150	Depositions and interrogatories in contested cases—Use and effect.
WAC 246-857-160	Depositions and interrogatories in contested cases—Fees of officers and deponents.
WAC 246-857-170	Depositions upon interrogatories—Submission of interrogatories.
WAC 246-857-180	Depositions upon interrogatories—Interrogation.
WAC 246-857-190	Depositions upon interrogatories—Attestation and return.
WAC 246-857-200	Depositions upon interrogatories—Provisions of deposition rule.
WAC 246-857-210	Official notice—Matters of law.
WAC 246-857-220	Official notice—Material facts.

WAC 246-857-230	Presumptions.
WAC 246-857-240	Stipulations and admissions of record.
WAC 246-857-250	Definition of issues before hearing.
WAC 246-857-260	Rules of evidence—Admissibility criteria.
WAC 246-857-270	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
WAC 246-857-280	Petitions for rule making, amendment or repeal—Who may petition.
WAC 246-857-290	Petitions for rule making, amendment or repeal—Requisites.
WAC 246-857-300	Petitions for rule making, amendment or repeal—Agency must consider.
WAC 246-857-310	Petitions for rule making, amendment or repeal—Notice of disposition.
WAC 246-857-320	Declaratory rulings.
WAC 246-857-330	Forms.
WAC 246-857-340	SEPA exemption.

WSR 93-04-019
PERMANENT RULES
STATE BOARD OF EDUCATION
[Filed January 26, 1993, 11:01 a.m.]

Date of Adoption: January 22, 1993.

Purpose: To provide priority points to projects in districts that have a modified calendar and are serving more pupils than the rated capacity of the school districts.

Citation of Existing Rules Affected by this Order: Amending WAC 180-27-505.

Statutory Authority for Adoption: RCW 28A.525.020.

Other Authority: Section 24 (8)(e), chapter 233, Laws of 1993 [1992].

Pursuant to notice filed as WSR 92-24-071 on December 1, 1992.

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

January 26, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92, effective 9/3/92)

WAC 180-27-505 State assistance—Common priority factors. The three priority factors that are common to all projects are as follows:

(1) Type of space - Ten possible points. In this element the net assignable square feet (NASF) of a project are identified by planned space inventory category. Category one is space used for scheduled instruction and libraries (classrooms, laboratories, PE teaching space, libraries, and learning resource centers). Category two is space used in support of instruction (assembly, student services, office space, and classroom/lab service and support). Category three space is cafeteria/food service, spectator seating, covered play areas, and general support space. The formula for determining points prorates the NASF with weightings of ten for category one, seven for category two, and four for category three as shown below.

NASF of Category One	X	10 points = X
NASF of Category Two	X	7 points = X
NASF of Category Three	X	4 points = X

Then: The sum of X divided by the sum of NASF equals points.

(2) Local priority - Five possible points. For this element, five maximum points are awarded to the district's first priority project. Each priority from there has one point deducted from it, to a minimum of zero points awarded.

(3) Joint funding - Five possible points. A binding agreement between the school district and another governmental entity for the joint financing of the construction or improvement of space which is not eligible for state assistance.

Total Project Cost	Required Joint Funding
Up to $1,000,000	25% of total project cost ($250,000 at $1,000,000)
Between $1,000,000 and $ 2,000,000	$275,000
Between $2,000,000 and $ 3,000,000	$300,000
Between $3,000,000 and $ 4,000,000	$325,000
Between $4,000,000 and $ 5,000,000	$350,000
Between $5,000,000 and $ 6,000,000	$375,000
Between $6,000,000 and $ 7,000,000	$400,000
Between $7,000,000 and $ 8,000,000	$425,000
Between $8,000,000 and $ 9,000,000	$450,000
Between $9,000,000 and $10,000,000	$475,000
$10,000,000 and over	$500,000

((~~The scores in this group will be determined after district compliance with the requirements of WAC 180-29-107.~~))

(4) Modified calendar or schedule - Five possible points. For this element, up to five points utilizing the table below will be awarded to a project in a district which has adopted a modified school calendar or schedule that enables more students to use school buildings each year over what current state capacity standards at WAC 180-27-035 recognize for state assistance purposes. The modified calendar or schedule shall utilize either extended school day or additional days for instruction in the year. The enrollment percentage shall be calculated on the same grade span groupings as for eligibility in WAC 180-27-050.

Enrollment Percentage Increase Over Capacity	Priority Points
20 to above	5
16 to 19.9	4
12 to 15.9	3
8 to 11.9	2
4 to 7.9	1
Below 4	0

The scores in this group will be determined after district compliance with the requirements of WAC 180-29-107.

PERMANENT

PERMANENT

WSR 93-04-022
PERMANENT RULES
GREEN RIVER COMMUNITY COLLEGE
[Filed January 27, 1993, 10:54 a.m.]

Date of Adoption: September 17, 1992. Public hearing held on September 17, 1992.

Purpose: Green River Community College as an institution of society must maintain conditions conducive to the effective performance of its functions. Consequently, Green River Community College has special expectations regarding the conduct of students. Student conduct that detracts from, or interferes with, the accomplishment of college purposes is not acceptable.

Citation of Existing Rules Affected by this Order: Repealing chapter 132J-120 WAC, Student body rights and responsibilities; and amending WAC 132J-108-020 and 132J-108-050.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Pursuant to notice filed as WSR 92-14-118 on July 1, 1992.

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

January 25, 1993
Michael H. McIntyre
Vice-President for Marketing
and Student Development

Reviser's note: The material contained in this filing will appear in the 93-05 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 93-04-024
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3502—Filed January 27, 1993, 12:01 p.m.]

Date of Adoption: January 27, 1993.

Purpose: Provide rules for special low-income Medicare beneficiaries (SLMB)—A Medicare cost-sharing mandatory coverage group. New WAC 388-82-150 SLMB eligible for Medicare cost-sharing.

Citation of Existing Rules Affected by this Order: Amending WAC 388-81-060 Medicare cost sharing.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: House—Congressional Record Section 4501(b) of OBRA.

Pursuant to notice filed as WSR 93-01-032 on December 8, 1992.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3060, filed 8/23/90, effective 9/23/90)

WAC 388-81-060 Medicare cost sharing. (1) Subject to limitations under chapter 388-87 WAC, the department shall pay, for an otherwise eligible ((~~individual~~)) person:

(a) Supplementary medical insurance Part B, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(2) In addition to subsection (1) of this section, the department shall pay Part A, under Title XVIII of the Social Security Act, for ((~~an individual~~)) a person eligible under WAC 388-82-140.

(3) The department shall pay only the Part A premium, under Title XVIII of the Social Security Act, for ((~~an individual~~)) a person eligible under WAC 388-82-160.

(4) The department shall pay only the Part B premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-82-150.

NEW SECTION

WAC 388-82-150 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing. (1) Effective January 1, 1993, the department shall provide Medicare cost sharing under WAC 388-81-060(4) for a person:

(a) Meeting the general nonfinancial requirements under chapter 388-83-WAC;

(b) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act;

(c) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits; and

(d) Having a total countable income, as determined under chapter 388-92 WAC, over one hundred percent of the federal poverty level (FPL) but not exceeding one hundred ten percent of the FPL as published and updated by the secretary of health and human services. One hundred ten percent of the current FPL is:

	Family Size	Monthly Income
(i)	One	$ 625.00
(ii)	Two	843.00

(2) Effective January 1, 1995, the department shall find a person eligible under subsection (1)(d) of this section whose total countable income does not exceed one-hundred twenty percent of the FPL.

WSR 93-04-028
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3503—Filed January 27, 1993, 12:05 p.m.]

Date of Adoption: January 27, 1993.

Purpose: Codifies DSHS policy for calculation of lien and determination of allowable attorney fees and provides client notice of the same in accordance with RCW

43.20B.720 and chapter 51.52 RCW. Gives notice to the client of the value of the lien and share of attorney fees paid.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-392 Community, separate, and jointly owned property—Time-loss compensation—Lien.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-01-012 on December 4, 1992.

Changes Other than Editing form Proposed to Adopted Version: Deleted last sentence of old subsection (4) because sentence was added to last sentence of subsection (1).

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3111, filed 12/28/90, effective 1/28/91)

WAC 388-28-392 Community, separate, and jointly owned property—Time-loss compensation—Lien. (1) The department of social and health services shall file a lien and notice to withhold and deliver, with labor and industries or the self-insurer, to recover time-loss compensation payable to a public assistance client, ((~~unless the client's time-loss benefits are based upon an~~)) for injury or illness occurring ((~~before~~)) on or after July 1, 1972. The department shall mail a copy of the notice to the client no later than the following work day.

(2) By accepting public assistance, adult and minor clients subrogate to the department the clients' right to recover time-loss compensation. The department shall compute payments for time-loss compensation and public assistance paid for less than a full month on the actual number of days paid. The department shall not make a further claim under this lien when:

(a) Duplicated benefits terminate; or

(b) Continued assistance is required to supplement time-loss compensation to bring the assistance unit up to the grant standard.

(3) When an assistance unit consists of unmarried parents, the department shall recover time-loss benefits as though the injured worker and the injured worker's dependents comprise a separate assistance unit. The department shall:

(a) ((~~The department shall~~)) Consider any common children to be part of the injured worker's assistance unit((~~.~~)); and

(b) ((~~The department shall~~)) Budget any income received by the injured ((~~worker or dependents against the~~)) worker's separate assistance unit against the related grant ((~~of the injured worker and the injured worker's dependents.~~

~~(4) The department shall file a statement of lien and notice to withhold and deliver with the department of labor and industries or the self-insurer.~~

~~The department shall mail a copy of the notice to the client no later than the first following working day~~)).

((~~(5)~~)) (4) When the client or client's attorney claims allowable attorney fees and costs, incidental to an increased award, the office of financial recovery, department of social and health services shall:

(a) Request an itemized billing from the attorney;

(b) Determine what portion of the award, if any, resulted directly from the attorney's involvement;

(c) Determine the department's proportionate share of attorney fees and costs applicable to the duplicate coverage period; and

(d) Deduct the department's share of cost in subsection (4)(c) of this section from the lien for duplicated assistance; or

(e) Issue the proportionate share refund to the attorney with a copy of the account summary to the client.

(5) The department shall advise a client of the provision in WAC 388-28-392 when the client may be eligible for time-loss compensation.

(6) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

PERMANENT

WSR 93-04-029
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Institutions)
[Order 3504—Filed January 27, 1993, 12:06 p.m.]

Date of Adoption: January 27, 1993.

Purpose: The amendment to this rule clarifies the administrative requirements for contracted residential programs.

Citation of Existing Rules Affected by this Order: Amending WAC 275-26-065 Staffing.

Statutory Authority for Adoption: RCW 71A.12.080.

Pursuant to notice filed as WSR 93-01-003 on December 2, 1993.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3230, filed 8/9/91, effective 9/9/91)

WAC 275-26-065 Staffing. (1) An agency shall provide sufficient staff to administer the program and perform instruction and support services.

(2) An agency shall provide the client with immediate access to staff or the means to contact staff twenty-four hours a day, seven days each week.

(3) An agency required to have twenty-four-hour, on-duty staff coverage shall have a department-approved staff coverage schedule:

(a) At the time of certification; and

(b) When substantial changes occur. The agency shall retain a copy of department approval of their staffing schedule.

(4) Staff availability.

(a) An agency operating ((~~one~~)) a residential program shall have a ((~~minimum of one paid half-time, twenty hours per week, administrator for the program~~)) designated administrator.

(b) ((~~For programs licensed under the boarding home regulations an agency operating two or more residential~~

~~programs shall have a minimum of one paid half-time, twenty hours per week, administrator for each program. The agency may utilize one paid full-time administrator, forty hours per week, at the department's discretion. The agency shall retain a copy of department approval.~~

~~(e)~~)) Each facility-based residence shall maintain staffing requirements applicable to the specific licensing regulations and contract requirements under which the agency operates.

(((~~d~~))) (c) When only one direct care staff member is on duty, the agency shall make or have provisions for a second person on call in case of an emergency.

PERMANENT

WSR 93-04-030
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3506—Filed January 27, 1993, 12:08 p.m.]

Date of Adoption: January 27, 1993.

Purpose: Payment standards and SSI standards are reviewed and updated annually. Enables field staff to use correct standards in making benefit payments to clients effective January 1, 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 388-29-100 Standards of assistance—Basic requirements; WAC 388-29-110 Standards of assistance—Grant maximum; and WAC 388-29-112 Standards of assistance—Consolidated emergency assistance program.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 20 CFR 416.405 SSI Standards, RCW 74.04.200 Grant standards.

Pursuant to notice filed as WSR 93-01-143 on December 22, 1992.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3457, filed 9/23/92, effective 10/24/92)

WAC 388-29-100 Standards of assistance—Basic requirements. (1) The statewide monthly need standard for basic requirements shall be:

(a) A household with an obligation to pay shelter costs effective September 1, 1992.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This need standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this need standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

Recipients in Household	Need Standard
1	$ 718
2	909
3	1,125
4	1,323
5	1,524
6	1,730
7	1,998
8	2,211
9	2,428
10 or more	2,639

(b) A household with shelter provided at no cost effective September 1, 1992, except as described under subsection (1)(a) of this section.

The monthly standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, household maintenance and operations, and transportation.

Recipients in Household	Need Standard
1	$ 437
2	554
3	686
4	807
5	929
6	1,055
7	1,218
8	1,348
9	1,481
10 or more	1,609

(2) One hundred eighty-five percent of the statewide monthly need standard for basic requirements is:

(a) A household with shelter costs effective September 1, 1992.

Recipients in Household	185% of Need Standard
1	$ 1,328
2	1,681
3	2,081
4	2,447
5	2,819
6	3,200
7	3,696
8	4,090
9	4,491
10 or more	4,882

(b) A household with shelter provided at no cost effective September 1, 1992.

Recipients in Household	185% of Need Standard
1	$ 808
2	1,024

3	1,269
4	1,492
5	1,718
6	1,951
7	2,253
8	2,493
9	2,739
10 or more	2,976

(3) The statewide monthly payment standard for general assistance-unemployable, and alcoholism and drug addiction treatment and support act programs shall be:

(a) Payment standard for a household with an obligation to pay shelter costs effective January 1, 1991.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This payment standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this payment standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

Recipients in Household	Payment Standard
1	$ 339
2	428
3	531
4	624
5	719
6	817
7	943
8	1,044
9	1,146
10 or more	1,246

(b) Payment standard for a household with shelter provided at no cost effective January 1, 1991, except as described under subsection (3)(a) of this section.

The monthly payment standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, transportation, and household maintenance and operations.

Recipients in Household	Payment Standard
1	$ 206
2	261
3	323
4	380
5	438
6	497
7	574
8	635
9	698
10 or more	758

(4) The statewide monthly payment standard for aid to families with dependent children, family independence program, refugee assistance, and general assistance for pregnant women shall be:

(a) Payment standard for a household with an obligation to pay shelter costs effective January 1, 1993.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This payment standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this payment standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

Recipients in Household	Payment Standard
1	$ 349
2	440
3	546
4	642
5	740
6	841
7	971
8	1,075
9	1,180
10 or more	1,283

(b) Payment standard for a household with shelter provided at no cost effective January 1, 1993, except as described under subsection (4)(a) of this section.

The monthly payment standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, transportation, and household maintenance and operations.

Recipients in Household	Payment Standard
1	$ 212
2	268
3	332
4	391
5	451
6	511
7	591
8	654
9	718
10 or more	780

PERMANENT

AMENDATORY SECTION (Amending Order 3122, filed 12/28/90, effective 1/28/91)

WAC 388-29-110 Standards of assistance—Grant maximum. (1) A grant to a family of eight or more shall not exceed the following maximums. In computing the grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in this chapter.

(2) Effective January 1, 1991, the maximum for general assistance-unemployable, and Alcoholism and Drug Addiction Treatment and Support Act programs is:

Number in household	Maximum
8 or more	$ 1,044

(3) Effective January 1, 1993, the maximum for aid to families with dependent children, family independence program, refugee assistance, and general assistance for pregnant women is:

Number in household	Maximum
8 or more	$ 1,075

AMENDATORY SECTION (Amending Order 3122, filed 12/28/90, effective 1/28/91)

WAC 388-29-112 Standards of assistance—Consolidated emergency assistance program ((~~(CEAP)~~)). The statewide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the aid to families with dependent children payment standard.

(1) Maximum grant.

Recipients in Household	Maximum Grant
1	$ ((~~339~~)) 349
2	((~~428~~)) 440
3	((~~531~~)) 546
4	((~~624~~)) 642
5	((~~719~~)) 740
6	((~~817~~)) 841
7	((~~943~~)) 971
8 or more	((~~1,044~~)) 1,075

(2) Payment maximums for individual emergent need items.

	1	2	3	4	5	6	7	8 (or more)
Food	(($~~205~~ $~~260~~ $~~322~~ $~~380~~ $~~437~~ $~~496~~ $~~566~~ $~~626~~)) $211	$268	$332	$391	$450	$511	$583	$645
Shelter	((~~250~~ ~~316~~ ~~392~~ ~~462~~ ~~532~~ ~~603~~ ~~698~~ ~~772~~)) 258	325	404	476	548	621	719	795
Clothing	((~~29~~ ~~37~~ ~~46~~ ~~54~~ ~~62~~ ~~71~~ ~~81~~ ~~91~~)) 30	38	47	56	64	73	83	94
Minor Medical	((~~174~~ ~~221~~ ~~274~~ ~~322~~ ~~371~~ ~~419~~ ~~486~~ ~~538~~)) 179	228	282	332	382	432	501	554
Utilities	((~~84~~ ~~107~~ ~~132~~ ~~155~~ ~~179~~ ~~204~~ ~~236~~ ~~260~~)) 87	110	136	160	184	210	243	268
Household Maint.	((~~62~~ ~~79~~ ~~97~~ ~~115~~ ~~132~~ ~~150~~ ~~173~~ ~~191~~)) 64	81	100	118	136	155	178	197

Job-related transportation - as needed not to exceed the grant maximum. Transportation of a child to home - as needed not to exceed the grant maximum. See WAC 388-24-250.

(3) These standards are effective January 1, ((~~1991~~)) 1993.

AMENDATORY SECTION (Amending Order 3122, filed 12/28/90, effective 1/28/91)

WAC 388-29-160 Additional requirements—Restaurant meals. (1) Restaurant meals shall be an additional requirement only when:

(a) An individual is physically or mentally unable to prepare meals((,)); and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for the individual.

(2) Effective January 1, ((~~1991~~)) 1993, the monthly standard for restaurant meals shall be one hundred ((~~eighty-one~~)) eighty-seven dollars and ((~~sixty-four~~)) nine cents.

AMENDATORY SECTION (Amending Order 3122, filed 12/28/90, effective 1/28/91)

WAC 388-29-220 Additional requirements—Laundry. (1) Laundry is an additional requirement when:

(a) The applicant or recipient (A/R) is physically unable to do laundry((,)); and

(b) There is no one able to perform this service for the A/R.

(2) Effective January 1, ((~~1991~~)) 1993, the monthly standard for laundry shall be ((~~ten~~)) eleven dollars and ((~~eighty-one~~)) thirteen cents.

AMENDATORY SECTION (Amending Order 3443, filed 8/26/92, effective 9/26/92)

WAC 388-29-295 Standards of assistance—Supplemental Security Income (SSI) program. Effective January 1, ((~~1992~~)) 1993, the standards of SSI assistance paid to an eligible individual and couple are:

	Standard	Federal SSI Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Living alone			
((~~Individual~~	~~$450.00~~	~~$422.00~~	~~$28.00~~
~~Couple~~			
~~Both eligible~~	~~655.00~~	~~633.00~~	~~22.00~~
~~With essential~~			
~~person~~	~~655.00~~	~~633.00~~	~~22.00~~
~~Within eligible~~			
~~spouse~~	~~614.00~~	~~422.00~~	~~192.00~~))
Individual	$462.00	$434.00	28.00
Individual with one essential person	673.00	651.00	22.00
Couples:			
Both eligible	674.00	652.00	22.00
Includes one essential person	673.00	651.00	22.00
Includes ineligible spouse	626.00	434.00	192.00
Area II: All Counties Other Than the Above			
Living alone			
((~~Individual~~	~~429.55~~	~~422.00~~	~~7.55~~
~~Couple~~			
~~Both eligible~~	~~633.00~~	~~633.00~~	~~0~~
~~With essential~~			
~~person~~	~~633.00~~	~~633.00~~	~~0~~
~~Within eligible~~			
~~spouse~~	~~582.15~~	~~422.00~~	~~160.15~~))
Individual	$441.55	$434.00	7.55
Individual with one essential person	651.00	651.00	0
Couples:			
Both eligible	652.00	652.00	0
Includes one essential person	651.00	651.00	0
Includes ineligible spouse	594.15	434.00	160.15
Areas I and II: Shared living (all counties)			
((~~Individual~~	~~287.15~~	~~281.34~~	~~5.81~~
~~Couple~~			
~~Both eligible~~	~~428.30~~	~~422.00~~	~~6.30~~
~~With essential~~			
~~person~~	~~428.30~~	~~422.00~~	~~6.30~~
~~Within eligible~~			
~~spouse~~	~~400.97~~	~~281.34~~	~~119.63~~))
Individual	$295.15	$289.34	5.81
Individual with one essential person	440.30	434.00	6.30
Couples:			
Both eligible	440.97	434.67	6.30
Includes one essential person	440.30	434.00	6.30
Includes ineligible spouse	408.97	289.34	119.63

WSR 93-04-033
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3508—Filed January 27, 1993, 12:14 p.m.]

Date of Adoption: January 27, 1993.

Purpose: Clarification of language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-010 Persons eligible for medical assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 93-01-002 on December 2, 1992.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3203, filed 7/9/91, effective 8/9/91)

WAC 388-82-010 Persons eligible for medical assistance. Medical assistance is available to any categorically needy person who is:

(1) Receiving or eligible to receive ((~~a~~)) cash assistance ((~~payment. Payment categories a person may qualify for include~~)) under:

(a) Aid to families with dependent children (AFDC) or family independence program (FIP); or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-80-005(61). The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance((~~; and (d)~~)).

(2) A person under twenty-one years of age ((~~and younger~~)):

(((~~i~~))) (a) Who((~~se income is less than the~~)) meets the one-person AFDC ((~~standard~~)) financial requirements and is in:

(((~~A~~))) (i) Foster care; or

(((~~B~~))) (ii) Subsidized adoption; or

(((~~C~~))) (iii) A ((~~skilled~~)) nursing ((~~home, intermediate care~~)) facility, or intermediate care facility for mentally retarded (ICF/MR); or

(((~~D~~))) (iv) An approved inpatient psychiatric facility.

(((~~ii~~))) (b) Meeting the eligibility requirements under WAC 388-83-033.

(((~~c) Family independence program (FIP).~~

~~(2)~~))) (3) A pregnant woman((~~:~~

~~(a) Who would be eligible for AFDC if her child were born and residing with her. In determining income eligibility for Medicaid, the department shall increase the number in the household as if the unborn was born before comparing the pregnant woman's income to the AFDC payment standard; or~~

~~(b)~~)) meeting the eligibility requirements under WAC 388-83-032((~~,~~));

((~~(3)~~)) (4) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized. This includes all categorically needy groups; or

(b) SSI categorically related and would not be eligible for cash assistance including only aged, blind, and disabled groups if the person was not institutionalized and the person's gross income does not exceed the three hundred percent SSI benefit cap.

((~~(4)~~)) (5) Not receiving cash assistance because of special provisions as defined under WAC 388-83-130;

((~~(5)~~)) (6) Not an inmate of a public institution;

((~~(6)~~)) (7) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and eligible under subsection ((~~(3)~~))(4)(a) and (b) of this section;

((~~(7) An individual~~)) (8) A person eligible for and accepting of((~~,~~)) hospice services, as described under WAC 388-86-047, and who shall be:

(a) SSI categorically related with gross income less than three hundred percent of the SSI ((~~federal~~)) benefit ((~~rate~~)) CAP; or

(b) AFDC categorically related.

((~~(8)~~)) (9) Blind or disabled under SSI criteria, as described under WAC 388-92-015, and the person receives continuing state-funded cash assistance.

WSR 93-04-034
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3505—Filed January 27, 1993, 12:14 p.m.]

Date of Adoption: January 27, 1993.

Purpose: The revision to this section reflects the state option in 7 CFR 273.21 (p)(2)(iii) that the household does not have to claim it submitted a monthly report in the process month. To receive continued benefits, households shall submit a completed monthly report by the last date of the payment month.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-700 Fair hearings—Continuation of benefits pending.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 92-24-038 on November 25, 1992.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3395, filed 5/29/92, effective 7/1/92)

WAC 388-49-700 Fair hearings—Continuation of benefits pending. (1) The department shall continue benefits at the contested or previous level pending a fair hearing if:

(a) The client requests a hearing within the period specified by the notice of adverse action;

(b) The certification period is not expired;

(c) The household does not waive continuation of benefits; and

(d) Households subject to monthly reporting submit a completed monthly report timely for each month of continued benefits.

(2) The department shall reduce or terminate benefits if a hearing request is not made within the period specified in the notice, unless failure to make the request is for good cause.

(3) Once continued or reinstated, the department shall not reduce or terminate benefits before receipt of the hearing decision unless:

(a) The certification period expires;

(b) The administrative law judge issues a preliminary determination, in writing, stating:

(i) The sole issue is one of federal law or regulations; and

(ii) The household's claim the department improperly computed benefits or misapplied such law or regulation is invalid.

(c) The household fails to request a new hearing after receiving a notice of adverse action on a change occurring pending the hearing decision;

(d) A mass change occurs while the hearing decision is pending; or

(e) A household whose certification period expired has made a timely application for a new certification period pending receipt of a hearing decision.

(4) For households subject to monthly reporting, the department shall continue benefits within five working days from the day the:

(a) Request for continued benefits is received for an issue other than nonreceipt of a monthly report; or

(b) Completed monthly report is returned when termination is solely for failure to submit a monthly report, ((~~provided:~~

~~(i) The household indicates it had returned the monthly report;~~ and

((~~(ii)~~)) the completed monthly report is submitted by the last day of the ((~~issuance~~)) payment month.

(5) The department shall act on reported changes without regard to the matter at issue in the hearing:

(a) During the certification period;

(b) When a monthly report is received; or

(c) When a timely application is made for a new certification period pending receipt of a hearing decision.

(6) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(7) The department shall establish a claim for all overissuances if the department's action is upheld by the hearing decision.

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 93-04-036
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3500—Filed January 27, 1993, 12:18 p.m.]

Date of Adoption: January 27, 1993.

Purpose: The revision will remove information which applies to all AASA programs from the chore program WAC, and makes the information less confusing. It also changes outdated wording and references from "interim assessment" to the new "comprehensive assessment." Relative provider restrictions are not being changed as originally planned.

Citation of Existing Rules Affected by this Order: Amending chapter 388-15 WAC.

Statutory Authority for Adoption: RCW 74.08.530 and 74.08.545.

Pursuant to notice filed as WSR 93-01-031 on December 8, 1992.

Changes Other than Editing from Proposed to Adopted Version: Added the words "personal care" to WAC 388-15-212 (7)(a).

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-207 Chore personal care services for adults—Legal basis—Purpose—Goals. (1) The legal basis for the chore ((~~services~~)) personal care program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist an eligible applicant at risk of being placed in a long-term care facility by providing allowable chore ((~~service~~)) personal care tasks that may allow the eligible applicant to remain in or return to the eligible applicant's own residence.

(3) Chore personal care services may be provided through the contracted program or the individual provider program.

AMENDATORY SECTION (Amending Order 3152, filed 3/26/91, effective 4/26/91)

WAC 388-15-208 Definitions. (1) "Applicant" means a person applying for chore personal care services.

(2) "Attendant care" means the service provided to a grandparented client needing full-time care because the client:

(a) Requires personal care task assistance that cannot be scheduled, e.g., toileting, ambulation, transfer, positioning, some medication assistance; or

(b) Needs protective supervision because of confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume.

(3) "Available" means accessible for use and conversion into money or its equivalent without significant depreciation in the value of the property.

(4) "Chore personal care services" means services in performing personal care and related household assistance tasks as provided in the department's medical assistance state plan provision addressing personal care.

(5) ((~~"Client" means a person receiving chore services.~~

~~(6)~~)) "Companionship" means ((~~being with~~)) a person being in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

(((~~7~~))) (6) "Contracted program" means that method of hourly chore personal care service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore ((~~services~~)) personal care provider.

(((~~8~~))) (7) "Grandparented client" means a person approved for hourly household tasks or family care services before December 14, 1987, or a person approved for attendant care services before April 1, 1988, provided the person was receiving the same services as of June 30, 1989.

(((~~9~~))) (8) "Hourly care" means the service provided to clients needing assistance with scheduled household or personal care tasks.

(((~~10~~))) (9) "Household assistance" means assistance with travel to medical services, essential shopping, laundry, housework, or wood supply as defined under WAC ((~~388-15-820~~)) 388-15-202.

(((~~11~~))) (10) "Individual provider program" means a method of chore personal care service delivery where the client employs and supervises the chore ((~~services~~)) personal care provider. Payment is made to the client who, in turn, pays the provider.

(((~~12) "Interim assessment" means the department's assessment form used to determine the amount and type of chore services to be provided.~~)))

(((~~13~~))) (11) "Own home" means the client's present or intended place of residence, whether in a building the client rents or owns or in the home of another person.

(((~~14~~))) (12) "Personal care" means assistance with personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, or meal preparation. The tasks are defined under WAC ((~~388-15-820~~)) 388-15-202.

(((~~15~~))) (13) "Property owned" means property over which the applicant or client has a legal interest.

(((~~16~~))) (14) "Relative" means a client's spouse, father, mother, son, or daughter.

(((~~17~~))) (15) "Resources" means real or personal property owned by or available to an applicant or a client which the department may apply, either directly or after conversion into money or its equivalent toward meeting the client's financial participation for services.

(((~~18) "Service authorization ceiling chart" means the chart indicating the maximum number of hours the department may authorize for a client's score.~~

~~(19)~~)) (16) "Shared living arrangement" means a situation where two or more adults share expenses and reside

PERMANENT

together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

AMENDATORY SECTION (Amending Order 3152, filed 3/26/91, effective 4/26/91)

WAC 388-15-209 Eligibility. The department shall consider the following eligibility criteria when determining an applicant's/client's eligibility for chore personal care services:

(1) Service eligibility:

(a) Eighteen years of age and over;

(b) At risk of placement in a long-term care facility as evidenced by the need for assistance with one or more personal care tasks listed in WAC 388-15-208((~~(13)~~)) (12), and no one is willing and able to provide unpaid assistance with the required personal care tasks; and

(c) Not eligible for Medicaid personal care or community options program entry system (COPES) services.

(2) Financial eligibility, meets the financial and resource eligibility requirements established by the department;

(3) Resource eligibility:

(a) Has resources at or below ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member;

(b) Resources considered. The department shall consider the following resources when available to the applicant or client in determining the value of an applicant's or client's resources:

(i) Checking accounts;

(ii) Savings accounts;

(iii) Certificates of deposit;

(iv) Money markets;

(v) Negotiable stocks and bonds;

(vi) Latest assessed value of lots or property not attached to residence;

(vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;

(viii) Liquid assets((~~,~~)) such as cash, gold, silver, and other items of an investment and negotiable nature; ((~~and~~))

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to ((~~WAC 388-15-209~~)) subsections (2) and (3)(a) and (b) of this section; and

(x) Resources transferred for the purpose of making the applicant or client eligible for department-paid assistance.

(c) Resources excluded. The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

(i) A home and lot normal for the community where the client or applicant resides;

(ii) Used and useful household furnishings, personal clothing, and one automobile per client;

(iii) Personal property of great sentimental value;

(iv) Real or personal property used by the applicant or client to earn income or for rehabilitation;

(v) One cemetery plot for each member of the family unit;

(vi) Cash surrender value of life insurance;

(vii) Resources that cannot be converted to cash in twenty working days as long as there is a reasonable ongoing effort to convert the resource into cash;

(viii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383; or

(ix) Real estate sales contracts. The interest and principal payments from real estate sales contracts is treated as unearned income.

(4) Adult protective services. Adult protective service clients at risk of being placed in a long-term care facility shall be eligible to receive chore personal care services without regard to income or resources if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period; and

(5) Volunteer chore services. An applicant for chore personal care services shall be referred to the volunteer chore service program when the applicant:

(a) Does not meet the eligibility criteria for chore personal care services;

(b) Is eligible for five hours or less per month of chore personal care services;

(c) Is eligible for a reduced level of chore personal care services because income exceeds thirty percent of the state median income; or

(d) Needs help with tasks that are not available in the chore personal care services program.

AMENDATORY SECTION (Amending Order 3152, filed 3/26/91, effective 4/26/91)

WAC 388-15-212 Service determination. (1) Assessment.

(a) ((~~The purpose of assessment is to determine the applicant/client's need for chore services and the authorized hours of service.~~

~~(b)~~)) Department staff shall perform the assessment or use assessment information received which has been administered according to rules described under WAC 388-15-202 through 388-15-205.

((~~(c) The department shall perform a separate assessment for each adult applying for chore services.~~

~~(d) The department shall document the assessment on a prescribed form.~~

~~(e) When administering the assessment, department staff shall take into account the applicant/client's:~~

~~(i) Risk of long-term care facility placement;~~

~~(ii) Ability to perform personal care and related household tasks;~~

~~(iii) Living situation; and~~

~~(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.~~

~~(f)~~)) (b) The department shall consider the chore personal care services client the secondary client in households where community options program entry system (COPES) services or Medicaid personal care services are also authorized.

(2) ((~~Scoring.~~

~~(a)~~)) For each task listed on the assessment form, the department staff shall determine the level of assistance((:

~~(i) The applicant/client requires;~~

~~(ii) Available through alternative resources; and~~

~~(iii) Needed from the chore services program.~~

~~(b) The applicant/client's assistance needed from the chore services program is the difference between assistance required and assistance available through alternative resources. This represents the applicant/client's unmet need.~~

~~(c) The level of the applicant/client's assistance required is indicated by entering one of the following codes for each task listed on the assessment form:~~

~~(i) O = The applicant/client is able to perform this task without help;~~

~~(ii) M = The applicant/client requires a minimal amount of assistance to perform this task;~~

~~(iii) S = The applicant/client requires a substantial amount of assistance to perform this task;~~

~~(iv) T = The applicant/client requires total assistance to perform this task.~~

~~(d) The level of assistance available is indicated by entering one of the following codes for each task listed on the assessment form:~~

~~(i) O = Alternative resources are not available for assistance;~~

~~(ii) M = Alternative resources are available for minimal assistance;~~

~~(iii) S = Alternative resources are available for substantial assistance; or~~

~~(iv) T = Alternative resources are available for total assistance.~~

~~(e) The level of unmet need is indicated by entering one of the following codes for each task listed on the assessment form:~~

~~(i) O = No unmet need; the applicant/client can perform this task without help or all assistance required is available from alternative resources;~~

~~(ii) M = Minimal unmet need; the applicant/client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources;~~

~~(iii) S = Substantial unmet need; the applicant/client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources; or~~

~~(iv) T = Total unmet need; the applicant/client is totally unable to perform this task and no assistance from alternative resources is available. The total need of the applicant/client shall be met through the chore services program.~~

~~(f) Points are awarded for each task based on the level of unmet need. The number of points allowable for each task are listed below:~~

~~TASK~~	~~O~~	~~M~~	~~S~~	~~T~~
~~Eating~~				
~~Breakfast~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Light meal~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Main meal~~	~~0~~	~~5~~	~~10~~	~~15~~
~~Toileting~~	~~0~~	~~5~~	~~10~~	~~15~~
~~Ambulation~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Transfer~~	~~0~~	~~1~~	~~3~~	~~5~~
~~Positioning~~	~~0~~	~~1~~	~~3~~	~~5~~
~~Body care~~	~~0~~	~~5~~	~~10~~	~~15~~
~~Personal hygiene~~	~~0~~	~~1~~	~~3~~	~~5~~
~~Dressing~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Bathing~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Self medication~~	~~0~~	~~2~~	~~4~~	~~6~~
~~Travel to medical services~~	~~0~~	~~1~~	~~2~~	~~3~~
~~Essential shopping~~				
~~With client~~	~~0~~	~~5~~	~~10~~	~~15~~
~~or~~				
~~For client~~	~~0~~	~~1~~	~~3~~	~~5~~
~~Meal preparation~~				
~~Breakfast~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Light meal~~	~~0~~	~~4~~	~~7~~	~~10~~
~~Main meal~~	~~0~~	~~5~~	~~10~~	~~15~~
~~Laundry~~				
~~Facilities in home~~	~~0~~	~~1~~	~~2~~	~~3~~
~~or~~				
~~Facilities out of home~~	~~0~~	~~3~~	~~5~~	~~7~~
~~Housework~~	~~0~~	~~1~~	~~2~~	~~3~~
~~Wood supply~~	~~0~~	~~3~~	~~5~~	~~7~~

~~(g) The points awarded for each task are added together to obtain the total score for the applicant/client.~~

~~(3) Ceiling hour computation.~~

~~(a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized.~~

~~(b) Use the service authorization ceiling chart to convert the score to ceiling hours per month:~~

~~SCORE~~	~~CEILING HOURS~~	~~SCORE~~	~~CEILING HOURS~~	~~SCORE~~	~~CEILING HOURS~~
~~1-4~~	~~5~~	~~60-64~~	~~44~~	~~120-124~~	~~83~~
~~5-9~~	~~8~~	~~65-69~~	~~47~~	~~125-129~~	~~87~~
~~10-14~~	~~11~~	~~70-74~~	~~51~~	~~130-134~~	~~90~~
~~15-19~~	~~14~~	~~75-79~~	~~54~~	~~135-139~~	~~93~~
~~20-24~~	~~18~~	~~80-84~~	~~57~~	~~140-144~~	~~97~~
~~25-29~~	~~21~~	~~85-89~~	~~60~~	~~145-149~~	~~100~~
~~30-34~~	~~24~~	~~90-94~~	~~64~~	~~150-154~~	~~103~~
~~35-39~~	~~28~~	~~95-99~~	~~67~~	~~155-159~~	~~106~~
~~40-44~~	~~31~~	~~100-104~~	~~70~~	~~160-164~~	~~110~~
~~45-49~~	~~34~~	~~105-109~~	~~74~~	~~165-169~~	~~113~~
~~50-54~~	~~37~~	~~110-114~~	~~77~~	~~170 and~~	
~~55-59~~	~~41~~	~~115-119~~	~~80~~	~~Above 116~~	

~~(4)~~)) needed according to rules under WAC 388-15-203.

(3) Authorization when there is no required reduction in hours.

(a) The department may authorize the number of ceiling hours allowable for the applicant's/client's score when the applicant/client has a gross income, adjusted for family size, at or below thirty percent of the state median income.

(b) The department may authorize fewer than the allowable ceiling hours when appropriate to the applicant's/client's individual circumstances.

(c) The department shall inform all applicant's/clients of their right to request the department to authorize more than the allowable ceiling hours based on the applicant's/client's score. The department shall grant a waiver to authorize additional hours up to the maximum of one hundred sixteen hours per month when:

(i) Circumstances of a demonstrated duration, frequency, or severity require additional chore personal care service((s)) hours to assure the client's health or safety;

(ii) Needed additional hours are specific and clearly measurable; and

(iii) ((~~Available~~)) Funds are ((~~provided~~)) available under WAC 388-15-214.

(d) The department shall approve or deny requests for a waiver to exceed ceiling hours within thirty days.

(e) When a request for a waiver is denied, the department shall send the applicant/client a notice of the right to contest the department's decision under chapter 388-08 WAC.

((~~(5)~~)) (4) Authorization when hours are reduced.

(a) An applicant/client with a gross income, adjusted for family size, over thirty percent of the state median income, shall receive fewer than the number of ceiling hours allowable for the applicant's/client's score.

(b) The department shall determine the amount of reduction to allowable ceiling hours by:

(i) Deducting one hour for each percentage point when the applicant's/client's income exceeds thirty percent of the state median income; and

(ii) Deducting an additional hour for each percentage point when the applicant's/client's income exceeds fifty percent of the state median income.

(c) The reduction computed under subsection (5)(b) of this section shall be subtracted from the allowable ceiling hours to obtain the maximum number of hours per month the applicant/client may be authorized.

((~~(6)~~)) (5) Meal allowance—IPP hourly services only. When providing meals for the chore ((~~services~~)) personal care provider is an extra client cost, the department may authorize a payment to partially reimburse the client for the meal cost. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service.

((~~(7)~~)) (6) Relative providers. The department may authorize a relative to provide chore services only when the relative:

(a) Gives up paid employment of thirty hours or more per week, to give the service;

(b) Needs to take paid employment of thirty hours or more per week to meet financial needs; or

(c) Is financially eligible to receive general assistance to meet their own need.

The above criteria apply to relatives providing service to clients, including grandparented clients, in either the contracted program or the individual provider hourly program.

((~~(8)~~)) (7) Reassessment.

(a) The department shall reassess the eligibility of all chore ((~~service~~)) personal care clients, except grandparented clients, at least every eighteen months or more often when deemed necessary because of a change in the client's condition or situation.

(b) The department shall continue, deny, or alter services to correspond with the client's present chore ((~~services~~)) personal care need. The department shall notify the client of the right to contest denial or reduction of services.

(c) The eligibility rules as described under WAC 388-15-209 apply to reassessment of all clients except grandparented clients.

(d) The department shall terminate chore personal care services for an hourly personal care client when a reassessment shows the client now needs assistance with household tasks only. This rule shall not pertain to grandparented clients receiving household tasks only.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-213 Payment. (1) Contracted program. The department shall pay the contractor who pays the chore ((~~services~~)) personal care provider.

(2) Individual provider program.

(a) The department shall pay the client who pays the chore ((~~services~~)) personal care provider.

(b) The department shall pay an hourly ((~~wage of five dollars and fifteen cents~~)) rate not to exceed the rate set forth in the most recent schedule of rates established and published by the department for performance of authorized chore personal care service tasks. Payment is contingent upon documentation that services were rendered.

(c) The department shall not pay a spouse providing chore services more than the amount of a one-person standard for a continuing general assistance grant ((~~plus increases required by the legislature~~)). Refer to WAC 388-29-100 for grant standards.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-214 Chore personal care services budget control. (1) The department shall establish a monthly dollar lid on chore personal care service expenditures to maintain expenditures within the legislative appropriation.

(2) When expenditure projections reach the monthly dollar lid, the department shall place names of applicants for chore personal care services on a waiting list in the order of their risk of placement in a long-term care facility. Priorities shall be as follows:

(a) Level A. Applicant needs help with one of the following personal care tasks:

(i) Eating((~~,~~));

(ii) Body care((~~,~~));

(iii) Transfer((~~,~~));

(iv) Positioning((~~,~~)); or

(v) Toileting.

(b) Level B. Applicant needs help with four or more other personal care tasks listed under WAC 388-15-208((~~(13)~~))(12);

(c) Level C. Applicant needs help with one to three other personal care tasks.

(3) If the monthly dollar lid is not sufficient to stay within the legislative appropriation, the department may implement a ratable reduction of hours or payment for some or all chore personal care service clients.

AMENDATORY SECTION (Amending Order 3152, filed 3/26/91, effective 4/26/91)

WAC 388-15-215 Program limitations. (1) The department shall not authorize chore personal care services for:

(a) Teaching and companionship;

(b) Child care ((~~for working parents~~));

(c) Providing nursing care; or

(d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall not provide chore personal care services to a resident of a:

(a) Group home;

(b) Licensed boarding home;

(c) Congregate care facility;

(d) Nursing care facility;

(e) Hospital;

(f) Institution;

(g) Adult family home; or

(h) Child foster home.

Shared living arrangements are not considered group homes.

(3) The department shall provide chore personal care services ((~~shall be provided~~)) only in the client's home or surrounding property except for essential shopping, travel to medical services, and laundry when there ((~~are no~~)) is not a laundry ((~~facilities~~)) facility in the client's home.

AMENDATORY SECTION (Amending Order 3152, filed 3/26/91, effective 4/26/91)

WAC 388-15-216 Grandparented clients. (1) Continuing eligibility for hourly care chore ((~~service~~)) personal care clients:

(a) The department may continue providing hourly chore personal care services for clients receiving assistance with household tasks only before December 14, 1987, provided the clients were receiving the same services as of June 30, 1989((~~:~~));

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before December 14, 1987:

(i) If a review indicates a household tasks only client needs assistance with personal care, Medicaid personal care may be authorized if eligible for Medicaid funding. If not eligible for Medicaid personal care, chore personal care services shall be authorized according to the eligibility requirements for a new client;

(ii) If more or less household task services are required, services may be authorized accordingly.

(2) Continuing eligibility for attendant care for adults.

(a) The department may continue providing chore personal care services to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Attendant care protective supervision shall be authorized for clients who may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore ((~~services~~)) personal care provider must be with the client. The chore ((~~services~~)) personal care provider performs necessary household or personal care tasks during the authorized attendant care hours((~~;~~

~~(iv) The client shall provide verification of the need for attendant care by producing a statement from the client's physician~~)).

(c) The department shall pay a daily rate for attendant care for adults a sum not exceeding the department-established rate:

(i) The department shall add up to five dollars per day for each additional client in the household; and

(ii) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the state median income.

(d) The department shall not increase the payment in effect on June 30, 1989, except for a department-approved vendor rate increase; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospitalization((~~; except,~~)). The department may provide payment for services up to seven days during the service month ((~~may be provided~~)) to enable the client to return home.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and is:

(i) ((~~Is~~)) In the home but unable to physically care for the children; or

(ii) ((~~Is~~)) In the home and physically unable to perform the necessary household tasks; or

(iii) ((~~Is~~)) Temporarily out of the home, as defined by the department((~~; and~~

~~(v) The division of children and family services confirms all possible resources have been explored and no one can or will provide the necessary care~~)).

(c) The chore ((~~services~~)) personal care provider may not act as a parent substitute or make major decisions affecting the children.

(d) For families to receive services, the total family income shall be at or below the department-established financial eligibility requirement. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(e) Determination of need for hourly care takes into consideration the ages, numbers, and levels of responsibility of the children and presence of a spouse. Allowable family care activities are:

PERMANENT

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) Points are awarded for family care activities as follows:

(i) O = 0;

(ii) M = 14;

(iii) S = 27; and

(iv) T = 40.

Enter the points awarded ((~~on~~)) in the ((~~bottom~~)) functional abilities and supports comments section of the assessment form and add to the client's total score.

(4) Board and room meal allowances. When providing board and room or meals for the chore ((~~services~~)) personal care provider is an extra cost to the client, the department may authorize a payment to partially reimburse the client for this expense. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service. No client shall be authorized for both a board and room allowance and a meal allowance.

(5) Ninety-day rule. Grandparented clients terminated from chore services because of transfer to another program may be reauthorized for chore services when the:

(a) Transfer was in effect for less than ninety days; and

(b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

(6) Priority levels. Priority levels for grandparented clients are:

(a) Level A: Client needs help with one of the following personal care tasks:

(i) Eating;

(ii) Body care;

(iii) Bed transfer;

(iv) Wheelchair transfer; or

(v) Toileting.

(b) Level B: Client needs help with four or more other personal care tasks as described under WAC 388-15-208(13);

(c) Level C: Client needs help with one to three other personal care tasks;

(d) Level D: Client needs help with all five household tasks:

(i) Travel to medical services;

(ii) Essential shopping;

(iii) Laundry;

(iv) Housework; and

(v) Wood supply.

(e) Level E: Client needs help with three or four household tasks; and

(f) Level F: Client needs help with one or two household tasks.

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

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-217 Chore personal care services for employed disabled adults. (1) ((~~The following definitions shall apply~~)) For purposes of this section((~~:~~

~~(a)~~), "employed" means engaged on a regular basis in any work activity for which monetary compensation is obtained.

((~~(b) "Total income" is the sum of an applicant's or client's unearned income plus gross earned income.~~))

(2) Employed disabled adults shall be eligible for chore personal care services if they are otherwise eligible under the provisions of WAC 388-15-207 through 388-15-216. ((~~The~~)) Employed disabled adults shall participate in the cost of care as authorized by RCW 74.08.570.

(3) To be eligible for chore personal care services under this section, an applicant or client shall meet all of the following conditions:

(a) Be in need of chore personal care services as determined by the department using an assessment form;

(b) Be eighteen years of age or older;

(c) Be a resident of the state of Washington;

(d) Be determined disabled by the department as specified in subsection (4) of this section;

(e) Be willing to submit to examinations as deemed necessary by the department to establish the extent and nature of the disability;

(f) Have earned income which is less than forty percent of the state median income after subtracting work expenses, the cost of chore services, and any medical expenses not covered through insurance or another source and are incurred to allow the disabled person to work;

(g) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income or state supplementation recipient;

(h) Meet the resource limits specified for the chore ((~~services~~)) personal care program in WAC 388-15-209 (2) and (3);

(i) Promptly report to the department, in writing, any changes in income or resources which may effect eligibility;

(j) Agree to pay all chore personal care service costs beyond the state's contribution as determined using a sliding fee schedule.

Percentage of State Median Income After Deductions	Percentage of Rate Paid by The Department
((~~Above~~)) 0 through 5	95
Above 5 through 10	90
Above 10 through 15	85
Above 15 through 20	80
Above 20 through 25	75
Above 25 through 30	70
Above 30 through 35	65
Above 35 through 40	60

(k) Meet all other requirements for the chore ((~~services~~)) personal care program as defined in WAC 388-15-207 through 388-15-216.

(4) For purposes of this section, an applicant is disabled if either ((~~of the following conditions is satisfied~~)) the department:

(a) ((~~The department~~)) Has previously determined the applicant is disabled for the purpose of receiving Social Security disability insurance (SSDI), supplemental security income (SSI) or, nongrant Medicaid, and there has been no appreciable improvement in the applicant's disabling condition(((~~s~~))) since that disability determination was made((~~.~~)); or

(b) ((~~The department~~)) Determined the applicant has a medically determinable physical or mental impairment comparable in severity to a disability qualifying an applicant for medical assistance related to Title XVI under WAC 388-92-015 (3)(c).

(5) The department shall pay its share of chore personal care service costs to the client following receipt of documentation that the services were provided. If the department verifies that less service is provided, in any month, than the maximum authorized, the department shall pay a prorated portion of its share of cost. The client shall employ the chore ((~~services~~)) personal care provider and shall pay the provider the full amount due for services rendered. ((~~If the client receives services exceeding department authorized services, or agrees to a rate of pay exceeding the department authorized rate of pay,~~)) The client shall be responsible for paying the amount exceeding the department's authorized service cost if the client:

(a) Receives services exceeding department authorized services; or

(b) Agrees to a rate of pay exceeding the department-authorized rate of pay.

(6) The department shall compute an applicant's/client's work-related expenses as follows:

(a) The department shall deduct work-related expenses in accordance with the "percentage method" or the "actual method," whichever is chosen by the client;

(b) If the client chooses the "percentage method," the department shall deduct twenty percent of the gross earned income;

(c) If the client chooses the "actual method," the department shall deduct the actual cost of each work-related expense. The department shall use this method only when the client provides written verification of all work-related expenses claimed;

(d) When determined by the "actual method," allowable work expenses shall consist of:

(i) Child care;

(ii) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, not to include rental cars; and

(iv) Expenses of employment necessary for continued employment, such as:

(A) Tools;

(B) Materials;

(C) Union dues;

(D) Transportation to service customers if not furnished or reimbursed by the employer; and

(E) Uniforms and clothing needed on the job but not suitable for wear away from the job.

(e) Even if verified, the department shall not count work-related expenses in excess of the applicant's gross earned income; and

(f) The client shall have the option to change methods when reporting income to the appropriate department staff.

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.

PERMANENT

WSR 93-04-037
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3499—Filed January 27, 1993, 12:20 p.m.]

Date of Adoption: January 27, 1993.

Purpose: To include in WAC, policy statements relative to providing equality to protected group members in department-provided services. To respond to rule-making petition from the children's alliance, state of Washington. New WAC 388-21-005 Diversity initiative.

Statutory Authority for Adoption: Chapter 49.60 RCW.

Pursuant to notice filed as WSR 93-01-125 on December 21, 1992.

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

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

NEW SECTION

WAC 388-21-005 Diversity initiative. (1) The department shall use the biennial planning and budget building process to promote equality for Washington state residents as required under:

(a) Chapter 49.60 RCW, Washington State Laws Against Discrimination;

(b) Titles VI and Title VII of the 1964 Civil Rights Act as amended in 1972;

(c) Executive Order 11246 as amended by Executive order 11375;

(d) 1973 Rehabilitation Act;

(e) 1975 Age Discrimination Act;

(f) 1967 Age Discrimination in Employment Act;

(g) 1974 Vietnam Era Veteran Readjustment Assistance Act;

(h) Governor's Executive Order 91-06;

(i) 1990 Americans with Disabilities Act;

(j) 1991 Civil Rights Act.

(2) For the purposes of this section, "targeted protected group member" means a person protected by the statutes and executive orders cited under subsection (1) of this section.

(3) The department shall seek to ensure a person receives equality of access and high quality service. The

department's biennial planning and budget building process shall consider the following:

(a) Access to department services by targeted protected group members; and

(b) Quality, including the cultural relevance and appropriateness of services received by targeted protected group members and their families.

(4) The department shall establish biennial plans for each division of the department that:

(a) Identify service inequities; and

(b) Undertake, within available resources, reasonable and measurable efforts to reduce inequities.

(5) The department shall consider items within the budget building process that meet the department's goal of providing equal access to targeted protected group members.

(6) The department shall establish an ongoing review process that, on a periodic basis, monitors each division's progress in achieving the commitments contained within the department's biennial plan.

(7) In designing and implementing subsections (1), (3), (4), (5), and (6) of this section, the department shall establish and strengthen the collaborative and constructive working relationship between the department and targeted protected group communities.

WSR 93-04-038
PERMANENT RULES
DEPARTMENT OF WILDLIFE

[Order 581—Filed January 27, 1993, 2:15 p.m., effective February 13, 1993]

Date of Adoption: January 15, 1993.

Purpose: To identify and designate certain wildlife species and restrict their importation, possession, propagation, sale, transfer and/or release; and to establish (for those species of wildlife lawfully in captivity) requirements to address concerns such as facilities, escape, testing, notification of disease, and reporting.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-064 Live wildlife.

Statutory Authority for Adoption: RCW 77.12.030.

Pursuant to notice filed as WSR 92-24-092 on December 2, 1992.

Changes Other than Editing from Proposed to Adopted Version: Subsection (13)(f)(i), has been changed from a six-inch to five-inch post requirement in response to public opinion that the posts should be allowed to be smaller and the fact that post size varies some throughout the states; subsection (13)(h), has been added to allow a person with a fence existing prior to February 1, 1993, to petition the director for a variance from the new fencing requirements; subsection (14)(a)(ii), the language "Tattoos shall be applied in sequential order." has been deleted. Public input indicates that a farm has one tattoo number that is applied to all animals; subsection (15), the language "lawfully in captivity" was deleted because the testing requirements also apply to animals not yet imported into the state; and subsection (15)(c), the language "WAC 232-12-017 (7)(c)" has been deleted after "specified in" and the language Department of Agriculture WAC 16-54-035 as now or hereafter amended has been inserted. This coincides with the change in WAC 232-12-017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Amendment to regulation was adopted with a special finding to become effective February 13, 1993. An effective date earlier than 31 days after filing is necessary to prevent a lapse between the current 120-day emergency rule and the effective date of the newly adopted regulation and to continue to protect resident wildlife.

Effective Date of Rule: February 13, 1993.

Curt Smitch
Director
for Dean A. Lydig
Chair

AMENDATORY SECTION (Amending Order 243, filed 4/5/85)

WAC 232-12-064 Live wildlife. Taking from the wild, importation, possession, transfer, holding in captivity.

(1) It is unlawful to take live wild animals, wild birds, or game fish from the wild without a permit provided for by rule of the commission.

(2) Notwithstanding the provisions of WAC 232-12-027(1), WAC 232-12-067 and subsections (3) and (4) herein, it is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of wildlife listed in this subsection, their gametes and/or embryo, except as provided under subsections (7), (8), (9) or (10) below:

In the family Cervidae, all of the following species:

Roosevelt and Rocky Mountain elk	Cervus elaphus
Mule deer and Black-tailed deer	Odocoileus hemionus
White-tailed deer	Odocoileus virginianus
Moose	Alces alces
Caribou	Rangifer tarandus caribou

((~~(2)~~)) (3) It is unlawful to import into the state or to hold live wildlife which were taken, held, possessed or transported contrary to federal or state law, local ordinance or ((~~commission~~)) department rule. Live wild animals, wild birds or game fish shall not be brought into the state without first presenting licensed, accredited veterinarian or fish pathologist certification to the department that the wildlife is disease free and that the area from which acquired has no history of wildlife disease which may pose a risk to wildlife in this state. Proof of lawful importation must be produced for inspection on request of a department employee.

((~~(3)~~)) (4) It is unlawful to possess or hold in captivity live wild animals, wild birds, or game fish unless lawfully acquired and possessed. Proof of lawful acquisition and possession must be produced for inspection on request of a department employee. Such proof shall contain: (1) Species; (2) age and sex of animal; (3) origin of animal; (4) name of receiving party; (5) source-name and address; (6) invoice/statement date; and (7) documentation of prior transfers.

((~~(4) Wildlife held in captivity which becomes diseased must immediately be placed under the professional care of a licensed veterinarian or certified fish pathologist, and such incident reported immediately to the department by the~~

~~owner. If diseased wildlife present a threat to the wildlife of the state, the director may order such actions as necessary, including quarantine or destruction of stock, sterilization of enclosures and facilities, cessation of activities and disposal of the wildlife in a manner satisfactory to the department.~~))

(5) Live wild animals, wild birds or game fish held in captivity or their progeny or parts thereof may not be sold or otherwise commercialized on except as provided by rule of the commission.

(6) No wildlife shall be released from captivity except as provided in WAC 232-12-271, except that it is lawful to return to the waters from which caught, game fish caught and subsequently kept alive on stringers, in live wells or other containers while fishing. The release of fish into any waters of the state, including private, natural or man-made ponds requires a fish planting permit.

((~~(7) All live wildlife possessed or held in captivity, and the area where held, must be open to inspection by department personnel at reasonable times.~~))

(7) Scientific Research or Display: The director may authorize, by written approval, a person to import into the state, hold, possess and propagate live specimens of wildlife listed in subsection (2) for scientific research or for display by zoos or aquariums who are accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA) provided:

(a) The specimens are confined to a secure facility,

(b) The specimens will not be transferred to any other location within the state, except to other AAZPA accredited facilities and transported by AAZPA accredited institutional members or their authorized agents with written approval of the director or as otherwise authorized in writing by the director,

(c) The specimens will not be sold or otherwise disposed of within the state without written approval of the director,

(d) The person will keep such records on the specimens and make such reports as the director may require, and

(e) The person complies with the other requirements of this section.

(8) Retention or Disposal of Existing Specimens lawfully in captivity prior to June 20, 1992: A person holding live specimens of wildlife listed in subsection (2) by operation of emergency rule filed June 19, 1992 [in the family Cervidae, all of the following species: Roosevelt and Rocky Mountain elk (Cervus elaphus); Mule Deer and Black-tailed deer (Odocoileus hemionus); White-tailed deer (Odocoileus virginianus); and Moose (Alces alces)] may retain the specimens of such wildlife such person lawfully possessed prior to June 20, 1992 and the lawful progeny thereof provided such person complies with subsections (8)(a) through (8)(f) hereunder and the other requirements of this section.

(a) The person reported to the director in writing the species, number and location of the specimens as required.

(b) The specimens are confined to a secure facility at the location reported,

(c) Live specimens are not propagated except at AAZPA accredited facilities with the written permission of the director or as otherwise authorized in writing by the director;

(d) Live specimens are not released, except with written permission of the director,

(e) Live specimens are not sold or transferred except:

(i) Live specimens in lawful possession prior to June 20, 1992 and lawful progeny may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law,

(ii) Federally listed endangered or threatened species may be transferred to AAZPA accredited facilities where in compliance with federal law,

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided all other requirements of this section are satisfied and the total number of locations where animals are held is not increased;

(iv) AAZPA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AAZPA accredited facilities with the written permission of the director.

(9) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding live specimens of wildlife newly listed in subsection (2) by operation of this rule [Caribou (Rangifer tarandus caribou)], may retain the specimens of such wildlife the person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens,

(b) The person complies with subsections (8)(b) through (8)(f) herein and the other requirements of this section.

(10) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(11) Escaped Wildlife:

(a) Escaped wildlife will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of wildlife must be reported immediately to the department,

(c) The recapture or death of escaped wildlife must be reported immediately to the department.

(12) Secure Facility:

(a) All captive wildlife will be held in a secure facility. For the purpose of this rule, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of live wildlife specimens in captivity or ingress of resident wildlife ungulates (hoofed animals).

(b) For wildlife listed in subsection (2), the secure facility must comply with the fencing requirements in subsection (13) herein.

(13) Fencing requirements

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six

PERMANENT

feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and captive wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least 12-1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least 12-1/2 gauge woven wire, 14-1/2 gauge high-tensile woven wire, chain link, non-climbable woven fence, or other fence approved by the director.

(i) If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of captive wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level;

(iv) Corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent captive wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993 and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(14) Marking Requirements

(a) All live specimens of wildlife identified in subsection (2) must be individually identified by the methods specified below:

(i) All live specimens of such wildlife shall be marked with USDA official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order, and

(ii) All live specimens of such wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) Where allowed, all lawful progeny of wildlife identified in subsection (2) must be tagged and tattooed by December 31 of the year of birth or upon leaving the holding facility, whichever is earlier.

(d) Where allowed, if wildlife identified in subsection (2) is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(e) Where allowed, live specimens of wildlife identified in subsection (2) shall be marked prior to importation.

(f) No unmarked wildlife identified in subsection (2) may be sold or otherwise transferred from the holding facility.

(15) Testing of specimens.

(a) Where allowed, prior to entry into the state of Washington, persons importing any member of the Genus Cervus which is identified in subsection (2) herein, must submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington. Such testing shall be at the possessor's expense. Animals which are deemed by Department of Wildlife biologists upon examination to exhibit either: behavioral (vocalization), morphological (size, rump patch, color) or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) A person currently holding any member of the genus Cervus elaphus identified in subsection (2) herein must submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington), for each individual cervid to the director within 90 days of passage of this rule. Such testing shall be at the possessor's expense. Any animals identified as red deer or having non-indigenous genetic influence must be destroyed, removed from the state, or neutered within 180 days of passage of this rule.

(c) The director may require that specimens listed in subsection (2) lawfully in captivity be tested for brucellosis (brucella abortus), tuberculosis (mycobacterium bovis and mycobacterium tuberculosis), meningeal worm (Paralophostrongylus tenuis), and muscle worm (Elaphostrongylus cervis) in accordance with the procedures specified in Department of Agriculture WAC 16-54-035 as now or hereafter amended, and/or for other diseases or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(16) Reporting

(a) A person holding wildlife listed in subsection (2) in captivity shall submit a completed report no later than March 30, 1993 and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing wildlife listed in subsection (2) must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(17) Inspection

(a) All holding facilities for captive wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections may take place without warrant or prior notice but shall be conducted at reasonable times and locations.

(18) Notification and disposition of diseased animals.

(a) Any person who has reason to believe that wildlife being held pursuant to this rule have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that wildlife held pursuant to this rule have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian, certified fish pathologist, or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of wildlife, quarantine, disinfection, or sterilization of facilities is required at any facility holding wildlife pursuant to this rule. If the director determines that destruction of wildlife, quarantine, disinfection, or sterilization of facilities is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(19) Quarantine Area

(a) Any facility holding wildlife listed in subsection (2) must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington State Department of Agriculture.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor of any wildlife must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport such wildlife to an approved quarantine facility.

(20) Seizure

(a) The Department of Wildlife may seize any unlawfully possessed wildlife.

(b) The cost of any seizure and/or holding of wildlife may be charged to the possessor of such animals.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 93-04-039
PERMANENT RULES
DEPARTMENT OF WILDLIFE

[Order 582—Filed January 27, 1993, 2:19 p.m., effective February 13, 1993]

Date of Adoption: January 15, 1993.

Purpose: To provide protection to wildlife and the environment of the state by identifying and designating certain species of exotic wild animals as deleterious exotic wildlife and prohibiting or restricting their importation, possession, propagation, sale, transfer and/or release; and establishing (for those deleterious exotic wildlife species lawfully in captivity) mandatory protective measure such as facilities, escape, testing, notification of disease, and reporting.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-017 Deleterious exotic wildlife.

Statutory Authority for Adoption: RCW 77.12.020 and 77.12.040.

Pursuant to notice filed as WSR 92-24-090 on December 2, 1992.

Changes Other than Editing from Proposed to Adopted Version: 1. In subsection (1)(d)(iv), the following species were removed from the proposed list of deleterious exotic species: Redunca (Reedbucks); Oryx (Oryx and Gemsbok); Addax nasomaculatus (addax); Antilope cervicapra (Blackbuck antelope). The initial risk assessment of these species which were proposed as deleterious exotic wildlife included concerns about disease introduction and habitat competition with native wildlife. Reassessment of the risks throughout this process indicates that permanent WAC 16-54-035 adopted by the Department of Agriculture in October 1992 establishes mandatory health and disease testing for all animals prior to importation. That change reduces our concern about disease introduction. Wildlife managers continue to believe that these species could compete with native wildlife for habitat and forage for several months in spring and summer if they escape but the risk is not as great as with some other species. These species could survive in Washington for much of the year but their ability to survive and prosper in winter climates is doubtful. For these reasons, these species were removed from the list of proposed deleterious exotic wildlife.

2. In subsection (4)(b), the language the following has been inserted after the work "holding" to reflect only those species that were permanently classified as deleterious exotic wildlife and not all of the species that were classified as deleterious exotic wildlife by the Wildlife Commission by operation of emergency rule filed June 19, 1992. The same species referenced in item number 1 of this document have been deleted from this subsection.

3. Subsection (7), the language and reindeer (all members of Genus Rangifer, except Rangifer tarandus caribou) has been inserted after "(Dama dama)". This allows reindeer to be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred under the requirements of this rule except in those areas of the state described in new subsection (7)(e). Recently adopted Department of Agriculture WAC 16-54-035 concerning health certification and testing of animals prior to importation into the state has reduced our concerns about disease transmission to native wildlife. Reindeer can interbreed with

PERMANENT

resident caribou which is an endangered species. To protect the resident caribou from hybridization, reindeer are prohibited in those areas of the state identified in new subsection (7)(e). See item number 5 in this document.

4. Subsection (7)(b) and (c) as proposed have been deleted, except for (7)(c)(iii)(A) which has been retained and identified as (7)(b)(i). New subsection (7)(b) language has been added as follows: The person complies with Department of Agriculture WAC 16-54-035 as now or hereafter amended except; These changes remove the requirement for health certification and disease testing prior to importation because this is now required by the Department of Agriculture per October 1992 amendments to WAC 16-54-035. New subsection (7)(b)(i) is retained because it is not yet included in Department of Agriculture WAC 16-54-035 and is important in preventing introduction of the meningeal worm parasite to native wildlife.

5. Proposed subsection (7)(e) has been renumbered as subsection (7)(d) and (e) now states Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River. Reindeer are banned in this area of the state to prevent reindeer from interbreeding with resident caribou which are an endangered species.

6. Subsection (8)(a), the language and reindeer (all members of Genus Rangifer, except Rangifer tarandus caribou) has been inserted after "(Dama dama)" as it was done in subsection (7). See item number 3 of this document.

7. Subsection (10)(f)(i) has been changed form a six-inch to five-inch post requirement in response to public opinion that the posts should be allowed to be smaller and the fact that post size varies some throughout the states.

8. Subsection (10)(h) has been added to allow a person with a fence existing prior to February 1, 1993, to petition the director for a variance from the new fencing requirements.

9. Subsection (11)(c)(ii), the language "Tattoos shall be applied in sequential order." has been deleted. Public input indicates that a farm has one tattoo number that is applies to all animals.

10. Subsection (12), the language "lawfully in captivity" was deleted because the testing requirements also apply to animals not yet imported in to the state.

11. Subsection (12)(c), the language "subsection (7)(c)" has been deleted after "specified in" and the language Department of Agriculture WAC 16-54-035 as now or hereafter amended has been inserted. This coincides with the removal of original subsection (7)(b) and (c) as explained in item number 4 of this document.

12. Editing revisions have been made throughout the document so the identifying numbers and letters are in logical order.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Amendment to regulation was adopted with a special finding to become effective February 13, 1993. An effective date earlier than 31 days after filing is necessary to prevent a lapse between the current 120-day emergency rule and the effective date of the newly adopted regulation and to continue to protect resident wildlife.

Effective Date of Rule: February 13, 1993.

Curt Smitch
Director
for Dean A. Lydig
Chair

AMENDATORY SECTION (Amending Order 482, filed 1/17/91)

WAC 232-12-017 Deleterious exotic wildlife. ((~~Deleterious exotic wildlife includes:~~))

(1)((~~Fish~~)) The following animals are hereby designated as deleterious exotic wildlife:

(a) Fish

((~~(a)~~)) (i) In the family Claridae, (walking catfish) all members of the family.

((~~(b)~~)) (ii) In the family ((~~Chprinidae~~)) Cyprinidae, (diploid grass carp,) *Ctenopharyngodon idella*

((~~(c)~~)) (iii) In the family Amiidae, (bowfin, mudfish or grinnel) Amia calva

((~~(d)~~)) (iv) In the family Characidae, the piranha (also pirameba, caribe, pira, piraya, chupita, rodoleira, palometa), all species of the genera Serrasalmus, Rooseveltiella and Pygocentrus

((~~(e)~~)) (v) In the family Cyprinidae, the rudd (Scardinius erythropthalmus) and Ide (silver orfe or golden orfe (Leuciscus idus))

((~~(f)~~)) (vi) In the family Lepiosteidae, the gar-pikes

((~~(g)~~)) (vii) In the family Channidae, the snakeheads (China fish) and all forms of the genus Channa (Ophicephalus)

((~~(2)~~)) (b) Amphibians

((~~(a)~~)) (i) In the family Pipidae, the African clawed frog *(Xenopus laevis)*

((~~(3)~~)) (c) Birds

((~~(a)~~)) (i) In the family Anatidae, the mute swan (Cygnus olor)

((~~(4)~~)) (d) Mammals

((~~(a)~~)) (i) In the family Viverridae, the mongoose (all members of the genus Herpestes)

((~~(b)~~)) (ii) In the family Suidae, the wild boar, *(Sus scrofa* and all wild hybrids)

((~~(c)~~)) (iii) In the family Tayassuidae, the collared peccary (javelina) *(Tayassu tajacu)*

((~~(d)~~)) (iv) In the family Bovidae, all members and hybrids of the following genera ((~~-~~)): Rupicapra (Chamois); Hemitragus (Tahr); Capra (goats, ibexes except domestic goat Capra (hircus); Ammotragus (Barbary sheep or Aoudad); ((~~and~~)) Ovis ((~~(only mouflon species - Ovis musimon)~~)) (sheep), except domestic sheep Ovis aries; Damaliscus (Sassabies); Alcelaphus buselaphus (Hartebeest); Connochaetes (Wildebeests).

((~~(e)~~)) (v) In the family Cervidae, the european red deer (Cervus elaphus elaphus), all nonnative subspecies of Cervus elaphus, and all hybrids with North American elk; Fallow deer (Dama dama), Axis deer (Axix axis), Rusa deer or Sambar deer (Cervus unicolor, Cervus timorensis, Cervus mariannus and Cervus alfredi), Sika deer (Cervus Nippon), Reindeer (all members of the Genus Rangifer except Rangifer tarandus caribou), and Roedeer (all members of the Genus Capreolus).

((~~(5)~~)) (2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release

live specimens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under ((~~(6)~~)) (3), (4), ~~or~~ ((~~(7)~~)) (5), (6), or (7) below.

((~~(6)~~)) (3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, ((~~or~~)) possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA) provided:

(a) The specimens are confined to a secure facility,

(b) The specimens will not be transferred to any other location within the state, except to ((~~and by~~)) other AAZPA accredited facilities with written director approval or as otherwise authorized in writing by the director,

(c) The specimens will be euthanized and all parts incinerated at the end of the project, except federally listed endangered or threatened species may be retained or transferred ((~~to AAZPA facilities with written director approval~~)) where in compliance with federal law, ((~~and~~))

(d) The person will keep such records on the specimens and make such reports as the director may require, and

(e) The person complies with other requirements of this section.

((~~(7)~~)) (4) Retention or disposal of existing specimens lawfully in captivity:

(a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity which ((~~are~~)) were classified by the Wildlife Commission as deleterious exotic wildlife on or before January 18, 1991 may retain the specimens of such deleterious exotic wildlife ((~~he/she~~)) such person lawfully ((~~possesses~~)) possessed prior to January 18, 1991 provided such person complies with subsections (4)(c) through (4)(h) hereunder and the other requirements of this section:

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity which were classified by the Wildlife Commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992 (in the family Bovidae, Sassabies (all member of the Genus Damaliscus), Hartebeest (Alcelaphus buselaphus), Wildebeests (all members of the Genus Connochaetes), Markhor (Capra falconeri), and Marcopolo sheep (Ovis ammon); in the family Cervidae, Fallow deer (Dama dama), Axis deer (Axis axis), Sika deer (Cervus Nippon), Rusa deer or Sambar deer (Cervus unicolor, Cervus timorensis, Cervus mariannus and Cervus alfredi)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof provided such person complies with subsections (4)(c) through (4)(h) hereunder and the other requirements of this section and except as provided under subsection (7).

((~~(a)~~)) (c) The person ((~~reports~~)) reported to the director in writing ((~~by March 18, 1991~~)) the species, number and location of the specimens as required.

((~~(b)~~)) (d) The specimens are confined to a secure facility at the location reported, ((~~and~~))

((~~(c)~~)) (e) Live specimens are not propagated, except at AAZPA accredited facilities with the written permission of the director or as otherwise authorized in writing by the director, ((~~, sold, transferred, or released, except for transfer or sale to locations outside the state of Washington, except federally listed endangered or threatened species may be transferred to AAZPA facilities with written director approval.~~))

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AAZPA accredited facilities with the written permission of the director,

(g) Live specimens are not released,

(h) Live specimens are not sold or transferred except:

(i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law,

(ii) Federally listed endangered or threatened species may be transferred to AAZPA accredited facilities where in compliance with federal law,

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided all other requirements are satisfied and the total number of locations where animals are held is not increased.

(iv) AAZPA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity which are newly classified by the Wildlife Commission as deleterious exotic wildlife by operation of this rule [Reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou), and Roedeer (all members of the Genus Capreolus)], may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens,

(b) The person complies with subsections (4)(d) through (4)(h) herein and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2), Fallow deer (Dama dama) and reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred provided:

(a) The person complies with subsection (4)(c) through (4)(g) hereunder and the other requirements of this section, except for subsections (4)(e), (4)(f), and (4)(h), and

(b) The person complies with Department of Agriculture WAC 16-54-035 as now or hereafter amended except:

(i) Animals which have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas or have had contact with or shared common ground with animals which have resided at any time east of such line shall not be imported into the state of Washington, unless specifically authorized

in writing by the directors of the Department of Agriculture and the Department of Wildlife.

(c) No specimens affected with any infectious or communicable disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the Department of Agriculture and the Department of Wildlife.

(d) The specimens are confined to a secure facility.

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped Animals

(a) Escaped deleterious exotic wildlife, including Fallow deer (Dama dama), and Reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this rule, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsections (1)(d) (iv) and (1)(d)(v), the "secure facility" must comply with the fencing requirements in subsection (10) unless otherwise authorized by the director in writing.

(10) Fencing requirements

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least 12-1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least 12-1/2 gauge woven wire, 14-1/2 gauge high-tensile woven wire, chain link, non-climbable woven fence, or other fence approved by the director.

(i) If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level;

(iv) Corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993 and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(11) Marking Requirements

(a) All live specimens of deleterious exotic wildlife except those listed in subsections (1)(a) and (1)(b), shall be permanently and individually identified by methods approved by the director,

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsections (1)(d)(iv) and (1)(d)(v) must be individually identified by the methods specified below.

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA Official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order, and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31 of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

(12) Testing of specimens

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the Genus Cervus which is identified in subsection (1)(v) herein must submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals which are deemed by Department of Wildlife biologists upon examination to exhibit either: behavioral (vocalization), morphological (size, rump patch, color) or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the Genus Cervus which are identified in subsection (1)(v) herein to submit records of genetic tests, conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington), for each individual cervid to the department. Such testing shall be at the possesor's expense. The director may require that any animal identified a red deer or having non-indigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (brucella abortus), tuberculosis (mycobacterium bovis and mycobacterium tuberculosis), meningeal worm (Paralophostrongylus tenuis), and muscle worm (Elaphostrongylus cervis) in accordance with the procedures specified in Department of Agriculture WAC 16-54-035 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(13) Reporting

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993 and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(14) Inspection

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections may take place without warrant or prior notice but shall be conducted at reasonable times and locations.

(15) Notification and disposition of diseased animals.

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this rule have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this rule have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife pursuant to this rule. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(16) Quarantine Area

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington State Department of Agriculture.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure

(a) The Department of Wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

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 spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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.

WSR 93-04-040
PERMANENT RULES
DEPARTMENT OF WILDLIFE

[Order 583—Filed January 27, 1993, 2:21 p.m., effective February 13, 1993]

Date of Adoption: January 15, 1993.

Purpose: To protect resident wildlife by clarifying that this rule refers to importation and retention of dead wildlife and to distinguish it from WAC 232-12-064 regulating importation and retention of live wildlife.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-021 Importation and retention of dead nonresident wildlife.

Statutory Authority for Adoption: RCW 77.12.030.

Pursuant to notice filed as WSR 92-24-091 on December 2, 1992.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Amendment to regulation was adopted with a special finding to become effective February 13, 1993. An effective date earlier than 31 days after filing is necessary to prevent lapse between the current 120-day emergency rule and the effective date of the newly adopted regulation and to continue to protect resident wildlife.

Effective Date of Rule: February 13, 1993.

Curt Smitch
Director
for Dean A. Lydig
Chair

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-021 ((~~Import~~)) Importation and retention of dead nonresident wildlife. It is unlawful:

(1) To import or possess dead wildlife, taken in another state or country, into Washington unless ((~~the~~)) such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(2) For a person who imports a dead mountain sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being ((~~held~~)) stored and general information describing where and how the wildlife was obtained.

WSR 93-04-041
PERMANENT RULES
POLLUTION LIABILITY INSURANCE AGENCY
[Order 93-01—Filed January 27, 1993, 3:44 p.m.]

Date of Adoption: January 27, 1993.

Purpose: To provide grants to owners and operators of petroleum underground storage tanks in rural and remote communities in Washington state.

Statutory Authority for Adoption: Chapter 70.148 RCW.

Pursuant to notice filed as WSR 93-01-139 on December 22, 1992.

Changes Other than Editing from Proposed to Adopted Version: Added the definition of "sole source" under WAC 374-60-020 Definitions.

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

January 27, 1993
James M. Sims
Director

AMENDATORY SECTION (Amending WSR 91-24-048, filed 11/27/91, effective 12/28/91)

WAC 374-60-020 Definitions. (1) "Agency" means the Washington state pollution liability insurance agency.

(2) "Charity care" means necessary hospital health care rendered to indigent persons, to the extent that the persons are unable to pay for the care or to pay deductibles or co-insurance amounts required by a third party payor, as determined by the Washington state hospital commission. (Defined in RCW 70.39.020.)

(3) "Cleanup" means any remedial action taken that complies with WAC 173-340-450 and any remedial action taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-360.

(4) "Community assistance program" means the program established by the Washington state legislature under the provision of chapter 70.148 RCW to provide financial assistance grants to:

(a) Private owners and operators of underground petroleum storage tanks;

(b) Local governmental entities, and;

(c) Rural hospitals.

(5) "Director" means the director of the Washington state pollution liability insurance agency.

(6) "Local government entity" means a unit of local government, either general purpose or special purpose, and includes but is not limited to, counties, cities, towns, school districts and other governmental and political subdivisions. The local government unit must perform a public purpose and either:

(a) Receive an annual appropriation;

(b) Have taxing power; and

(c) Derive authority from state or local government law enforcement power.

(7) "Operator" means any person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank system. (Defined in RCW 70.148.010.)

(8) "Owner" means any person who owns a petroleum underground storage tank. (Defined in RCW 70.148.010.)

(9) "Petroleum" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute) and includes gasoline, kerosene, heating oils and diesel fuels. (Defined in RCW 70.148.010.)

(10) "Private owner or operator" means any person, corporation, partnership or business that owns or operates one or more regulated petroleum underground storage tanks maintained for the purpose of providing petroleum products for retail sale to the public.

(11) "Release" means the emission, discharge, disposal, dispersal, seepage, or escape of petroleum from an underground storage tank into or upon land, groundwater, surface water, subsurface soils, or the atmosphere. (Defined in RCW 70.148.010.)

(12) "Remote rural community" means a geographic area outside the boundaries of an urban area of 10,000 or more of population, and which is either (1) in an incorporated city or town located at a distance from an incorporated city or town or urban area of 10,000 or more of population

or, (2) in an area outside of an incorporated city or town and at a distance from an incorporated city or town or urban area of 10,000 or more of population.

(13) "Rural hospital" means a hospital located anywhere in the state except the following areas:

(a) The counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark and Spokane;

(b) Areas within a twenty-five mile radius of an urban area with a population exceeding thirty thousand persons; and

(c) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla. (Defined in RCW 18.89.020.)

(14) "Serious financial hardship" means:

(a) For a private sector applicant, that the applicant can provide conclusive evidence that the business and/or business operator(s), business owner(s) having a 20% or greater interest in the business or other persons with a beneficial interest in the business' profits do not have the cash, cash equivalents or borrowing capacity to bring a petroleum underground storage tank system into compliance with all federal and state underground storage tank regulations and requirements scheduled to be in effect on December 22, 1998.

(b) For a public sector applicant, that the applicant can provide conclusive evidence that the unit of government does not have adequate fund balances, debt capacity or other local revenue generating options to bring a petroleum underground storage tank system into compliance with all federal and state underground storage tank regulations and requirements scheduled to be in effect on December 22, 1998; and

(c) For a rural hospital, that the applicant can provide conclusive evidence that the rural hospital does not have the cash, cash equivalents or borrowing capacity to bring a petroleum underground storage tank system into compliance with all federal and state underground storage tank regulations and requirements scheduled to be in effect on December 22, 1998.

(15) "Sole source" means the only retailer of petroleum products to the motoring public that is located in a city or town or, if the retailer is remote from a community, the only business within a minimum of a five-mile radius where the motoring public can purchase petroleum products.

(16) "Underground storage tank (UST)" means any one or combination of tanks, including underground pipes connected to the tank, that is used to contain an accumulation of petroleum and the volume of which (including the volume of underground pipes connected to the tank) is ten percent or more beneath the surface of the ground. (Defined in RCW 70.148.010.)

((~~(16)~~)) (17) "UST site" means the location at which underground storage tanks are in place or will be placed. An UST site encompasses all of the property with a contiguous ownership that is associated with the use of the tanks. (Defined in WAC 173-360-120.)

((~~(17)~~)) (18) "Vital local government, public health, education or safety need" means an essential or indispensable service provided by government for citizens.

AMENDATORY SECTION (Amending WSR 91-24-048, filed 11/27/91, effective 12/28/91)

WAC 374-60-060 Applications. (1) Applications for assistance under the underground storage tank community assistance program shall be made on forms furnished by the agency in accordance with their instructions. All applications shall be legible, contain all the information required and shall be accompanied by all required documents and exhibits.

(a) Applications which are illegible, incomplete, or which fail to include all necessary information, documents or exhibits, or which are otherwise not in compliance with these rules, may be rejected by the agency.

(b) The agency may ignore defects in applications which are immaterial or insubstantial.

(2) Separate and different applications will be prepared for:

(a) Private owners and operators;

(b) Local government entities; and

(c) Rural hospitals.

(3) Applications will be prepared in two parts:

(a) Part I of the application is designed to determine if the applicant meets certain eligibility criteria established for the program.

(b) Part II of the application is designed to determine if the applicant meets the financial eligibility criteria established for a grant, and requires detailed financial information, submission of a construction proposal, and certification by a local government entity of the vital local government, public health, education or safety need met by the continued operation of the UST(s).

(4) The director shall provide forms to local government entities for certification that continued operation of UST(s) by the private owners and operators is necessary to meet vital local government, public health, education or safety needs. Such certification shall consist of a local government resolution certifying:

(a) That other petroleum providers are remote from the community;

(b) That the applicant is capable of faithfully fulfilling the agreement required for financial assistance;

(c) The specific vital need or needs the owner or operator meets; and

(d) Designating the local official who will be responsible for negotiating the contract for provision of cost-plus petroleum products to the local governmental entity.

(5) The director shall provide forms to local government entities for certification that maintaining continued operation of the petroleum UST(s) owned by the local government meets a vital local public health, education or safety need. Such certification shall consist of a local government resolution certifying((~~: (a)~~)) that continued operation of the UST(s) meets a vital local government, public health, education or safety need((~~; and~~

~~(b) That a practical and viable funding alternative for the replacement, upgrade or consolidation of the UST(s) does not exist~~)).

(6) The director shall provide forms to local government entities for certification that UST(s) operated by rural hospitals meet vital public health, and safety needs. Such certification shall consist of a local government resolution

PERMANENT

certifying that the continued operation of the UST(s) by the rural hospital is necessary.

AMENDATORY SECTION (Amending WSR 91-24-048, filed 11/27/91, effective 12/28/91)

WAC 374-60-070 Eligibility—Private owners and operators. Private owners and operators, or a combination thereof, of an UST site may be eligible for an underground storage tank community assistance program grant if they meet the following requirements:

(a) Be the owner or operator of an UST(s) located in the state of Washington which is regulated by the U.S. Environmental Protection Agency and the department of ecology and for which proof of financial responsibility is currently or will be required;

(b) Own or operate a business selling petroleum products to the motoring public in a remote rural area;

(c) Demonstrate that the UST(s) is registered with the department of ecology;

(d) Demonstrate that the replacement or upgrading of the UST(s) and cleanup of the site would, without financial assistance, create serious financial hardship;

(e) Demonstrate that continued operation of the UST(s) meets a vital local government, public health or safety need, as evidenced by a local government entity's certification; and

(f) Provide proof that the UST(s) is insured against pollution liability or that application for pollution liability insurance has been made. ((~~Applicants must apply for insurance with one of the two insurers reinsured by the agency.~~))

AMENDATORY SECTION (Amending WSR 91-24-048, filed 11/27/91, effective 12/28/91)

WAC 374-60-120 Grant management. (1) Successful applicants will be notified by letter of the award of a grant. Entitlement to a grant is finalized only after a contract has been finalized between the agency and the grant recipient, and a contract has been finalized between the ((~~agency,~~)) grant recipient and the contractor performing the replacement or upgrading of the UST(s).

(a) Contracts may be entered only after all program eligibility requirements have been met, funds are available and the application and evaluation process has been completed to the satisfaction of the agency.

(b) Each contract becomes effective only with the signing of both required contracts. The day of the signing establishes the beginning date of the project. No costs incurred prior to that date are eligible for payment under the grant unless specific provision is made in the grant contract for such costs.

(2) The contract between the agency and a private owner and/or operator shall contain:

(a) An agreement assuring the state of Washington that the business, including the UST site, will be maintained for the retail sale of petroleum products to the public for at least fifteen (15) years after the grant is awarded;

(b) An agreement to sell petroleum products to local governmental entities on a cost-plus basis;

(c) An agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology;

(d) An agreement awarding the state of Washington a real property lien ensuring repayment of grant funds should any of the above conditions be violated. Such lien is to be binding on all heirs, successors or assignees of the grantee; and

(e) An agreement that should the grantee or any successor fail to adhere to all the terms of the contract through willful act, the amount of the grant shall immediately become due and payable to the state of Washington.

(3) The contract between the agency and a local government shall contain an agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology.

(4) The contract between the agency and a rural hospital shall contain:

(a) An agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology; and

(b) An agreement to provide charity care in a dollar amount equivalent to the financial assistance provided under the underground storage tank community assistance program. The period of time for the charity care to be accomplished will be established by the agency in consultation with the department of health, but will not exceed fifteen years.

(5) Contracts between the ((~~agency,~~)) grantees and contractors shall contain terms covering payments, conditions of work and contaminated soil and water remediation procedures.

(6) If the grantee elects pollution liability insurance as the method for meeting financial responsibility, the insurance policy must name the pollution liability insurance agency as a "loss payee." If another method of demonstrating financial responsibility is selected, there must exist a provision for the agency to place an appropriate encumbrance on that document.

(7) Annually, the local government entity that certified the vital local government, public health, education or safety need of the UST(s) must report, on a form provided by the agency, the status of contracts and services.

(8) Quarterly, a private owner or operator that receives a grant must submit a report, on a form provided by the agency, of petroleum business volume and what local government contracts are currently in effect.

(9) Annually, a rural hospital that has received a grant will report to the agency the amount of charity care provided and the dollar value of that care.

(10) At the conclusion of the fifteen-year agreement, the agency will sign a release of any claim on the real property named in the original contract between the grantee and the agency. The responsibility for removing the lien will rest with the current property owner of record.

(11) At least annually, a representative of the agency will visit the UST site of each grantee to verify adherence to contractual obligations.

WSR 93-04-046
PERMANENT RULES
WILDLIFE COMMISSION
[Order 584—Filed January 28, 1993, 8:16 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To protect channel catfish for use in a survival experiment.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61923.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-084 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61923 1992-94 Washington game fish seasons and catch limits - Channel catfish regulations - Gissberg Ponds. Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Gissberg Ponds.

GISSBERG PONDS: Year around season. Closed to the taking of CHANNEL CATFISH.

WSR 93-04-047
PERMANENT RULES
WILDLIFE COMMISSION
[Order 585—Filed January 28, 1993, 8:19 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To establish a catch limit and minimum size limit for tiger musky on Newman Lake.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61924.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-083 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61924 1992-94 Washington game fish seasons and catch limits - Newman Lake. Notwithstanding the provisions of WAC 232-28-619, the game fish seasons and catch limits for Newman Lake are as follows:

NEWMAN LAKE: Year around season. TIGER MUSKY - catch limit - 1, minimum length 36".

WSR 93-04-048
PERMANENT RULES
WILDLIFE COMMISSION
[Order 589—Filed January 28, 1993, 8:21 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To increase the harvest of Kokanee from Yale Reservoir.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61928.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-087 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61928 1992-94 Washington game fish seasons and catch limits - Yale Reservoir in Region 5. Not with standing the provisions of WAC 232-28-619, the game fish regulations for Yale Reservoir in Region 5 are as follows:

YALE RESERVOIR: Year around season. KOKANEE - catch limit - 16.

WSR 93-04-049
PERMANENT RULES
WILDLIFE COMMISSION
[Order 586—Filed January 28, 1993, 8:24 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To increase recreational harvest opportunity on rainbow trout in the Spokane River.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61925.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-082 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61925 1992-94 Washington game fish seasons and catch limits - Spokane River in Region 1. Notwithstanding the provisions of WAC 232-28-619, the game fish seasons for the above mentioned water are as follows:

SPOKANE RIVER, from Monroe Street Dam upstream to Upriver Dam: Year around season.

SPOKANE RIVER, from Upriver Dam upstream to the Idaho/ Washington State line: June 1-Oct. 31 season. TROUT - catch limit - 1, minimum length 12"; Selective Fishery Regulations, except motors allowed.

All other provisions of Spokane River regulations remain unchanged and in effect.

PERMANENT

WSR 93-04-050
PERMANENT RULES
WILDLIFE COMMISSION
[Order 587—Filed January 28, 1993, 8:25 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To close Piper's Creek to fishing.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61926.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-085 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61926 1992-94 Washington game fish seasons and catch limits - Piper's Creek in Region 4. Notwithstanding the provisions of WAC 232-28-619, the game fish regulations for Piper's Creek are as follows:

PIPER'S CREEK (Carkeek Creek), from its mouth to its source: CLOSED WATERS.

WSR 93-04-051
PERMANENT RULES
WILDLIFE COMMISSION
[Order 588—Filed January 28, 1993, 8:27 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To reduce fish mortality from this catch-and-release fishery.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61927.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-086 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61927 1992-94 Washington game fish seasons and catch limits - Blue Lake in Region 5. Notwithstanding the provisions of WAC 232-28-619, the game fish regulations for Blue Lake in Region 5 are as follows:

BLUE LAKE (Cowlitz Co.): Catch-and-Release only. Selective Fishery Regulations.

WSR 93-04-052
PERMANENT RULES
WILDLIFE COMMISSION
[Order 590—Filed January 28, 1993, 8:32 a.m.]

Date of Adoption: January 15, 1993.

Purpose: Permanent changes to the 1993 fishing regulations on Mayfield Lake to allow fish to reach trophy size prior to harvest.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61929.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-088 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61929 1992-94 Washington game fish seasons and catch limits - Tiger Musky regulations - Mayfield Lake. Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to Mayfield Lake:

MAYFIELD LAKE (Reservoir): Year around season. TIGER MUSKY - catch limit - 1, minimum length 36".

WSR 93-04-053
PERMANENT RULES
WILDLIFE COMMISSION
[Order 591—Filed January 28, 1993, 8:35 a.m.]

Date of Adoption: January 15, 1993.

Purpose: To protect underescaped wild winter steelhead.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 232-28-61930.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-089 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61930 1992-94 Washington game fish seasons and catch limits - Dungeness River in Region 6. Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Dungeness River in Region 6:

DUNGENESS RIVER, from mouth to junction of Gray Wolf and Dungeness River: June 1-last day of Feb. season. TROUT - catch limit - 2, min. lgth. 14". WILD STEELHEAD RELEASE.

From junction of Gray Wolf River upstream to headwaters: TROUT - catch limit - 2, min. lgth. 14".

WSR 93-04-054
PERMANENT RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Order 93-01—Filed January 28, 1993, 11:20 a.m.]

Date of Adoption: January 20, 1993.

Purpose: To change procedure for depositing redirection of basic education allocations directly to general fund.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-445.

Statutory Authority for Adoption: RCW 28A.150.270.

Pursuant to notice filed as WSR 92-23-023 on November 12, 1992.

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

January 28, 1993
Judith A. Billings
Superintendent of
Public Instruction

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

WAC 392-121-445 Procedure for crediting portion of basic education allocation for capital purposes in school districts. If a local school district board of directors wishes to direct a portion of the district's annual basic education allocation to the school district's capital projects fund or debt service fund pursuant to RCW 28A.150.270, the district board shall execute a resolution requesting the superintendent of public instruction to ((~~pay~~)) approve the transfer of a portion of that allocation to the ((~~credit of the~~)) district's capital projects fund and/or debt service fund. Such board resolutions ((~~should~~)) shall specify the justification in detail and the dollar amount to be ((~~credited~~)) transferred to the capital projects fund and/or debt service fund. Such resolution should be received by the superintendent of public instruction on or before the tenth of the month when ((~~payment~~)) the transfer to the ((~~building and~~)) capital projects fund and/or ((~~bond interest and redemption~~)) debt service fund is to begin. ((~~Without a properly executed resolution, the superintendent of public instruction shall pay all state apportionment due and apportionable to the credit of the school district's general fund.~~)) Such moneys ((~~paid to any~~)) transferred to either of these funds pursuant to this section cannot be subsequently transferred to the credit of another fund.

Resolutions requesting the superintendent of public instruction to ((~~direct~~)) approve the transfer of a portion of the district's basic education allocation to the capital projects fund and/or the debt service fund will not be ((~~approved~~)) given by the superintendent of public instruction if the loss of general fund revenue to the district will result in an out-of-balance general fund budget. Any school district that would have an out-of-balance general fund budget after the potential loss of general fund revenue which would result from such a ((~~redirection~~)) transfer of revenue shall revise the general fund budget document to be in balance following appropriate budget modification or extension procedures in order for the superintendent of public instruction to approve the resolution. A budget modification or extension may be necessary for the capital projects fund and/or debt service fund.

Upon approval of the resolution by the superintendent of public instruction, ((~~payments will commence~~)) operating transfer(s) will be authorized from the general fund to the capital projects fund and/or debt service fund ((~~in accordance with the apportionment schedule set forth in RCW 28A.510.250. Such payments shall reduce general fund apportionment payments by the full amount of the approved resolution in the month payment begins. If the amount of the approved resolution exceeds the entire monthly apportionment payment in the month payment begins, the entire apportionment payment will be paid to the fund(s) designated in the resolution until the amount of the approved resolution is paid, subject to moneys available in the district's basic education allocation~~)).

WSR 93-04-063
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 92-48—Filed January 28, 1993, 3:57 p.m.]

Date of Adoption: January 28, 1993.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-450.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Management Act of 1971.

Pursuant to notice filed as WSR 93-02-011 on December 29, 1992.

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

January 28, 1993
Terry Husseman
Acting Director

AMENDATORY SECTION (Amending Order 90-26, filed 10/2/90, effective 11/2/90)

WAC 173-19-450 Whatcom County. Whatcom County master program approved August 27, 1976. Revision approved April 11, 1977. Revision approved August 11, 1978. Revision approved December 22, 1981. Revision approved January 5, 1982. Revision approved March 4, 1982. Revision approved December 15, 1982. Revision approved March 1, 1984. Revision approved January 31, 1985. Revision approved June 9, 1987. Revision approved October 2, 1990. Revision approved January 28, 1993.

WSR 93-04-069
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3509—Filed January 29, 1993, 9:02 a.m., effective March 1, 1993]

Date of Adoption: January 29, 1993.

Purpose: To bring WAC 388-49-560 into compliance with federal regulations by allowing replacements for food coupon authorization not transacted during the validity period if the FCA was issued on or after the twentieth of the month.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-560 Issuance.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 7 CFR 274.3 (e)(1).

Pursuant to notice filed as WSR 92-23-050 on November 17, 1992.

Effective Date of Rule: March 1, 1993.

January 29, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3417, filed 7/9/92, effective 8/9/92)

WAC 388-49-560 Issuance. (1) The department shall issue food coupons through a:

(a) Food coupon authorization (FCA) system staggered through the tenth of the month; or

(b) Direct coupon mail out system staggered through the tenth of the month.

(2) For FCAs issued on or after the twentieth of the month, the department shall issue a valid FCA:

(a) Until the end of the month and issue a valid replacement FCA if the household is unable to transact the FCA before the expiration date; or

(b) For the current month's benefits valid in the following month.

(3) For eligible households applying on the sixteenth of the month or after, the department shall issue the prorated allotment for the initial month and the allotment for the first full month at the same time, except for households:

(a) Eligible for expedited services for which missing or postponed verification have not been provided; and

(b) Ineligible for the initial month, or the second month.

(4) The department shall not transact or restore an FCA with an expired validity date, except as specified under WAC 388-49-560(2).

(5) The department shall maintain issuance records for a period of three years from the month of origin.

WSR 93-04-071
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION
[Order 136—Filed January 29, 1993, 2:02 p.m.]

Date of Adoption: January 29, 1993.

Purpose: To regulate the movement of buildings and houses on state highways.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-360 Buildings.

Statutory Authority for Adoption: RCW 46.44.090.

Pursuant to notice filed as WSR 93-01-011 on December 3, 1992.

Effective Date of Rule: Thirty days after filing.

January 29, 1993
S. A. Moon
Deputy Secretary

AMENDATORY SECTION (Amending Order 31, Resolution No. 156, filed 8/20/82)

WAC 468-38-360 ((~~Buildings~~)) Building/house moves. (((~~(1) Width includes all eaves, porches, or other parts attached during movement.~~

~~(2) Movement of a high building will only be permitted if compatible with the structures on the route and the overhead wires, signs and traffic signals. In any movement of a building that requires dropping of any overhead service wire, it is the responsibility of the mover to make all arrangements with the power and telephone companies involved. If the move would require moving of overhead signs or signals, clearance must be obtained from the district administrator before the permit is granted.~~

~~(3) The district administrator shall determine whether the size of a building is such as to allow it to be moved by permit. He shall analyze the local traffic patterns and space to make that determination.~~

~~(4) Pilot cars will be used when required by the provisions of WAC 468-38-100.~~

~~(5) The maximum speed shall not exceed 25 miles per hour.~~

~~(6) No permit will be granted for dollies equipped with hard rubber or solid cushion rubber tires.~~

~~(7) Movement of buildings over 14 feet wide on two-lane state highways may be permitted under the following conditions:~~

~~(a) Controlled vehicular traffic shall be maintained as necessary at all times. The maximum traffic delay shall be five minutes, as estimated by the designated department employee.~~

~~(b) The maximum distance of the movement shall not exceed five miles. Additional contiguous permits shall not be issued to exceed the five mile limit. The department may, however, approve the movement for a distance greater than five miles if it determines that a hardship would otherwise result.~~

~~(c) Prior to issuing a permit, a qualified department of transportation employee shall make a visual inspection of the building and route involved determining that the conditions listed in this section shall be met and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement.~~

~~(d) Special escort and other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made.~~)) The following requirements control the movement of buildings or houses that do not meet the requirements for manufactured housing or mobile homes (discussed in WAC 468-38-120).

(1) Vehicles/loads not exceeding eighty thousand pounds and sixteen feet wide may be moved on two lane highways with permit, and vehicles/loads not exceeding twenty feet wide may be moved on multiple lane highways with a median barrier or median strip, with permit. Exceptions to these limitations may be proposed to the district administrator, or designee, for review and final determination, assuming compliance with the remaining conditions contained herein.

(2) The maximum distance a structure, exceeding the above dimensions, may move is five miles. Additional

contiguous five-mile permits shall not be issued to exceed the five-mile limitation. An exemption may be granted by the district administrator, or designee, if the permittee can justify the move as in the public interest or as the avoidance of extreme hardship. Justification will generally require independent documented evidence supporting the basis for the move, to include, but not be limited to: Cost, equity, and sales data; historic significance; public benefit; or national defense.

(3) An application for move must be completed and submitted to the district administrator, or designee, at least ten working days before the scheduled move. The application (form number DOT 720-028) must show, at a minimum: The owner, the mover, proposed route - complete with traffic control plan, a physical description of the structure, arrangements for moving overhead obstacles, the number and configuration of hauling vehicles (towing unit, dollies, etc.), and any additional requirements outlined in this section.

(4) When deemed necessary a department of transportation employee shall make a visual inspection of the structure, hauling vehicles, and proposed route. This inspection shall, at a minimum, verify dimensions (to include eaves, porches, and other appurtenances that could not be removed without affecting structural integrity), check for appropriate strapping for brick/masonry, verify that all overhead obstacles have been identified, insure that dollies are not equipped with hard rubber or solid cushion rubber tires, verify the tow vehicles (a back-up vehicle may be required on site for the move) have a valid certificate of inspection from the Washington state patrol, and determine if state forces will be required for the move (state force work will be estimated and paid by the permittee in advance, with actual costs being determined and a billing/refund occurring of any adjustment at the end of the move). Necessary equipment to make the inspection, such as a ladder, will be provided on site by the owner or mover.

(5) The maximum speed shall not exceed twenty-five miles per hour. Time allotted for traffic delays shall be at district discretion, but shall not exceed five minutes. Reasonable accessibility for emergency vehicles to navigate around the load shall be maintained.

(6) Special escort car requirements may be imposed to assure the movement will be made under the safest possible conditions. Documentation must be provided that shows the escort vehicle operators and accompanying flagpersons have been certified by the department of labor and industries. Hard hats and vests will be required for all flagpersons directing/controlling traffic during the movement.

(7) The applicant shall notify the Washington state patrol forty-eight hours in advance of the scheduled move, providing the Washington state patrol with time and route. The district may require the applicant to have the Washington state patrol assist with traffic control, the cost to be borne by the permittee.

(8) Routes involving the movement of overhead traffic signals, wires, and/or mast arms must be approved by the district traffic engineer.

(9) If railroad tracks are to be crossed, the appropriate railroad company shall be notified by the applicant and a copy of the railroad's schedule for those crossings will be submitted with the traffic control plan and application.

(10) Generally loads of two hundred thousand pounds must be approved by the bridge conditions branch in Olympia if structures are to be crossed. Per RCW 46.44.091(6), the written request must be submitted thirty days in advance of the planned move.

(11) Per WAC 468-38-050, the permittee must provide proof of insurance in the following amounts: Commercial operators shall have at least seven hundred fifty thousand dollars liability and noncommercial operators shall have at least three hundred thousand dollars liability.

PERMANENT

WSR 93-04-072
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed January 29, 1993, 2:42 p.m.]

Date of Adoption: January 26, 1993.

Purpose: WAC 390-20-020, 390-20-110 and 390-16-308, amending rules because of recently-passed Initiative 134; and WAC 390-18-050, establish rule identifying commercial advertiser public records.

Citation of Existing Rules Affected by this Order: Amending WAC 390-20-020, 390-20-110, 390-16-308, and 390-18-050.

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 93-01-135 on December 22, 1992; WSR 92-24-011 on November 20, 1992; WSR 92-24-012 on November 20, 1992, and WSR 92-24-010 on November 20, 1992.

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

January 29, 1993
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending WSR 91-24-011, filed 11/22/91)

WAC 390-20-020 Forms for lobbyist report of expenditures. The official form for the lobbyist report of expenditures is designated "L-2," revised ((~~10/91~~)) 11/92, which includes the L-2 Memo Report, dated 11/92. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

PERMANENT

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

Form L2 10/91

PDC OFFICE USE

LOBBYIST MONTHLY EXPENSE REPORT

1. Lobbyist Name

Mailing Address

City State Zip + 4

2. This report is for the period (Month) (Year) This report corrects or amends the report for (Month) (Year) Business Telephone ( )

EXPENSE CATEGORY	TOTAL AMOUNT THIS MONTH All employers plus own expense (Columns a + b + c + d and attached pages)	Amounts paid from lobbyist's own funds, not reimbursed or attributed to an employer. Column A	Employer No.___ Column B	Employer No.___ Column C	Employer No.___ Column D
	ALL COMPLETE THIS PART		COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER		
	Include all expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period		Amount attributed to each employer.		
3. COMPENSATION earned from employer for lobbying this period (salary, wages, retainer)					
4. PERSONAL EXPENSES for travel, food and refreshments					
5. ENTERTAINMENT, GIFTS, TRAVEL for legislators, state officials, their families (Itemize on reverse—#13)					
6. CONTRIBUTIONS to elected officials, candidates and political committees (Itemize on reverse—#14)					
7. ADVERTISING, PRINTING, INFORMATIONAL LITERATURE					
8. OTHER EXPENSES AND SERVICES (Itemize on reverse—#15)					
9. TOTAL COMPENSATION AND EXPENSES INCURRED THIS MONTH					

(Attach additional page(s) if you lobby for more than three employers.)

10. EMPLOYERS' NAMES
No.___(B) _____
No.___(C) _____
No.___(D) _____

11. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.
Subject Matter, Issue or Bill No. Legislative Committee or State Agency Considering Matter Employer Represented

☐ Information continued on attached pages

Estimate the percentage of your time or lobbying effort devoted to: the Legislature_____% State Agencies_____%.

12. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)

Date registration ends:_____ Employer's name: _____

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration report prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION

I certify that this report is a true and complete account of all information attributable directly or indirectly to lobbying activities for the period specified.

LOBBYIST DATE

CONTINUE ON REVERSE SIDE

PDC FORM L-2 9/90—I

13. Show all of the following expenditures that were incurred by lobbyist or lobbyist employer(s):
- Entertainment expenditures exceeding $25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, transportation and any travel-related expenses or for other forms of entertainment provided to legislators, state officials, state employees and members of their immediate families.
- Receptions: If a reception cost more than $100 per participant, show the pro rata cost of the reception as a gift to state elected officials and state executive officers who attended in space below or on Memo Report.
- Entertainment Gifts (except receptions): If more than $50 per occasion was spent on a state elected official (including family) or a state executive offic (including family), itemize the gift, including the amount attributable to the official and family, below or on a Memo Report.
- Other expenditures exceeding $50 for gifts benefiting state elected officials, state executive officers and/or members of their immediate families.

Date	Names of all Persons Entertained or Provided Gifts	Description, Place, Etc.	Sponsoring Employer	Amount
N/A	Total gift expense itemized on attached Memo Reports			

☐ Continued on attached pages.

14. Monetary or in-kind contributions exceeding $25 to federal, state or local office candidates, committees supporting or opposing these candidates, a legislative caucus fund, an elected official's public office fund, a political party, a political committee supporting or opposing a candidate or ballot measure, or any grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Benefit	Employer for Whom Contribution was Made	Amount

If contributions were made by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

☐ Continued on attached pages. PAC Name: _____

15. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Recipient's Name and Address	Employer for Whom Expense was Incurred or Lobbying Done	Amount

☐ Continued on attached page.

PUBLIC DISCLOSURE COMMISSION
CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) -1111

MEMO REPORT

(for Lobbyists Reporting Gifts to State Elected Officials and Officials' Immediate Family Members)

Instructions: This Memo Report may be used by a lobbyist to report gifts given to a state elected official or that official's immediate family members instead of itemizing such gifts in Item 13 of the L-2 Report. Complete a Memo Report for each official to whom one or more gifts were given during the reporting period. Include gifts given to an official's family members on the official's Memo Report.

Attach the original of each completed Memo Report to the L-2. Provide a copy of the Memo Report to the state elected official who received, or whose family members received, the gift(s).

Do not use this Memo Report to disclose campaign contributions, including the purchase of fund raiser tickets.

TO: _____
(State Elected Official)

FROM: _____
(Lobbyist Name)

_____
(Address)

_____

In accordance with RCW 42.17.170(3), please accept this memo as notification that the following gifts were provided to you and/or your immediate family members:

Date	Name of Official/Family Member	Description of Gift	Sponsoring Employer	Value

_____
Lobbyist's Signature Date

This report is for the period _____ (Month) _____ (Year)

This report corrects or amends the report for _____ (Month) _____ (Year)

Business Telephone ( ) _____

Distribution of Memo Report: Original - to PDC with L-2; Copy - Elected Official Copy - Your Files

PERMANENT

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

Form L2 12/92

PDC OFFICE USE

LOBBYIST MONTHLY EXPENSE REPORT

1. Lobbyist Name

Mailing Address

City State Zip + 4

2. This report is for the period ____ (Month) ____ (Year) This report corrects or amends the report for ____ (Month) ____ (Year) Business Telephone ( )

EXPENSE CATEGORY	TOTAL AMOUNT THIS MONTH All employers plus own expense (Columns a + b + c + d and attached pages)	Amounts paid from lobbyist's own funds, not reimbursed or attributed to an employer. Column A	Employer No.___ Column B	Employer No.___ Column C	Employer No.___ Column D
	ALL COMPLETE THIS PART		COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER		
	Include all expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period.		Amount attributed to each employer.		
3. COMPENSATION earned from employer for lobbying this period (salary, wages, retainer)		X			
4. PERSONAL EXPENSES for travel, food and refreshments					
5. ENTERTAINMENT, GIFTS, TRAVEL for legislators, state officials, their families (Itemize on reverse—#13)					
6. CONTRIBUTIONS to elected officials, candidates and political committees (Itemize on reverse—#14)					
7. ADVERTISING, PRINTING, INFORMATIONAL LITERATURE					
8. OTHER EXPENSES AND SERVICES (Itemize on reverse—#15)					
9. TOTAL COMPENSATION AND EXPENSES INCURRED THIS MONTH					

(Attach additional page(s) if you lobby for more than three employers.)

10. EMPLOYERS' NAMES
No.___(B) _____
No.___(C) _____
No.___(D) _____

11. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.

Subject Matter, Issue or Bill No.	Legislative Committee or State Agency Considering Matter	Employer Represented

☐ Information continued on attached pages

Estimate the percentage of your time or lobbying effort devoted to: the Legislature_____% State Agencies_____%.

12. **TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)**

Date registration ends: _____ Employer's name: _____

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration report prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION

I certify that this report is a true and complete account of all information attributable directly or indirectly to lobbying activities for the period specified.

LOBBYIST DATE

CONTINUE ON REVERSE SIDE

PDC FORM L-2 12/92—I

PERMANENT

13. Show all of the following expenditures that were incurred by lobbyist or lobbyist employer(s):

- Entertainment expenditures exceeding $25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, transportation and any travel-related expenses or for other forms of entertainment provided to legislators, state officials, state employees and members of their immediate families.
- Receptions: If a reception cost more than $100 per participant, show the pro rata cost of the reception as a gift to state elected officials and state executive officers who attended in space below or on Memo Report.
- Entertainment Gifts (except receptions): If more than $50 per occasion was spent on a state elected official (including family) or a state executive officer (including family), itemize the gift, including the amount attributable to the official and family, below or on a Memo Report.
- Other expenditures exceeding $50 for gifts benefiting state elected officials, state executive officers and/or members of their immediate families.

Date	Names of all Persons Entertained or Provided Gifts	Description, Place, Etc.	Sponsoring Employer	Amount
N/A	Total gift expense itemized on attached Memo Reports			

☐ Continued on attached pages.

14. If a monetary or in-kind contribution exceeding $25 was given to any of the following, itemize the contribution below or on a Memo Report: local, state and federal candidates or elected officials; local and state officers and employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding $25 was given to the following, itemize the contribution below: a legislative caucus fund; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Benefit	Employer for Whom Contribution was Made	Amount
	Total contributions itemized on attached Memo Reports		

If contributions were made by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

☐ Continued on attached pages. PAC Name: _____

15. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Recipient's Name and Address	Employer for Whom Expense was Incurred or Lobbying Done	Amount

☐ Continued on attached page.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

L-2 Memo Report
Lobbyist Contributions and Gifts

Instructions: This Memo Report may be used by a lobbyist to notify designated recipients of contributions and gifts given during the reporting period. The positions of potential recipients are listed after "Contributions and "Gifts" below. If this detailed information does not also appear on the lobbyist's L-2 Report, a copy of this Memo Report must accompany the L-2. See L-2 instructional manual.

TO: _____
(Recipient's Name)

FROM: _____
(Lobbyist's Name)

_____
(Address)

_____

This report is for the period _____ (Month) _____ (Year)

This report corrects or amends the report for _____ (Month) _____ (Year)

Business Telephone ( ) _____

CONTRIBUTIONS to any candidate, elected official, state employee, legislative staff and caucus or ballot issue committee

Date Made	Amount or Value	Description (if in-kind)	Source of Contribution (Employers's Name or Own Funds)

GIFTS to any state elected official, including legislators, or member of the official's immediate family*

Date Given	Amount or Value	Description	Source of Gift (Employer's Name or Own Funds)	Recipient (if family member)

_____
Lobbyist's Signature Date

*Gifts given to executive state officers and members of their families must be itemized on the L-2, but notification is not required.

11/92

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.

PERMANENT

AMENDATORY SECTION (Amending WSR 90-22-018, filed 10/29/90)

WAC 390-20-110 Forms for lobbyist employers report. The official form for statement by employers of registered lobbyists as required by RCW 42.17.180 is designated "L-3," revised ((~~9/90~~)) 11/92. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504. Any attachments shall be on 8-1/2" x 11" white paper.

STATE OF WASHINGTON

EMPLOYER'S LOBBYING EXPENSES

DURING CALENDAR YEAR 1990

L3 1/91

PDC OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name)

Mailing Address Telephone

City State Zip

THIS REPORT MUST BE FILED BY MARCH 31, 1991. Include expenditures incurred during calendar year 1990 for lobbying the Washington State Legislature and/or any state agency. Complete all sections. If entry is "none" or "0", so indicate.

2. Direct payments to lobbyists for salary, contract, retainer and reimbursement of other lobbying expenses. In the amount listed for each lobbyist, include all contributions and expenses for entertainment, gifts and grass roots lobbying campaigns reported by the lobbyist on the L-2 report.

LOBBYIST NAME (IF PAYMENTS WERE TO LOBBY FIRM, LIST FIRM NAME)	AMOUNT	TOTAL AMOUNT
☐ Information continued on attached page	TOTAL FROM ATTACHED PAGE	
	TOTAL PAID DIRECTLY TO LOBBYISTS →	

When completing items 3 thru 6 below, DO NOT include expenditures already reported in item 2 above.

3. Other expenditures made by the employer for lobbying purposes. Include any and all:

   a. Payments to vendors on behalf of or in support of registered lobbyists (e.g., food, lodging, travel, credit card purchases); _____

   b. Payments to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort; _____

   c. Payments for entertainment, gifts, tickets, passes, transportation and travel expenses (including meals, lodging and related expenses) provided to legislators, state officials, state employees and members of their immediate families; (Also complete item 8) _____

   d. Payments for the composition, design, production and distribution of informational materials produced primarily for influencing legislation; _____

   e. Payments for grass roots lobbying expenses, including those previously reported by employer on PDC Form L-6, and payments for lobbying communications to clients or customers (other than corporate stockholders and members of an association or organization). _____

4. Political contributions to candidates for state office, including the legislature, to committees supporting or opposing those candidates or to committees supporting or opposing statewide ballot measures. (Also complete Item 9.)

   a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c. _____

   b. If contributions were made by a political action committee associated, affiliated or sponsored by the employer, show name of PAC below. (Information reported by PAC on C-4 report need not be again included as part of this report.)

   Name of PAC _____

5. Payments or expenditures to legislators and state officials and their spouses and dependents for the purpose of influencing, honoring, or benefiting the legislator or official. Do not include payments for goods or services obtained in the normal course of business. (Also complete Item 12.) _____

6. Payments for other expenditures for lobbying, whether through or on behalf of a registered lobbyist or otherwise. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not show payments included above. _____

TOTAL LOBBYING EXPENSES (Items 2 thru 6) _____

7 This report must be certified by the president, secretary-treasurer or similar officer of employer organization.

CERTIFICATION	SIGNATURE OF EMPLOYER	DATE
I certify that the information contained in this report is a true, correct and complete statement in accordance with RCW 42.17.180.	NAME TYPED OR PRINTED	DATE

to legislators, state officials, state employees and members of their immediate families.

Name and Title	Cost or Value	Description of Entertainment Gift or Travel

☐ Information continued on attached pages

9. Contributions made directly by the Employer aggregating over $25 to candidates for state office, the legislature, committees supporting or opposing those candidates or committees supporting or opposing statewide ballot measures. Contributions from an employer-affiliated PAC need not be listed.

Name of Recipient	Amount	Date

☐ Information continued on attached pages

10. Compensation of $1,000 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate families.

Name	Relationship to Candidate or Elected Official if Member of Family	Amount (Code)	Description of Consideration or Services Exchanged for Compensation

DOLLAR CODE AMOUNT
A - $1 to $1,999
B - $2,000 to $9,999
C - $10,000 to $19,999
D - $20,000 to $49,999
E - $50,000 or more

☐ Information continued on attached pages

11. Compensation of $1,000 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which a state elected official, successful state candidate or member of the immediate family holds office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)	Description of Consideration or Services Exchanged for Compensation

☐ Information continued on attached pages

12. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of the immediate family, if made to honor, influence or benefit the person because of his official position.

Name	Amount	Purpose

☐ Information continued on attached pages

Public Disclosure Commission, 711 Capitol Way, Room 403, PO Box 40908, Olympia, WA 98504-0908

PERMANENT

STATE OF WASHINGTON

EMPLOYER'S LOBBYING EXPENSES

L3 1/91

PDC OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name)

Mailing Address Telephone

City State Zip

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures incurred during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Direct payments to lobbyist(s) for salary, contract, retainer and reimbursement of other lobbying expenses. In the amount listed for each lobbyist, include all contributions and expenses for entertainment, gifts and grass roots lobbying campaigns reported by the lobbyist on the L-2 report.

LOBBYIST NAME (IF PAYMENTS WERE TO LOBBY FIRM, LIST FIRM NAME)	AMOUNT	TOTAL AMOUNT
☐ Information continued on attached page	TOTAL FROM ATTACHED PAGE	
	TOTAL PAID DIRECTLY TO LOBBYISTS →	

When completing Items 3 thru 6 below, DO NOT include expenditures already reported in Item 2 above.

3. Other expenditures made by the employer for lobbying purposes. Include any and all:
   a. Payments to vendors on behalf of or in support of registered lobbyists (i.e., food, travel, credit card purchases); _____
   b. Payments to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort; _____
   c. Payments for entertainment, gifts, tickets, passes, transportation and travel expenses (including meals, lodging and related expenses) provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 8) _____
   d. Payments for the composition, design, production and distribution of informational materials produced primarily for influencing legislation; _____
   e. Payments for grass roots lobbying expenses, including those previously reported by employer on PDC Form L-6, and payments for lobbying communications to clients or customers (other than corporate stockholders and members of an association or organization). _____
4. Political contributions to candidates for state office, including the legislature, to committees supporting or opposing those candidates or to committees supporting or opposing statewide ballot measures. (Also complete Item 9.)
   a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c. _____
   b. If contributions were made by a political action committee associated, affiliated or sponsored by the employer, show name of PAC below. (Information reported by PAC on C-4 report need not be again included as part of this L-3 report.)

   Name of PAC _____
5. Payments or expenditures to legislators and state officials and their spouses and dependents for the purpose of influencing, honoring, or benefiting the legislator or official. Do not include payments for goods or services obtained in the normal course of business. (Also complete Item 12.) _____
6. Payments for other expenditures for lobbying, whether through or on behalf of a registered lobbyist or otherwise. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not show payments included above. _____

TOTAL LOBBYING EXPENSES (Items 2 thru 6) _____

7. This report must be certified by the president, secretary-treasurer or similar officer of employer organization.

CERTIFICATION

I certify that the information contained in this report is a true, correct and complete statement in accordance with RCW 42.17.180.

SIGNATURE OF EMPLOYER DATE

NAME TYPED OR PRINTED DATE

8. Entertainment, gifts, tickets, passes, transportation and travel expenses (including meals, lodging and related expenses) provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title	Cost or Value	Description of Entertainment Gift or Travel

☐ Information continued on attached pages

9. Contributions made directly by the Employer aggregating over $25 to candidates for state office, the legislature, committees supporting or opposing those candidates or committees supporting or opposing statewide ballot measures. Contributions from an employer-affiliated PAC need not be listed.

Name of Recipient	Amount	Date

☐ Information continued on attached pages

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DOLLAR CODE AMOUNT
A - $1 to $1,999
B - $2,000 to $9,999
C - $10,000 to $19,999
D - $20,000 to $49,999
E - $50,000 or more

☐ Information continued on attached pages

11. Compensation of $1,000 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which a state elected official, successful state candidate or member of the immediate family holds office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)	Description of Consideration or Services Exchanged for Compensation

☐ Information continued on attached pages

12. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of the immediate family, if made to honor, influence or benefit the person because of his official position.

Name	Amount	Purpose

☐ Information continued on attached pages

Public Disclosure Commission, 711 Capitol Way, Room 403, PO Box 40908, Olympia, WA 98504-0908

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

AMENDATORY SECTION (Amending WSR 92-05-079 [91-14-041], filed 2/18/92 [6/27/91])

PERMANENT

WAC 390-16-308 Identification of source of contribution. Any person who makes a contribution shall inform the candidate or treasurer, at the time the contribution is made, of the true and actual source of funds from which the contribution is made. To identify the source of a contribution received by check or other written instrument in the absence of other information, a candidate or treasurer shall apply the following:

Provided, that in cases where the source of the contribution is known and differs from the guidelines set forth below, the known source of the contribution shall be reported;

Provided further, that contributions made by or through a lobbyist shall identify the true and actual source of the funds for whom the contribution was made.

(1) A contribution drawn upon a single account shall be attributed to the account holder as identified by the name printed on the face of the check or negotiable instrument.

(2) A contribution drawn upon a joint account shall be attributed in equal proportion to each of the account holders as identified by the names printed on the face of the check or negotiable instrument unless the candidate or treasurer is notified in writing that the contribution should be allocated in different proportions.

(3) A contribution made by a sole proprietor or drawn upon the account of a business which is a sole proprietorship shall be attributed to the owner of the business entity.

(4) A contribution drawn upon the account of a partnership shall be attributed to the partnership as a separate entity except that;

Any check drawn upon the partnership account but which is to be paid from the capital account of one or more individual partners shall identify at the time of transmittal to the candidate or treasurer the name(s) of the contributing partner(s) and shall be attributed to the contributing partner(s).

(5) A contribution drawn upon the account of a corporation, attributed to the coproration, union, association or other similar organization as a separate entity except that;

(a) A contribution drawn upon the account of a wholly owned or controlled subsidiary shall identify the name of the parent or controlling corporation and the contribution shall be attributed to the parent or controlling corporation;

(b) A contribution drawn upon the account of a controlled union subdivision shall identify the name of the controlling union and the contribution shall be attributed to the controlling union;

(c) A contribution drawn upon the account of a controlled subdivision of an association or other similar organization shall name the controlling association or other similar organization and the contribution shall be attributed to the controlling association.

(d) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by another entity if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by:

(i) Whether the corporation or organization owns a controlling interest in the voting stock or securities of the subsidiary or subdivision;

(ii) Whether the corporation or organization has the authority or ability to direct or participate in the governance of the subsidiary or subdivision through provisions of constitutions, bylaws, contracts or other rules, or through formal or informal practices or procedures;

(iii) Whether the corporation or organization has the authority or ability to hire, appoint, demote or otherwise control the officers or other decision making employees or members of the subsidiary or subdivision;

(iv) Whether the corporation or organization has common or overlapping membership with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities.

(v) Whether a corporation, organization or entity has common or overlapping members, officers or employees with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities or which indicates the creation of a successor entity;

(vi) Whether the corporation, ((~~or~~)) organization or entity has common or overlapping officers or employees with the subsidiary or subdivision which indicates a formal or ongoing relationship between the two entities;

(vii) Whether the corporation, ((~~or~~)) organization or entity provides funds or goods in a significant amount or on an ongoing basis through direct or indirect payments to the subsidiary or subdivision((~~,~~));

(viii) Whether the corporation, organization or entity causes or arranges for funds in a significant amount or on an ongoing basis to be provided to a subsidiary, subdivision or another entity, but not including the transfer to an organization of its allocated share of proceeds jointly raised;

(ix) Whether the corporation, organization or entity or its agent had an active or significant role in the formation of another corporation, organization or entity;

(x) Whether the corporation, organization or entity has similar patterns of contributions or contributors which indicates a formal or ongoing relationship with the subdivision or subsidiary.

(6) Contributions made by political committees established, financed, maintained, or controlled by any corporation, organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such person, shall be considered to have been made by a single political committee.

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

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

NEW SECTION

WAC 390-18-050 Commerical advertisers; public inspection of records. (1) Pursuant to RCW 42.17.110, any person, without reference to or permission from the Public Disclosure Commission, is entitled to inspect the political advertising records of a commercial advertiser.

(2) No commercial advertiser shall be required to make available for public inspection information regarding political advertising prior to the time when the advertisement has initially received public distribution or broadcast.

(3) The documents and books of account which must be maintained open for public inspection pursuant to RCW 42.17.110 (1)(a), (b) and (c) shall at a minimum include the following information:

(a) The name of the candidate or ballot measure supported or opposed;

(b) The name and address of the person who sponsored the advertising;

(c) The total cost of the advertising, how much of that amount has been paid, who made the payment, when it was paid, and how payment was made;

(d) Date(s) the services of the commercial advertiser was rendered;

(e) RCW 42.17.110 (1)(c) requires the maintenance of records which show the exact nature and extent of services rendered. Sufficient information describing the major work components or tasks which were required to provide the advertising services satisfies this requirement; examples of which include, but are not limited to, the following:

(i) for printers and similar print commercial advertisers: quantity or items, amount of space, item description, design, layout, typesetting, photography, printing, silk screening, bindery;

(ii) for mailing services: quantity of items mailed, bindery or stuffing, labeling, list or directory services, postage or delivery;

(iii) for broadcast media: time or number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, tape reproduction, some type of record or notation evidencing the additional service should be available.

(iv) for billboard or sign companies: number and location of signs, design, printing and art work, erection/ removal costs;

(v) for specialty or novelty commercial advertisers: quantity of items provided, silk screening, design, printing and art work;

(vi) for newspapers and other print media: amount of space and frequency that advertisement is run. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services should be available.

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 93-04-074
PERMANENT RULES
WILDLIFE COMMISSION
[Order 593—Filed January 29, 1993, 4:22 p.m.]

Date of Adoption: January 15, 1993.

Purpose: To adopt WAC 232-12-242 Hunting restrictions.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-242 Hunting restrictions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-081 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chairman

[NEW SECTION]

WAC 232-12-242 Hunting restrictions It shall be unlawful to hunt wildlife, except bear, cougar, mountain goat, mountain sheep, moose, or turkey, during any modern firearm deer or elk season, with any firearm 240 caliber or larger, or containing slugs or buckshot, unless valid license, permits and tags for modern firearm deer or elk seasons are in the hunter's possession.

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

WSR 93-04-075
PERMANENT RULES
WILDLIFE COMMISSION
[Order 592—Filed January 29, 1993, 4:25 p.m.]

Date of Adoption: January 15, 1993.

Purpose: To repeal WAC 232-12-074 Retention of game.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-12-074.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 92-24-080 on December 2, 1992.

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

January 15, 1993
Dean A. Lydig
Chair

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-074 Retention of Game

WSR 93-04-077
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed February 1, 1993, 8:27 a.m.]

Date of Adoption: February 1, 1993.

PERMANENT

Purpose: To explain procedures for obtaining excise tax refunds and interest payment provisions.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-229.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 92-17-029 on August 12, 1992.

Changes Other than Editing from Proposed to Adopted Version: Refund of retail sales tax will be made directly to consumers when seller can not be located by the purchaser, seller is insolvent, seller refuses to make refund. Interest will be computed on credits to the date the credit could reasonably be expected to be used. No additional interest if converted to a refund.

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

February 1, 1993
Russell W. Brubaker
Legislation and Policy Manager

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-229 Refunds. ((~~If upon written application for a refund or an audit of his records, or upon examination of the returns or records of any taxpayer, it is determined by the department of revenue that within the four calendar years immediately preceding the receipt by the department of such an application, or within the four calendar years immediately preceding the completion by the department of such an examination, a tax has been paid in excess of that properly due, the excess amount paid within said period will be credited to the taxpayer's account or will be refunded to him.~~

~~No refund or credit may be made for taxes paid more than four years prior to the beginning of the calendar year in which refund application is made or examination of records by the department is completed.~~

~~Notwithstanding the foregoing limitation, there will be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund or credit is filed with the department within one year of the date that the amount of refund or credit due to the United States is finally determined, and such claim is filed with the department within four years of the date on which the tax was paid. No interest will be allowed on such refunds to said contractors.~~

~~All refunds are made by means of vouchers signed by the taxpayer and approved by the department pursuant to which there is issued to taxpayers state warrants drawn upon and payable from such funds as the legislature may provide.~~

~~Any judgment entered by a court of competent jurisdiction, not appealed from, for recovery of any tax, penalty and interest which were paid by the taxpayer, and costs, shall be paid in like manner, upon the filing with the department of a certified copy of the judgment.~~

~~Interest at the rate of 3% per annum will be allowed by the department and by any court on the amount of any refund allowed to a taxpayer for taxes, penalties or interest paid by him and interest at the same rate is allowed on any judgment recovered by a taxpayer for taxes, penalties or interest paid.~~)) (1) INTRODUCTION. This section explains the procedures relating to refunds or credits for overpayment of taxes, and penalties or interest. It indicates the statutory period for refunds and the interest rate which applies to those refunds.

(2) STATUTE OF LIMITATIONS FOR REFUNDS OR CREDITS.

(a) With the exception of (b) of this subsection, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which a refund or credit application is made or examination of records by the department is completed.

(b) Where a taxpayer has executed a written waiver of the limitations governing assessment under RCW 82.32.050 or 82.32.100, a refund or credit may be granted for taxes, penalties, or interest paid during, or attributable to, the years covered by such waiver if, prior to expiration of the waiver period, an application for a refund or credit of such taxes, penalties, or interest is made by the taxpayer or the department discovers a refund or credit is due. (Refer to WAC 458-20-230 for the circumstances under which the department may request a taxpayer to execute a statute of limitations waiver.)

(3) REFUND/CREDIT PROCEDURES. Refunds are initiated in the following ways:

(a) Departmental review. When the department audits or examines the taxpayer's records and determines the taxpayer has overpaid its taxes, penalties, or interest, the department will issue a refund or a credit, at the taxpayer's option. When overpayments are discovered by the department within the statute of limitations, the taxpayer does not need to file a petition or request for a refund or credit.

(b) Taxpayer request. When a taxpayer discovers that it has overpaid taxes, penalties, or interest, it may file an amended return or a petition for refund or credit with the department. The petition or amended tax return must be submitted within the statute of limitations. Refund or credit requests should generally be made to the division of the department to which payment of the tax, penalty, or interest was originally made. The amended tax returns or petitions are subject to future verification or examination of the taxpayer's records. If it is later determined that the refund or credit exceeded the amount properly due the taxpayer, an assessment may be issued to recover the excess amount, provided the assessment is made within four years of the close of the tax year in which the taxes were due or prior to the expiration of a statute of limitations waiver. The following are examples of refund or credit requests:

(i) A taxpayer discovers in January 1992 that the June 1991 combined excise tax return was prepared using incorrect figures which overstated its sales resulting in an overpayment of tax. The taxpayer files an amended June 1991 tax return with the department's taxpayer account administration division. The department treats the taxpayer's amended June 1991 tax return as a petition for refund or credit of the amounts overpaid during that tax period and may take whatever action it considers appropriate under the circumstances to verify the overpayment.

(ii) A customer of a seller pays retail sales tax on a transaction which the customer later believes was not taxable. The customer should request a refund or credit

directly from the seller from whom the purchase was made. If the seller determines the tax was not due and issues a refund or credit to the customer, the seller may request a refund or credit from the department. It is generally to the advantage of a consumer to seek a refund directly from the seller for retail sales tax believed to have been paid in error. This is because the seller has the source records to know if retail sales tax was collected on the original sale, knows the customer, knows the circumstances surrounding the original sale, is aware of any disputes between itself and the customer concerning the product, may already be aware of the circumstances as to why a refund of sales tax is appropriate such as the return of the merchandise. When in doubt as to whether sales tax should be refunded, a seller may contact the department and request advice. However, in certain situations, upon presentation of acceptable proof of payment of retail sales tax, the department will consider making refunds of retail sales tax directly to consumers. These situations are as follows:

(A) The seller is no longer engaged in business.

(B) The seller has moved and the consumer can not locate the seller.

(C) The seller is insolvent and is financially unable to make the refund.

(D) The consumer has attempted to obtain a refund from the seller and can document that the seller refuses to refund the retail sales tax. However, the department will not consider making refunds directly to consumers when the law leaves it at the discretion of the seller to collect the tax. See, for example, RCW 82.08.0273.

(iii) The department completes an audit of the taxpayer's records relating to taxes reported on combined excise tax returns and an assessment is issued. After the assessment is paid, but within the statute of limitations for refund or credit, the taxpayer locates additional records which would have reduced the tax, penalties, or interest liability if these records had been available in the audit. The taxpayer contacts the department's audit division, requests that a reexamination of the appropriate records be performed, and files a petition for a refund or credit of overpaid amounts. The statute of limitations will be determined based on the date the assessment was paid for an adjustment of taxes, penalties, or interest assessed in the audit. For taxes, penalties, or interest paid through the filing of combined excise tax returns by the taxpayer, the statute of limitations will be based on the date the amounts were paid without regard to when the audit was completed or the assessment was issued.

(c) Taxpayer appeal. If the taxpayer believes that the tax, penalties, or interest overpayment is the result of a difference of legal opinion with the department as to the taxability of a transaction, the application of penalties or the inclusion of interest, the taxpayer may appeal to the department as provided in WAC 458-20-100 or directly to Thurston County superior court.

(d) Court decision. Refunds or credits will be made by the department as required by decisions of any court of competent jurisdiction when the decision of the court is not being appealed.

(i) In the case of court actions regarding refund or credit of retail sales taxes, the department will not require that consumers obtain a refund of retail sales tax directly from the seller if it would be unreasonable and an undue burden on the person seeking the refund to obtain the refund from the seller. In this case the department may make the refunds directly to the claimant and may use the public media to attempt to notify all persons who may be entitled to refunds or credits.

(ii) Forms for applications for refunds for these situations will be available either by mail or at the department's offices and the claimant will need to file an application for refund. The application will request the appropriate information needed to identify the claimant, item purchased, amount of sales tax to be refunded, and the seller. The department may at its discretion request additional documentation which the claimant could reasonably be expected to retain, based on the particular circumstances and value of the transaction. Such refund requests shall be approved or denied within thirty days after all documentation has been submitted by the claimant and legal questions have been resolved. If approved for refund, such refunds shall be made within sixty days after all documentation has been submitted.

(4) PROMPT REFUNDS. Taxpayers may expect refund requests to be processed promptly by the department. Refunds can generally be processed faster if the taxpayer provides the following information at the time a refund application is made:

(a) The taxpayer should include its registration number on all documents.

(b) The taxpayer should include the telephone number and name of the person the department should contact in case the department needs additional information or has questions.

(c) The taxpayer should include a detailed description or explanation of the claimed overpayment.

(d) Amended tax returns or worksheets should be attached to the refund or credit application and clearly identify the tax reporting periods involved.

(e) If the refund or credit request involves a situation where a seller has refunded retail sales tax to a customer and the seller is now seeking a refund or credit of the tax from the department, proof of refund to the customer should be attached.

(f) Generally, refund or credit requests require verification by the department through a review of specific taxpayer records which have a bearing on the refund or credit request. If the refund or credit request relates to a year for which the statute of limitations will expire within a short period, the department may be able to more promptly issue a refund by delaying the verification process until it is more convenient to the taxpayer and/or the department if the taxpayer will execute a statute of limitations waiver.

(5) INTEREST ON REFUNDS OR CREDITS. Interest will be allowed on credits or refunds.

(a) Interest is paid at the rate of three percent per annum for refunds and credits of taxes or penalties which were paid by the taxpayer prior to January 1, 1992.

(b) For amounts overpaid by a taxpayer after December 31, 1991, the rate of interest on refunds and credits is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus one percentage point. The rate will be adjusted on the first day of January of each year 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 Treasury.

(c) The department will include interest on credit notices with the interest computed to the date the taxpayer could reasonably be expected to use the credit notice, generally the due date of the next tax return.

(d) If a taxpayer requests that a credit notice be converted to a refund, interest will be recomputed to the date the refund (warrant) is issued, but not to exceed the interest which would have been granted through the credit notice.

(6) OFFSETTING OVERPAYMENTS AGAINST DEFICIENCIES. The department may apply overpayments against existing deficiencies/assessments for the same legal entity. However, a potential deficiency which is yet to be determined will not be reason to delay the processing of an overpayment where an overpayment has been conclusively determined. The following examples illustrate the use of offsets:

(a) The taxpayer's records are audited for the period 1988 through 1991. The audit disclosed underpayments in 1989 and overpayments in 1991. The department will apply the overpayments in 1991 to the deficiencies in 1989. The resulting amount will indicate whether a refund or credit is owed the taxpayer or whether the taxpayer owes additional amounts.

(b) The department has determined that the taxpayer has overpaid its real estate excise tax in 1991. The department believes that the taxpayer may owe additional B&O taxes, but this has yet to be established. The department will not delay the processing of the refund of the real estate excise tax while it proceeds with scheduling and performing of an audit for the B&O taxes.

(c) The department simultaneously performed a timber tax audit and a B&O tax audit of a taxpayer. The department determined that the taxpayer underpaid its B&O tax and overpaid its timber tax. Separate assessments were issued on the same date, one showing additional taxes due and the other overpayments. The department may offset the overpayment against the tax deficiency assessment since both the underpayment and overpayment have been established.

WSR 93-04-080
PERMANENT RULES
DEPARTMENT OF HEALTH
[Order 331B—Filed February 1, 1993, 3:50 p.m.]

Date of Adoption: January 21, 1993.

Purpose: Establish the criteria for the impaired practical nurse program and initiates a per license funding base to administer the program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-838-120.

Statutory Authority for Adoption: RCW 18.130.175 and 18.78.050.

Pursuant to notice filed as WSR 92-20-098 on October 6, 1992.

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

January 25, 1993
Susan L. Boots, RN, MN
Executive Secretary
Board of Practical Nursing

AMENDATORY SECTION (Amending Order 175B, filed 6/11/91, effective 7/12/91)

WAC 246-838-120 Renewal of licenses. (1) Individuals making applications for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their birth anniversary date.

(2) Individuals making application for initial license with the state of Washington under the interstate endorsement regulations, provided they meet all such requirements, will be issued a license, to expire on their birth anniversary date.

(3) Issuance of license - Licensed practical nurses who complete the renewal application accurately, are practicing practical nursing in compliance with the law, and pay the renewal fee and surcharge fee as stated in WAC 246-838-330 and 246-838-990, shall be issued a license to practice. Should the licensee fail to renew his or her license prior to the expiration date, the individual is subject to the penalty fee as stated in RCW 18.78.090. If the licensee fails to renew the license within one year from date of expiration, application for renewal of license shall be made under statutory conditions then in force.

(4) A license, active or inactive, that is not renewed is considered lapsed. If the licensee fails to renew the license within three years from the expiration date, the individual must also meet the requirements of WAC 246-838-130.

(5) Illegal practice - Any person practicing as a licensed practical nurse during the time that such individual's license is inactive or has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violators under the provisions of RCW 18.130.190.

(6) It is the licensee's responsibility to inform the board of changes of address.

NEW SECTION

WAC 246-838-330 Impaired practical nurse program—Content—License surcharge. (1) To implement an impaired practical nurse program as authorized by RCW 18.130.175, the board of practical nursing shall enter into a contract with a voluntary substance abuse monitoring program. The impaired practical nurse program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired practical nurses to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired practical nurses including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired practical nurses; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to four dollars on each active license renewal to be collected by the department of health from each practical nurse licensed under chapter 18.78 RCW. These moneys shall be placed in

the health professions account to be used solely for the implementation of the impaired practical nurse program.

WSR 93-04-081
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Physical Therapy)
[Order 328B—Filed February 1, 1993, 3:53 p.m.]

Date of Adoption: November 16, 1992.

Purpose: To clarify renewal requirements; to establish additional requirements for graduates of unapproved schools; and to establish limits pertaining to the number of times an examination can be retaken.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-020, 246-915-080, and 246-915-120.

Statutory Authority for Adoption: RCW 18.74.023.

Pursuant to notice filed as WSR 92-20-099 on October 6, 1992.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-915-085, 246-915-140, and 245-915-145 are being withdrawn and will be proposed again later this year.

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

January 11, 1993
Christine Larson
Chair

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-020 Examinations—When held. (1) Examinations of applicants for licensure as physical therapists shall be held at least twice a year at the time and location prescribed by the board.

(2) Physical therapy students in their last year may apply for licensure by examination prior to graduation under the following circumstances:

(a) Receipt of a letter from an official, of their physical therapy school, verifying the probability of graduation prior to the date of the examination for which they are applying.

(b) Results of the examination will be withheld until a diploma, official transcript or certification letter from the registrar's office certifying completion of all requirements for degree or certificate in physical therapy is received by the department.

(3) Applicants who do not pass the examination after two attempts shall demonstrate evidence satisfactory to the board of having successfully completed clinical training and/or coursework as determined by the board before being permitted two additional attempts.

AMENDATORY SECTION (Amending Order 144B, filed 2/20/91, effective 3/23/91)

WAC 246-915-080 Renewal of license. (1) The annual license renewal date for physical therapists shall coincide with the licensee's birthdate. Individuals making application for initial license and examination, provided they meet all such requirements, will be issued a license to expire on their next birth anniversary date.

(2) Licensees shall, in addition to the annual renewal fee, submit all required information on forms provided by the department.

(3) Licensees are responsible for annual renewal of a license whether or not they receive notification from the department.

AMENDATORY SECTION (Amending Order 259B, filed 3/24/92, effective 4/24/92)

WAC 246-915-120 Applicants from unapproved schools. Applicants who have not graduated from a physical therapy program approved by the board must have a valid, unencumbered license or be licensed or authorized to practice in the country in which the physical therapy education was obtained and must submit an application for review by the board. Supporting documentation will include but not be limited to:

(1) Official transcript from the physical therapy program showing degree date;

(2) Evaluation report of transcripts from a credentialing service recognized by the board. If the qualifications are substantially equal to those required of graduates of board approved schools the applicant will be eligible to write the examination being administered in Washington: *Provided,* If the applicant has taken the examination recognized by the board in another state or territory, or District of Columbia and the scores reported meet Washington requirements, such applicant may be exempted from the examination in Washington at the discretion of the board; ((~~and~~))

(3) If English is neither the national language nor the language of training, documentation must also include:

(a) Verification of having achieved a score of not less than five hundred fifty on the test of English as a foreign language (TOEFL); and

(b) Verification of having achieved a score of not less than two hundred thirty on the test of spoken English (TSE); and

(4) Verification of a valid, unencumbered license from the country in which the physical therapy education was obtained.

WSR 93-04-086
PERMANENT RULES
PUGET SOUND
AIR POLLUTION CONTROL AGENCY
[Filed February 1, 1993, 4:22 p.m.]

Date of Adoption: January 14, 1993.

Purpose: To provide for variances and emergency waivers from outdoor burning regulation and to delegate to the air pollution control officer the authority to conduct fact-finding hearings for these variances.

Citation of Existing Rules Affected by this Order: Amending Regulation I, Section 4.02.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 92-22-079 on November 2, 1992.

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

January 29, 1993
James Nolan
Director - Compliance

AMENDATORY SECTION

SECTION ((~~4.02~~)) 4.03 FILING FEES

(a) A fee of $1,000.00 shall be paid to the Agency upon the filing of any variance application ((~~with the Agency~~)) considered under Section 4.01 of Regulation I.

(b) The property owner or agent claiming an emergency under Section 4.02(b) shall pay all costs associated with any legal notice upon being invoiced by the Agency.

(c) A fee of $25.00 shall be paid to the Agency upon the filing of any variance application for fires described in Section 8.02 (c)(4) of Regulation I which would be on property of at least 5 contiguous acres which are not within the anticipated county urban growth area. The applicant shall also pay all costs associated with any legal notice upon being invoiced by the Agency.

(d) A fee of $1,000.00 shall be paid to the Agency upon the filing of any variance application for fires other than those described in Section 4.03(c) of Regulation I. The applicant shall also pay all costs associated with any legal notice upon being invoiced by the Agency.

NEW SECTION

SECTION 4.02 VARIANCES FROM SECTION 8.03 OF REGULATION I

(a) Any person who owns or is in control of any material subject to Section 8.03 of Regulation I may apply to the Agency for a variance from said regulation. The application shall be accompanied by such information as the Agency may require.

(b) The Control Officer may waive Section 8.03 of Regulation I for emergency situations (such as earthquakes, floods, or other unforeseen catastrophic situations) if all other alternatives for disposal of the material would pose a greater danger to public health and safety or the environment than burning. The Air Pollution Control Officer shall consult with the local jurisdictions to determine the necessity for the waiver and geographic extent of the emergency. Notice of the approval shall be published in a local general circulation newspaper and anyone aggrieved by the decision, may within 10 days of the publication, appeal the action to the Board.

(c) For outdoor burning variance applications, the Air Pollution Control Officer is directed by the Board to conduct a fact-finding public hearing, upon due notice being published and sent to all interested parties within 500 feet of the property on which the burning is proposed to occur. The Air Pollution Control Officer can require notice to parties beyond 500 feet if deemed necessary. The Air Pollution Control Officer shall make written findings and forward same with a recommended decision to the Board. The Board shall enter its decision at a regular public meeting.

(d) In addition to the criteria provided by state and federal statutes, the Air Pollution Control Officer may consider the following additional factors in making findings on a variance request:

(1) Unusual individual sites, such as those that are bisected by the no-burn boundary; and

(2) Unusual economic factors, such as extremely high costs for recycling or hauling, that are attributable to some site-specific condition; and

(3) Whether burning in place would be of lower risk or harm to the environment than either removal or reduction in place (chipping, composting, or decay) in such areas as drainages, steep slopes, beaches, and other inaccessible points.

(e) No variance application under Section 4.02(c) will be considered complete unless the applicant provides:

(1) A list of interested parties and neighbors within 500 feet or more of the property on which the burning is proposed to occur as deemed necessary by the Air Pollution Control Officer; and

(2) Written estimates of the cost of removing, recycling, or reducing the material in place versus burning the material.

(f) All hearings held under Section 4.02(c) shall be conducted in accordance with the Rules of Evidence as set forth in RCW 34.05.100 as now or hereafter amended.

WSR 93-04-100
PERMANENT RULES
APPRENTICESHIP AND TRAINING COUNCIL
[Filed February 2, 1993, 3:00 p.m.]

Date of Adoption: February 2, 1993.

Purpose: Establishes guidelines for the approval and operation of apprenticeship committees and for the approval of on-the-job training programs.

Citation of Existing Rules Affected by this Order: Amending WAC 296-04-270 and 296-04-280.

Statutory Authority for Adoption: RCW 49.04.010.

Pursuant to notice filed as WSR 92-24-002 on November 20, 1992.

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

February 1, 1993
Jesse D. Lill
Chairman

AMENDATORY SECTION (Amending WSR 90-10-020, filed 4/23/90, effective 5/24/90)

WAC 296-04-270 Apprenticeship agreements—Types—Standards—Registration, review, cancellation, reregistration—Certificate of completion. (1) The following apprenticeship agreements shall be recognized pursuant to RCW 49.04.060:

(a) A written agreement between an association of employers and an organization of employees describing the conditions of training for apprentices.

(b) A written statement of an employer or a written agreement between an employer and an employee organization describing the conditions of training apprentices. The former agreement shall be recognized only if there is no bona fide employee organization in the plant affected by the agreement.

(c) A written agreement between an employer and an individual apprentice describing the conditions of apprenticeship.

(2) Apprenticeship agreements shall conform to the following standards:

(a) Committee programs, plant programs, and on-the-job training programs must contain the provisions required by RCW 49.04.050 and, in addition, shall contain:

(i) Provision for nondiscrimination in the selection of apprentices in substantially the following form:

Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge: "The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington state apprenticeship and training council and Title 29, Part 30 of the Code of Federal Regulations."

(ii) Provision that there shall be no discrimination on the basis of race, color, creed, sex, or national origin after selection during all phases of employment during apprenticeship.

(iii) Provision that adequate records of the selection process must be kept for a period of at least five years and will be made available to the council or its designated representative on request. Such records must include a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.

(iv) Provision for local committee rules and regulations consistent with these rules and the applicable apprenticeship agreement.

(b) Any proposed standards for apprenticeship must be consistent with any standards for apprenticeship already approved by the council for the industry, craft or trade in question to the end that there is general statewide uniformity of such standards in each industry, trade or craft. Proposed standards shall be considered consistent if they are designed to achieve the same levels of skills as existing standards within the state for that industry, trade, or craft.

(c) ((~~The~~)) Shall contain a statement of the progressively increasing scale of wages((~~, RCW 49.04.050(5), shall provide for a set percentage of a specified journeyman wage. In no event shall the specified journeyman wage from which the apprentice's percentages are computed fall below eighty percent of the established prevailing basic wage computed by the industrial statistician of the department of labor and industries pursuant to chapter 39.12 RCW. Where the department of labor and industries has not computed such a prevailing basic wage, the prevailing basic wage for the craft for the area set by the United States Department of Labor pursuant to the Davis-Bacon Act, 40 USC § 276, may be used~~)).

(d) A sample apprenticeship agreement which the council approves is available on request from the supervisor.

(3) Registration, review, cancellation, reregistration.

(a) All individual agreements shall be registered with the supervisor and subject to his approval.

(b) The supervisor and his staff, in the performance of their field work, shall conduct a systematic review of all plant and committee programs and shall take appropriate action, including recommendation of cancellation, when they find that any program is not being operated according to these rules and regulations or according to its applicable standards.

(c) When any program is found to be operating in a manner inconsistent with or contrary to these rules and regulations or its established plant or committee program, the supervisor shall notify the offending committee, person, firm or agency of the violation. If the supervisor does not receive notice, within 60 days, of action taken to correct such violations, the supervisor may take whatever action he deems necessary, including recommendation of cancellation of the apprenticeship or training program and agreement to the council.

(d) If the supervisor deems it necessary to recommend cancellation of an apprenticeship or training program, he shall do so in writing to each council member, stating in detail the reasons for his recommendation. A copy of said recommendation shall be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for said program, together with notice that the council shall consider the recommendation at its next regularly scheduled meeting more than 30 days subsequent to the date of the recommendation and that all interested persons may present evidence or testimony regarding said recommendation. The council shall decide the question before it upon majority vote of the members present and voting and shall notify all interested parties of its decision, together with the reasons for it, in writing.

(e) The cancellation of any program or agreement shall automatically effect a cancellation of any agreement registered thereunder, provided that any organization or firm not responsible for the violations causing the cancellation may petition the council for approval of such cancelled agreement or program as a new program.

(f) Certificates of completion shall be issued at the request of the appropriate committee. An affidavit of the secretary of the committee concerned shall accompany the request, which affidavit shall state that the apprentice has successfully completed the apprenticeship program of that committee, and that he has been an active, registered participant of that committee's program for at least six months.

AMENDATORY SECTION (Amending Order 76-4, filed 2/20/76)

WAC 296-04-280 On-the-job training programs. (1) Training programs may be set up in the same manner as apprenticeship programs, with any exceptions authorized by the council provided that no on-the-job training program shall be established or authorized where there is a parallel apprenticeship program in existence. A training program shall be any program which requires ((~~4,000~~)) 2,000 or less hours of employment for completion. All of these rules shall apply to them as to apprenticeship agreements and programs, except that they will be approved by the supervisor subject to the review of the council.

(2) A pattern standard for ((~~a trainee~~)) an on-the-job training program is available from the supervisor on request.

PERMANENT

PERMANENT

WSR 93-04-105
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 91-55—Filed February 3, 1993, 8:19 a.m.]

Date of Adoption: February 2, 1993.

Purpose: The purpose of the amendments to the administrative code is to comply with the new Clean Air Washington amendments.

Citation of Existing Rules Affected by this Order: Amending WAC 173-433-100, 173-433-110, and 173-433-170.

Statutory Authority for Adoption: Chapter 70.94 RCW and 501-506 ESHB 1028 (1991).

Pursuant to notice filed as WSR 92-21-083 on October 21, 1992.

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

February 2, 1993
Terry Husseman
Acting Director

AMENDATORY SECTION (Amending Order 90-58, filed 3/20/91, effective 4/20/91)

WAC 173-433-100 Emission performance standards. (1) Woodstoves ((~~sales~~)). On or before January 1, 1995, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new woodstove in Washington unless it has been tested to determine its emission performance and heating efficiency and certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990. After January 1, 1995, woodstove sales shall comply with the requirements of subsection (3) of this section, Solid fuel burning devices.

(2) Fireplaces. After January 1, 1997, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory built fireplace unless it meets the 1990 United States Environmental Protection Agency standards for woodstoves or equivalent standard that may be established by the state building code council by rule. Subsection (3) of this section shall not apply to fireplaces, including factory built fireplaces, and masonry fireplaces.

(3) Solid fuel burning devices. After January 1, 1995, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a solid fuel burning device in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990, and meets the following particulate air contaminant emission standards and the test methodology of the United States Environmental Protection Agency in effect on January 1, 1991, or an equivalent standard under any test methodology adopted by the United States Environmental Protection Agency subsequent to such date:

(a) Two and one-half grams per hour for catalytic woodstoves; and

(b) Four and one-half grams per hour for all other solid fuel burning devices.

(c) For purposes of this subsection, "equivalent" shall mean the emissions limits specified in this subsection multiplied by a statistically reliable conversion factor determined by ecology that relates the emission test results from the methodology established by the United States Environmental Protection Agency prior to May 15, 1991, to the test results from the methodology subsequently adopted by that agency.

AMENDATORY SECTION (Amending Order 90-58, filed 3/20/91, effective 4/20/91)

WAC 173-433-110 Opacity standards. (1) A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.

(2) State-wide opacity standard. An authority shall not adopt or enforce an opacity level for solid fuel burning devices that is more stringent than the state-wide standard.

(3) Test method and procedures. Methods and procedures specified by the EPA in "40 CFR 60 Appendix A reference method 9 - VISUAL DETERMINATION OF THE OPACITY OF EMISSIONS FROM STATIONARY SOURCES" as amended through July 1, 1990, shall be used to determine compliance with subsection (1) of this section.

(4) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall:

(a) Be enforceable on a complaint basis.

(b) Not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

(5) Education. Any person or retailer providing information on the operation of solid fuel burning devices, such as brochures, demonstrations, and public education programs, should include information that opacity levels of ten percent or less are attainable through proper operation.

AMENDATORY SECTION (Amending Order 90-58, filed 3/20/91, effective 4/20/91)

WAC 173-433-170 Retail sales fee. (1) A person selling a solid fuel burning device at retail shall collect a fee from the buyer, pursuant to RCW 70.94.483.

(2) The fee shall be:

(a) Set at a minimum of ((~~fifteen dollars, until January 1, 1991~~)) thirty dollars on January 1, 1992. Thereafter, ecology may annually ((~~increase~~)) adjust the fee ((~~according to changes in the consumer price index;~~)) to account for inflation as determined by the office of the state economic and revenue forecast council. Adjustments in the fee should be rounded down to the nearest dollar.

(b) Applicable to all new and used solid fuel burning devices((~~, with the exception of built in masonry fireplaces;~~)).

(c) Procedures for masonry fireplaces. Generally, contractors will collect, pay, and report the fee to the department of revenue on the Combined Excise Tax return for the tax reporting period during which the retail sales tax is billed to the customer for the construction of the masonry fireplace. (See WAC 458-20-170 for a detailed explanation.)

Collection and payment of the fee by contractors shall be in accordance with the following:

(i) A masonry contractor or other subcontractor who builds a masonry fireplace. The retail sale occurs at the time the general or prime contractor or customer is billed for the work. The masonry contractor or other subcontractor must collect the fee and pay it to the department of revenue, unless the masonry contractor or other subcontractor has received a resale certificate from the general or prime contractor. The fee shall be reported on the Combined Excise Tax return.

(ii) A general or prime contractor building a custom building. The retail sale occurs at the time the customer is billed for the construction. The fee is charged and reported with the first progress payment after the masonry fireplace has been substantially completed. If a general or prime contractor subcontracts the work on a custom building to a masonry or other contractor, the general or prime contractor may give the masonry or other subcontractor a resale certificate. The general or prime contractor is responsible to collect the fee and pay it to the department of revenue. The fee is reported on the Combined Excise Tax return.

(iii) A general or prime contractor building a speculation building. The fee is required to be paid at the time the fireplace is complete. The fee must be reported to the department of revenue on a Combined Excise Tax return and paid to the department of revenue. If the prime or general contractor subcontracts the building of the masonry fireplace to a masonry contractor or other subcontractor, the general or prime contractor may not give a resale certificate to the masonry or other subcontractor. The masonry or other subcontractor must collect and pay the fee to the department of revenue as provided in (c)(i) of this subsection.

(d) Procedures for all other solid fuel burning devices. Collected by the retailer at the time of sale and remitted to the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.

(3) If the retailer or contractor fails to collect and remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the retailer or contractor shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.

(4) Beginning July 1, 1990, and each calendar quarter thereafter, the funds collected under RCW 70.94.483 shall be used solely for the purposes of public education and enforcement of the solid fuel burning device program. The department shall distribute the funds from the woodstove education and enforcement account as follows:

(a) Sixty-six percent of the funds shall be distributed to those local air authorities with enforcement programs, based upon the fraction of the total state population residing in the counties within their respective jurisdictions. Population figures used to establish this fraction shall be determined by the office of financial management. Where an activated local air authority does not exist or does not implement an enforcement program, or elects not to receive the funds, ecology shall retain the funds that would otherwise be distributed under this subsection; and

(b) Thirty-four percent of the funds shall be distributed to ecology for the purposes of enforcement and educating the public about:

(i) The effects of solid fuel burning device emissions upon health and air quality; and

(ii) Methods of achieving better efficiency and emission performance from solid fuel burning devices.

WSR 93-04-106
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 92-48—Filed February 3, 1993, 8:22 a.m.]

Date of Adoption: February 2, 1993.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-2521.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Management Act of 1971.

Pursuant to notice filed as WSR 92-20-087 on October 6, 1992.

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

February 2, 1993
Terry Husseman
Acting Director

AMENDATORY SECTION (Amending Order 92-15, filed 9/16/92, effective 10/17/92)

WAC 173-19-2521 Seattle, city of. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. Revision approved October 20, 1986. Revision approved February 11, 1987. Revision approved November 10, 1987. Revision approved October 2, 1990. Revision approved September 16, 1992. Revision approved February 2, 1993.

WSR 93-04-111
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Order 92-15—Filed February 3, 1993, 10:20 a.m., effective March 15, 1993]

Date of Adoption: February 3, 1993.

Purpose: Chapter 296-62 WAC, General occupational health standards, federal-initiated proposed new sections are made to be at-least-as-effective-as the federal final rules published in Federal Register, Volume 57, Number 154, dated August 10, 1992. The proposed rules, relating to occupational exposure to 4,4' Methylenedianiline (MDA), impose a permissible exposure limit of 10 parts per billion (ppb) for an eight hour time weighted average (TWA), and a short term exposure limit (STEL) of 100 part per billion. The proposed rules also includes requirements for medical surveillance, exposure monitoring, hygiene facilities, engineering controls and work practices, medical removal and

medical removal protection benefits. The state standard is substantial identical to the federal final rule. However, the sampling procedures in Appendix D were reviewed by the Department of Labor and Industries laboratory and were found to be incorrect. OSHA used a Tracor 222 Gas chromatograph for their analytical procedures. Washington uses a Hewlett Packard 5880 Gas chromatograph. Therefore, it was necessary for the state to change the analytical procedures to reflect the Hewlett Packard procedures; chapter 296-155 WAC, Safety standards for construction work, federal-initiated proposed new sections are made to be at-least-as-effective-as the federal final rules published in Federal Register, Volume 57, Number 154, dated August 10, 1992. The proposed rules, relating to occupational exposure to 4,4' Methylenedianiline (MDA), impose a permissible exposure limit of 10 parts per billion (ppb) for an eight hour time weighted average (TWA), and a short term exposure limit (STEL) of 100 parts per billion. The proposed rules also includes requirements for medical surveillance, exposure monitoring, hygiene facilities, engineering controls and work practices, medical removal and medical removal protection benefits. The state standard is substantial identical to the federal final rule. However, the sampling procedures in Appendix D were reviewed by the Department of Labor and Industries laboratory and were found to be incorrect. OSHA used a Tracor 222 Gas chromatograph for their analytical procedures. Washington uses a Hewlett Packard 5880 Gas chromatograph. Therefore, it was necessary for the state to change the analytical procedures to reflect the Hewlett Packard procedures. State-initiated proposed amendment to WAC 296-155-375 is made to be identical to the federal rule. This proposed amendment is made to incorporate a rule erroneously omitted from the section. The inserted text is identical to 29 Code of Federal Regulations 1926.305(c); and chapter 296-304 WAC, Ship repairing, shipbuilding and shipbreaking, federal-initiated proposed amendment is made to WAC 296-304-020 Explosive and other dangerous atmospheres—Scope and application, to be at-least-as-effective-as the federal final rule published in Federal Register, Volume 57, Number 154, dated August 10, 1992. The proposed change adds a reference to the new sections relating to MDA in chapter 296-62 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 296-155-375 Jacks-lever and ratchet, screw, and hydraulic; and 296-304-020 Explosive and other dangerous atmospheres—Scope and application.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Pursuant to notice filed as WSR 92-23-066 on November 18, 1992.

Changes Other than Editing from Proposed to Adopted Version: Adopted as proposed.

Effective Date of Rule: March 15, 1993.

February 3, 1993
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

WAC 296-155-375 Jacks—Lever and ratchet, screw, and hydraulic. General requirements.

(1) The manufacturer's rated capacity shall be legibly marked on all jacks and this capacity shall not be exceeded.

(2) All jacks shall have a positive stop to prevent overtravel.

(3) Specially designed jacks constructed for specific purposes shall meet the approval of the division of Industrial Safety and Health before being placed in service.

(4) Control parts shall be so designed that the operator will not be subjected to hazard.

(5) Blocking. When it is necessary to provide a firm foundation, the base of the jack shall be blocked or cribbed. Where there is a possibility of slippage of the metal cap of the jack, a wood block shall be placed between the cap and the load.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-020 Explosive and other dangerous atmospheres—Scope and application. All sections of this chapter which include WAC 296-304-020 in the section number apply to explosive and other dangerous atmospheres.

(1) WAC 296-304-02003 to 296-304-02009 applies to ship repairing and shipbreaking.

(2) WAC 296-304-02011 applies to ship repairing.

(3) WAC 296-62-076 through 296-62-07672, relating to 4,4' Methylenedianiline (MDA) shall apply to every employee in every employment and place of employment covered by this chapter, in lieu of any different standard on exposure to MDA which would otherwise be applicable by virtue of those sections.

NEW SECTION

WAC 296-62-076 Methylenedianiline.

NEW SECTION

WAC 296-62-07601 Scope and application. (1) WAC 296-62-076 applies to all occupational exposures to MDA, Chemical Abstracts Service Registry No. 101-77-9, except as provided in subsections (2) through (7) of this section.

(2) Except as provided in subsection (8) of this section and WAC 296-62-07609(5), this section does not apply to the processing, use, and handling of products containing MDA where initial monitoring indicates that the product is not capable of releasing MDA in excess of the action level under the expected conditions of processing, use, and handling which will cause the greatest possible release; and where no "dermal exposure to MDA" can occur.

(3) Except as provided in subsection (8) of this section, WAC 296-62-076 does not apply to the processing, use, and handling of products containing MDA where objective data are reasonably relied upon which demonstrate the product is not capable of releasing MDA under the expected conditions of processing, use, and handling which will cause the greatest possible release; and where no "dermal exposure to MDA" can occur.

(4) WAC 296-62-076 does not apply to the storage, transportation, distribution, or sale of MDA in intact containers sealed in such a manner as to contain the MDA dusts,

vapors, or liquids, except for the provisions of WAC 296-62-054 and 296-62-07607.

(5) WAC 296-62-076 does not apply to the construction industry as defined in WAC 296-155-012(6). (Exposure to MDA in the construction industry is covered by WAC 296-155-173.)

(6) Except as provided in subsection (8) of this section, WAC 296-62-076 does not apply to materials in any form which contain less than 0.1% MDA by weight or volume.

(7) Except as provided in subsection (8) of this section, WAC 296-62-076 does not apply to "finished articles containing MDA."

(8) Where products containing MDA are exempted under subsections (2) through (7) of this section, the employer shall maintain records of the initial monitoring results or objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in the recordkeeping provision of WAC 296-62-07631.

NEW SECTION

WAC 296-62-07603 Definitions. For the purpose of WAC 296-62-076, the following definitions shall apply:

(1) "Action level" means a concentration of airborne MDA of 5 ppb as an 8-hour time-weighted average.

(2) "Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees, for the purpose of exercising the right to observe monitoring and measuring procedures under WAC 296-62-07633 of WAC 296-62-076, or any other person authorized by WISHA or regulations issued by WISHA.

(3) "Container" means any barrel, bottle, can, cylinder, drum, reaction vessel, storage tank, commercial packaging, or the like, but does not include piping systems.

(4) "Dermal exposure to MDA" occurs where employees are engaged in the handling, application, or use of mixtures or materials containing MDA, with any of the following nonairborne forms of MDA:

(a) Liquid, powdered, granular, or flaked mixtures containing MDA in concentrations greater than 0.1% by weight or volume; and

(b) Materials other than "finished articles" containing MDA in concentrations greater than 0.1% by weight or volume.

(5) "Director" means the director of the department of labor and industries, or his/her designated representative.

(6) "Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which results in an unexpected and potentially hazardous release of MDA.

(7) "Employee exposure" means exposure to MDA which would occur if the employee were not using respirators or protective work clothing and equipment.

(8) "Finished article containing MDA" is defined as a manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use function(s) dependent in whole or part upon its shape or design during end use; and

(c) Where applicable, is an item which is fully cured by virtue of having been subjected to the conditions (temperature, time) necessary to complete the desired chemical reaction.

(9) "4,4' methylenedianiline" or "MDA" means the chemical 4,4'- diaminodiphenylmethane, Chemical Abstract Service Registry number 101-77-9, in the form of a vapor, liquid, or solid. The definition also includes the salts of MDA.

(10) "Regulated areas" means areas where airborne concentrations of MDA exceed or can reasonably be expected to exceed, the permissible exposure limits, or where dermal exposure to MDA can occur.

(11) "STEL" means short-term exposure limit as determined by any 15 minute sample period.

NEW SECTION

WAC 296-62-07605 Permissible exposure limits (PEL). The employer shall assure that no employee is exposed to an airborne concentration of MDA in excess of ten parts per billion (10 ppb) as an 8-hour time-weighted average or a STEL of 100 ppb.

NEW SECTION

WAC 296-62-07607 Emergency situations. (1) Written plan.

(a) A written plan for emergency situations shall be developed for each workplace where there is a possibility of an emergency. Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped with the appropriate personal protective equipment and clothing as required in WAC 296-62-07615 and 296-62-07617 until the emergency is abated.

(c) The plan shall specifically include provisions for alerting and evacuating affected employees as well as the elements prescribed in chapter 296-24 WAC, Part G-1, "Employee emergency plans and fire prevention plans."

(2) Alerting employees. Where there is the possibility of employee exposure to MDA due to an emergency, means shall be developed to alert promptly those employees who have the potential to be directly exposed. Affected employees not engaged in correcting emergency conditions shall be evacuated immediately in the event that an emergency occurs. Means shall also be developed and implemented for alerting other employees who may be exposed as a result of the emergency.

NEW SECTION

WAC 296-62-07609 Exposure monitoring. (1) General.

(a) Determinations of employee exposure shall be made from breathing zone air samples that are representative of each employee's exposure to airborne MDA over an 8-hour period. Determination of employee exposure to the STEL shall be made from breathing zone air samples collected over a 15 minute sampling period.

(b) Representative employee exposure shall be determined on the basis of one or more samples representing full

PERMANENT

shift exposure for each shift for each job classification in each work area where exposure to MDA may occur.

(c) Where the employer can document that exposure levels are equivalent for similar operations in different work shifts, the employer shall only be required to determine representative employee exposure for that operation during one shift.

(2) Initial monitoring. Each employer who has a workplace or work operation covered by this standard shall perform initial monitoring to determine accurately the airborne concentrations of MDA to which employees may be exposed.

(3) Periodic monitoring and monitoring frequency.

(a) If the monitoring required by subsection (2) of this section reveals employee exposure at or above the action level, but at or below the PELs, the employer shall repeat such representative monitoring for each such employee at least every six months.

(b) If the monitoring required by subsection (2) of this section reveals employee exposure above the PELs, the employer shall repeat such monitoring for each such employee at least every three months.

(c) The employer may alter the monitoring schedule from every three months to every six months for any employee for whom two consecutive measurements taken at least 7 days apart indicate that the employee exposure has decreased to below the TWA but above the action level.

(4) Termination of monitoring.

(a) If the initial monitoring required by subsection (2) of this section reveals employee exposure to be below the action level, the employer may discontinue the monitoring for that employee, except as otherwise required by subsection (5) of this section.

(b) If the periodic monitoring required by subsection (3) of this section reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level the employer may discontinue the monitoring for that employee, except as otherwise required by subsection (5) of this section.

(5) Additional monitoring. The employer shall institute the exposure monitoring required under subsections (2) and (3) of this section when there has been a change in production process, chemicals present, control equipment, personnel, or work practices which may result in new or additional exposures to MDA, or when the employer has any reason to suspect a change which may result in new or additional exposures.

(6) Accuracy of monitoring. Monitoring shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of MDA.

(7) Employee notification of monitoring results.

(a) The employer shall, within 15 working days after the receipt of the results of any monitoring performed under this standard, notify each employee of these results, in writing, either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by subdivision (a) of this subsection shall contain the corrective action being taken by the employer to reduce the employee exposure to or below the PELs, wherever the PELs are exceeded.

(8) Visual monitoring. The employer shall make routine inspections of employee hands, face, and forearms potentially exposed to MDA. Other potential dermal exposures reported by the employee must be referred to the appropriate medical personnel for observation. If the employer determines that the employee has been exposed to MDA the employer shall:

(a) Determine the source of exposure;

(b) Implement protective measures to correct the hazard; and

(c) Maintain records of the corrective actions in accordance with WAC 296-62-07631.

NEW SECTION

WAC 296-62-07611 Regulated areas. (1) Establishment.

(a) Airborne exposures. The employer shall establish regulated areas where airborne concentrations of MDA exceed or can reasonably be expected to exceed, the permissible exposure limits.

(b) Dermal exposures. Where employees are subject to dermal exposure to MDA the employer shall establish those work areas as regulated areas.

(2) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in a manner that minimizes the number of persons potentially exposed.

(3) Access. Access to regulated areas shall be limited to authorized persons.

(4) Personal protective equipment and clothing. Each person entering a regulated area shall be supplied with, and required to use, the appropriate personal protective clothing and equipment in accordance with WAC 296-62-07615 and 296-62-07617.

(5) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas.

NEW SECTION

WAC 296-62-07613 Methods of compliance. (1) Engineering controls and work practices.

(a) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to MDA at or below the PELs except to the extent that the employer can establish that these controls are not feasible or where the provisions of subdivision (b) of this subsection or WAC 296-62-07615(1) apply.

(b) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the PELs, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protective devices which comply with the requirements of WAC 296-62-07615.

(2) Compliance program.

(a) The employer shall establish and implement a written program to reduce employee exposure to or below the PELs by means of engineering and work practice controls, as required by subsection (1) of this section, and by use of respiratory protection where permitted under WAC 296-62-076. The program shall include a schedule for periodic maintenance (e.g., leak detection) and shall include the written plan for emergency situations as specified in WAC 296-62-07607.

(b) Upon request this written program shall be furnished for examination and copying to the director, affected employees, and designated employee representatives. The employer shall review and, as necessary, update such plans at least once every 12 months to make certain they reflect the current status of the program.

(3) Employee rotation. Employee rotation shall not be permitted as a means of reducing exposure.

NEW SECTION

WAC 296-62-07615 Respiratory protection. (1) General. The employer shall provide respirators, and ensure that they are used, where required by this section. Respirators shall be used in the following circumstances:

(a) During the time period necessary to install or implement feasible engineering and work practice controls;

(b) In work operations for which the employer establishes that engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the PEL; and

(d) In emergencies.

(2) Respirator selection.

(a) Where respirators are required or allowed under WAC 296-62-076, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall assure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health under the provisions of 30 C.F.R. Part 11 and Part E of this chapter.

(c) Any employee who cannot wear a negative pressure respirator shall be given the option of wearing a positive pressure respirator or any supplied-air respirator operated in the continuous flow or pressure demand mode.

(3) Respirator program. The employer shall institute a respiratory protection program in accordance with Part E of this chapter.

(4) Respirator use.

(a) Where air-purifying respirators (cartridge or canister) are used, the employer shall replace the air-purifying element as needed to maintain the effectiveness of the respirator. The employer shall ensure that each cartridge is dated at the beginning of use.

(b) Employees who wear respirators shall be allowed to leave the regulated area to readjust the facepiece or to wash their faces and to wipe clean the facepieces on their respirators in order to minimize potential skin irritation associated with respirator use.

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA[1] cartridge[2].
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA[1] cartridge or canister[2].
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA[1] cartridges[2].
d. Greater than 1000xPEL or	(1) Self-contained breathing unknown concentrations apparatus with full facepiece in positive pressure mode; (2) Full facepiece positive pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA[1] cartridges[2]; (2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure demand mode.

Note: Respirators assigned for higher environmental concentrations may be used at lower concentrations.

[1]High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.

[2]Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

(5) Respirator fit testing.

(a) The employer shall perform and record the results of either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator. The test shall be used to select a respirator facepiece which provides the required protection as prescribed in Table 1.

(b) The employer shall follow the test protocols outlined in Appendix E of this standard for whichever type of fit testing the employer chooses.

NEW SECTION

WAC 296-62-07617 Protective work clothing and equipment. (1) Provision and use. Where employees are subject to dermal exposure to MDA, where liquids containing MDA can be splashed into the eyes, or where airborne concentrations of MDA are in excess of the PEL, the employer shall provide, at no cost to the employee, and ensure that the employee uses, appropriate protective work clothing and equipment which prevent contact with MDA such as, but not limited to:

(a) Aprons, coveralls, or other full-body work clothing;

(b) Gloves, head coverings, and foot coverings; and

(c) Face shields, chemical goggles; or

(d) Other appropriate protective equipment which comply with WAC 296-24-078.

(2) Removal and storage.

(a) The employer shall ensure that, at the end of their work shift, employees remove MDA-contaminated protective work clothing and equipment that is not routinely removed throughout the day in change rooms provided in accordance with the provisions established for change rooms.

(b) The employer shall ensure that, during their work shift, employees remove all other MDA-contaminated protective work clothing or equipment before leaving a regulated area.

PERMANENT

(c) The employer shall ensure that no employee takes MDA-contaminated work clothing or equipment out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(d) MDA-contaminated work clothing or equipment shall be placed and stored in closed containers which prevent dispersion of the MDA outside the container.

(e) Containers of MDA-contaminated protective work clothing or equipment which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal shall bear labels warning of the hazards of MDA.

(3) Cleaning and replacement.

(a) The employer shall provide the employee with clean protective clothing and equipment. The employer shall ensure that protective work clothing or equipment required by this paragraph is cleaned, laundered, repaired, or replaced at intervals appropriate to maintain its effectiveness.

(b) The employer shall prohibit the removal of MDA from protective work clothing or equipment by blowing, shaking, or any methods which allow MDA to reenter the workplace.

(c) The employer shall ensure that laundering of MDA-contaminated clothing shall be done so as to prevent the release of MDA in the workplace.

(d) Any employer who gives MDA-contaminated clothing to another person for laundering shall inform such person of the requirement to prevent the release of MDA.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with MDA of the potentially harmful effects of exposure.

(f) MDA-contaminated clothing shall be transported in properly labeled, sealed, impermeable bags or containers.

NEW SECTION

WAC 296-62-07619 Hygiene facilities and practices. (1) Change rooms.

(a) The employer shall provide clean change rooms for employees, who must wear protective clothing, or who must use protective equipment because of their exposure to MDA.

(b) Change rooms must be equipped with separate storage for protective clothing and equipment and for street clothes which prevents MDA contamination of street clothes.

(2) Showers.

(a) The employer shall ensure that employees, who work in areas where there is the potential for exposure resulting from airborne MDA (e.g., particulates or vapors) above the action level, shower at the end of the work shift.

(i) Shower facilities required by this section shall comply with WAC 296-24-12009(3).

(ii) The employer shall ensure that employees who are required to shower pursuant to the provisions contained herein do not leave the workplace wearing any protective clothing or equipment worn during the work shift.

(b) Where dermal exposure to MDA occurs, the employer shall ensure that materials spilled or deposited on the skin are removed as soon as possible by methods which do not facilitate the dermal absorption of MDA.

(3) Lunch facilities.

(a) Availability and construction.

(i) Whenever food or beverages are consumed at the worksite and employees are exposed to MDA at or above the PEL or are subject to dermal exposure to MDA the employer shall provide readily accessible lunch areas.

(ii) Lunch areas located within the workplace and in areas where there is the potential for airborne exposure to MDA at or above the PEL shall have a positive pressure, temperature controlled, filtered air supply.

(iii) Lunch areas may not be located in areas within the workplace where the potential for dermal exposure to MDA exists.

(b) The employer shall ensure that employees who have been subjected to dermal exposure to MDA or who have been exposed to MDA above the PEL wash their hands and faces with soap and water prior to eating, drinking, smoking, or applying cosmetics.

(c) The employer shall ensure that employees exposed to MDA do not enter lunch facilities with MDA-contaminated protective work clothing or equipment.

NEW SECTION

WAC 296-62-07621 Communication of hazards to employees. (1) Signs and labels.

(a) The employer shall post and maintain legible signs demarcating regulated areas and entrances or accessways to regulated areas that bear the following legend:

DANGER MDA MAY CAUSE CANCER LIVER TOXIN
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING
MAY BE REQUIRED TO BE WORN IN THIS AREA

(b) The employer shall ensure that labels or other appropriate forms of warning are provided for containers of MDA within the workplace. The labels shall comply with the requirements of WAC 296-62-05411 and shall include the following legend:

(i) For pure MDA

DANGER CONTAINS MDA MAY CAUSE CANCER LIVER TOXIN

(ii) For mixtures containing MDA

DANGER CONTAINS MDA CONTAINS MATERIALS
WHICH MAY CAUSE CANCER LIVER TOXIN

(2) Material safety data sheets (MSDS).

(a) Employers shall obtain or develop, and shall provide access to their employees, to a material safety data sheet (MSDS) for MDA. In meeting this obligation, employers shall make appropriate use of the information found in Appendices A and B.

(b) Employers who are manufacturers or importers shall:

(i) Comply with subdivision (1)(b) of this section as appropriate; and

(ii) Comply with the requirement in WISHA hazard communication standard, WAC 296-62-054, that they deliver to downstream employers an MSDS for MDA.

(3) Information and training.

(a) The employer shall provide employees with information and training on MDA, in accordance with WAC 296-62-054 through 296-62-05415, at the time of initial assignment and at least annually thereafter.

(b) In addition to the information required under WAC 296-62-054, the employer shall:

(i) Provide an explanation of the contents of WAC 296-62-076, including Appendices A and B, and indicate to employees where a copy of the standard is available;

(ii) Describe the medical surveillance program required under WAC 296-62-07625, and explain the information contained in Appendix C; and

(iii) Describe the medical removal provision required under WAC 296-62-07625.

(4) Access to training materials.

(a) The employer shall make readily available to all affected employees, without cost, all written materials relating to the employee training program, including a copy of this regulation.

(b) The employer shall provide to the director, upon request, all information and training materials relating to the employee information and training program.

NEW SECTION

WAC 296-62-07623 Housekeeping. (1) All surfaces shall be maintained as free as practicable of visible accumulations of MDA.

(2) The employer shall institute a program for detecting MDA leaks, spills, and discharges, including regular visual inspections of operations involving liquid or solid MDA.

(3) All leaks shall be repaired and liquid or dust spills cleaned up promptly.

(4) Surfaces contaminated with MDA may not be cleaned by the use of compressed air.

(5) Shoveling, dry sweeping, and other methods of dry clean-up of MDA may be used where HEPA-filtered vacuuming and/or wet cleaning are not feasible or practical.

(6) Waste, scrap, debris, bags, containers, equipment, and clothing contaminated with MDA shall be collected and disposed of in a manner to prevent the reentry of MDA into the workplace.

NEW SECTION

WAC 296-62-07625 Medical surveillance. (1) General.

(a) The employer shall make available a medical surveillance program for employees exposed to MDA:

(i) Employees exposed at or above the action level for 30 or more days per year;

(ii) Employees who are subject to dermal exposure to MDA for 15 or more days per year;

(iii) Employees who have been exposed in an emergency situation;

(iv) Employees whom the employer, based on results from compliance with WAC 296-62-07609(8), has reason to believe are being dermally exposed; and

(v) Employees who show signs or symptoms of MDA exposure.

(b) The employer shall ensure that all medical examinations and procedures are performed by, or under the supervision of, a licensed physician, at a reasonable time and place, and provided without cost to the employee.

(2) Initial examinations.

(a) Within 150 days of the effective date of this standard, or before the time of initial assignment, the employer shall provide each employee covered by subdivision (1)(a) of this section with a medical examination including the following elements:

(i) A detailed history which includes:

(A) Past work exposure to MDA or any other toxic substances;

(B) A history of drugs, alcohol, tobacco, and medication routinely taken (duration and quantity); and

(C) A history of dermatitis, chemical skin sensitization, or previous hepatic disease.

(ii) A physical examination which includes all routine physical examination parameters, skin examination, and signs of liver disease.

(iii) Laboratory tests including:

(A) Liver function tests; and

(B) Urinalysis.

(iv) Additional tests as necessary in the opinion of the physician.

(b) No initial medical examination is required if adequate records show that the employee has been examined in accordance with the requirements of WAC 296-62-076 within the previous six months prior to the effective date of this standard or prior to the date of initial assignment.

(3) Periodic examinations.

(a) The employer shall provide each employee covered by WAC 296-62-076 with a medical examination at least annually following the initial examination. These periodic examinations shall include at least the following elements:

(i) A brief history regarding any new exposure to potential liver toxins, changes in drug, tobacco, and alcohol intake, and the appearance of physical signs relating to the liver and the skin;

(ii) The appropriate tests and examinations including liver function tests and skin examinations; and

(iii) Appropriate additional tests or examinations as deemed necessary by the physician.

(b) If in the physicians' opinion the results of liver function tests indicate an abnormality, the employee shall be removed from further MDA exposure in accordance with WAC 296-62-07627 and 296-62-07629. Repeat liver function tests shall be conducted on advice of the physician.

(4) Emergency examinations. If the employer determines that the employee has been exposed to a potentially hazardous amount of MDA in an emergency situation as addressed in WAC 296-62-07607, the employer shall provide medical examinations in accordance with subsection (3) of this section. If the results of liver function testing indicate an abnormality, the employee shall be removed in accordance with WAC 296-62-07627 and 296-62-07629. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

(5) Additional examinations. Where the employee develops signs and symptoms associated with exposure to MDA, the employer shall provide the employee with an additional medical examination including a liver function test. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are

PERMANENT

normal and, on the advice of the physician, no additional testing is required.

(6) Multiple physician review mechanism.

(a) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under WAC 296-62-076, and the employee has signs or symptoms of occupational exposure to MDA (which could include an abnormal liver function test), and the employee disagrees with the opinion of the examining physician, and this opinion could affect the employee's job status, the employee may designate an appropriate, mutually acceptable second physician:

(i) To review any findings, determinations, or recommendations of the initial physician; and

(ii) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(b) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to WAC 296-62-076. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(i) The employee informing the employer that he or she intends to seek a second medical opinion; and

(ii) The employee initiating steps to make an appointment with a second physician.

(c) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(d) If the two physicians have been unable to resolve quickly their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(i) To review any findings, determinations, or recommendations of the prior physicians; and

(ii) To conduct such examinations, consultations, laboratory tests, and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(e) The employer shall act consistent with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(7) Information provided to the examining and consulting physicians.

(a) The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's potential exposure to MDA;

(iii) The employee's current actual or representative MDA exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous employment-related medical examinations of the affected employee.

(b) The employer shall provide the foregoing information to a second physician under this section upon request either by the second physician or by the employee.

(8) Physician's written opinion.

(a) For each examination under WAC 296-62-076, the employer shall obtain, and provide the employee with a copy of, the examining physician's written opinion within 15 days of its receipt. The written opinion shall include the following:

(i) The occupationally-pertinent results of the medical examination and tests;

(ii) The physician's opinion concerning whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to MDA;

(iii) The physician's recommended limitations upon the employee's exposure to MDA or upon the employee's use of protective clothing or equipment and respirators; and

(iv) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from MDA exposure which require further explanation or treatment.

(b) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposures.

NEW SECTION

WAC 296-62-07627 Medical removal—Temporary medical removal of an employee. Temporary medical removal of an employee.

(1) Temporary removal resulting from occupational exposure. The employee shall be removed from work environments in which exposure to MDA is at or above the action level or where dermal exposure to MDA may occur, following an initial examination (WAC 296-62-07625(2)), periodic examinations (WAC 296-62-07625(3)), an emergency situation (WAC 296-62-07625(4)), or an additional examination (WAC 296-62-07625(5)) in the following circumstances:

(a) When the employee exhibits signs and/or symptoms indicative of acute exposure to MDA; or

(b) When the examining physician determines that an employee's abnormal liver function tests are not associated with MDA exposure but that the abnormalities may be exacerbated as a result of occupational exposure to MDA.

(c) Temporary removal due to a final medical determination.

(i) The employer shall remove an employee from work environments in which exposure to MDA is at or above the action level or where dermal exposure to MDA may occur, on each occasion that there is a final medical determination or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to MDA.

(ii) For the purposes of WAC 296-62-076, the phrase "final medical determination" shall mean the outcome of the physician review mechanism used pursuant to the medical surveillance provisions of this section.

(iii) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to MDA, the employer shall implement and act consistent with the recommendation.

(2) Return of the employee to former job status.

(a) The employer shall return an employee to his or her former job status:

(i) When the employee no longer shows signs or symptoms of exposure to MDA or upon the advice of the physician.

(ii) When a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to MDA.

(b) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(3) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee, or end any special protective measures provided to an employee, pursuant to a final medical determination, when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(4) Employer options pending a final medical determination. Where the physician review mechanism used pursuant to the medical surveillance provisions of WAC 296-62-076, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(a) Removal. The employer may remove the employee from exposure to MDA, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(b) Return. The employer may return the employee to his or her former job status, and end any special protective measures provided to the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions.

(i) If the initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(ii) If the employee has been on removal status for the preceding six months as a result of exposure to MDA, then the employer shall await a final medical determination.

NEW SECTION

WAC 296-62-07629 Medical removal protection benefits. (1) Provisions of medical removal protection benefits. The employer shall provide to an employee up to six months of medical removal protection benefits on each occasion that an employee is removed from exposure to MDA or otherwise limited pursuant to this section.

(2) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority, and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to MDA or otherwise limited.

(3) Follow-up medical surveillance during the period of employee removal or limitations. During the period of time that an employee is removed from normal exposure to MDA or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to WAC 296-62-076.

(4) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for an MDA-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment-related expenses.

(5) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from non-MDA-related employment with any employer made possible by virtue of the employee's removal.

(6) Employees who do not recover within the 6 months of removal. The employer shall take the following measures with respect to any employee removed from exposure to MDA:

(a) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(b) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and, if not, what steps should be taken to protect the employee's health;

(c) Where the final medical determination has not yet been obtained, or, once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status; and

(d) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status, despite what would otherwise be an abnormal liver function test, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the MDA removal criteria provided by WAC 296-62-076.

PERMANENT

(7) Voluntary removal or restriction of an employee. Where an employer, although not required by WAC 296-62-076 to do so, removes an employee from exposure to MDA or otherwise places limitations on an employee due to the effects of MDA exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by this section.

NEW SECTION

WAC 296-62-07631 Recordkeeping. (1) Monitoring data for exempted employers.

(a) Where as a result of the initial monitoring the processing, use, or handling of products made from or containing MDA are exempted from other requirements of this section under WAC 296-62-07601(2), the employer shall establish and maintain an accurate record of monitoring relied on in support of the exemption.

(b) This record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the monitoring data (e.g., was monitoring performed by the employer or a private contractor);

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption (e.g., are the monitoring data representative of the conditions at the affected facility); and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Objective data for exempted employers.

(a) Where the processing, use, or handling of products made from or containing MDA are exempted from other requirements of WAC 296-62-076 under WAC 296-62-07601, the employer shall establish and maintain an accurate record of objective data relied upon in support of the exemption.

(b) This record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(3) Exposure measurements.

(a) The employer shall establish and maintain an accurate record of all measurements required by WAC 296-62-07609, in accordance with Part B of this chapter.

(b) This record shall include:

(i) The dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(ii) Identification of the sampling and analytical methods used;

(iii) A description of the type of respiratory protective devices worn, if any; and

(iv) The name, Social Security number, job classification, and exposure levels of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(c) The employer shall maintain this record for at least 30 years, in accordance with Part B of this chapter.

(4) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by WAC 296-62-07625, 296-62-07627, and 296-62-07629, in accordance with Part B of this chapter.

(b) This record shall include:

(i) The name, Social Security number, and description of the duties of the employee;

(ii) The employer's copy of the physician's written opinion on the initial, periodic, and any special examinations, including results of medical examination and all tests, opinions, and recommendations;

(iii) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(iv) Any employee medical complaints related to exposure to MDA.

(c) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(i) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and its appendices for all employees provided the employer references the standard and its appendices in the medical surveillance record of each employee;

(ii) A copy of the information provided to the physician as required by any sections in the regulatory text;

(iii) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to the information;

(iv) A copy of the employee's medical and work history related to exposure to MDA.

(d) The employer shall maintain this record for at least the duration of employment plus 30 years, in accordance with Part B of this chapter.

(5) Medical removals.

(a) The employer shall establish and maintain an accurate record for each employee removed from current exposure to MDA pursuant to WAC 296-62-07625, 296-62-07627, and 296-62-07629.

(b) Each record shall include:

(i) The name and Social Security number of the employee;

(ii) The date of each occasion that the employee was removed from current exposure to MDA as well as the corresponding date on which the employee was returned to his or her former job status;

(iii) A brief explanation of how each removal was or is being accomplished; and

(iv) A statement with respect to each removal indicating the reason for the removal.

(c) The employer shall maintain each medical removal record for at least the duration of an employee's employment plus 30 years.

(6) Availability.

(a) The employer shall assure that records required to be maintained by WAC 296-62-076 shall be made available, upon request, to the director for examination and copying.

(b) Employee exposure monitoring records required by WAC 296-62-076 shall be provided upon request for examination and copying to employees, employee representatives, and the director in accordance with the applicable sections of WAC 296-62-054.

(c) Employee medical records required by this section shall be provided upon request for examination and copying, to the subject employee, to anyone having the specific written consent of the subject employee, and to the director in accordance with Part B of this chapter.

(7) Transfer of records.

(a) The employer shall comply with the requirements involving transfer of records set forth in WAC 296-62-05215.

(b) 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 90 days prior to disposal, and transmit the records to the director if so requested by the director within that period.

NEW SECTION

WAC 296-62-07633 Observation of monitoring. (1) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe the measuring or monitoring of employee exposure to MDA conducted pursuant to WAC 296-62-07609.

(2) Observation procedures. When observation of the measuring or monitoring of employee exposure to MDA requires entry into areas where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective clothing and equipment or respirators required to be worn by employees working in the area, assure the use of such clothing and equipment or respirators, and require the observer to comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-62-07635 Effective date. This standard shall become effective March 15, 1993.

NEW SECTION

WAC 296-62-07637 Appendices. The information contained in Appendices A, B, C, and D of WAC 296-62-076 is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation. The protocols for respiratory fit testing in Appendix E of WAC 296-62-076 are mandatory.

NEW SECTION

WAC 296-62-07639 Startup dates. Compliance with all obligations of this standard commence on the effective date except as follows:

(1) Initial monitoring under WAC 296-62-07609(2) of WAC 296-62-076 shall be completed as soon as possible but no later than June 13, 1993.

(2) Medical examinations under WAC 296-62-07625, 296-62-07627, and 296-62-07629 shall be completed as soon as possible but no later than August 14, 1993.

(3) Emergency plans required by WAC 296-62-07607 shall be provided and available for inspection and copying as soon as possible but no later than July 13, 1993.

(4) Initial training and education shall be completed as soon as possible but no later than July 13, 1993.

(5) Hygiene and lunchroom facilities under WAC 296-62-07619 shall be in operation as soon as possible but no later than March 15, 1994.

(6) Respiratory protection required by WAC 296-62-07615 shall be provided as soon as possible but no later than July 13, 1993.

(7) Written compliance plans required by WAC 296-62-07613(2) shall be completed and available for inspection and copying as soon as possible but no later than July 13, 1993.

(8) WISHA shall enforce the permissible exposure limits in WAC 296-62-07605 no earlier than July 13, 1993.

(9) Engineering controls needed to achieve the PELs must be in place March 15, 1993.

(10) Personal protective clothing required by WAC 296-62-07617 shall be available July 13, 1993.

NEW SECTION

WAC 296-62-07654 Appendix A to WAC 296-62-076—Substance data sheet, for 4,4'-methylenedianiline. (1) Substance identification.

(a) Substance: Methylenedianiline (MDA).

(b) Permissible exposure:

(i) Airborne: Ten parts per billion parts of air (10 ppb), time-weighted average (TWA) for an 8-hour workday and an action level of five parts per billion parts of air (5 ppb).

(ii) Dermal: Eye contact and skin contact with MDA are not permitted.

(c) Appearance and odor: White to tan solid; amine odor.

(2) Health hazard data.

(a) Ways in which MDA affects your health. MDA can affect your health if you inhale it, or if it comes in contact with your skin or eyes. MDA is also harmful if you happen to swallow it. Do not get MDA in eyes, on skin, or on clothing.

(b) Effects of overexposure.

(i) Short-term (acute) overexposure: Overexposure to MDA may produce fever, chills, loss of appetite, vomiting, jaundice. Contact may irritate skin, eyes, and mucous membranes. Sensitization may occur.

(ii) Long-term (chronic) exposure. Repeated or prolonged exposure to MDA, even at relatively low concentrations, may cause cancer. In addition, damage to the liver, kidneys, blood, and spleen may occur with long-term exposure.

(iii) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms which

you suspect are caused by exposure to MDA including yellow staining of the skin.

(3) Protective clothing and equipment.

(a) Respirators. Respirators are required for those operations in which engineering controls or work practice controls are not adequate or feasible to reduce exposure to the permissible limit. If respirators are worn, they must have the joint Mine Safety and Health Administration and National Institute for Occupational Safety and Health (NIOSH) seal of approval, and cartridges or canisters must be replaced as necessary to maintain the effectiveness of the respirator. If you experience difficulty breathing while wearing a respirator, you may request a positive pressure respirator from your employer. You must be thoroughly trained to use the assigned respirator, and the training will be provided by your employer. MDA does not have a detectable odor except at levels well above the permissible exposure limits. Do not depend on odor to warn you when a respirator canister is exhausted. If you can smell MDA while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Protective clothing. You may be required to wear coveralls, aprons, gloves, face shields, or other appropriate protective clothing to prevent skin contact with MDA. Where protective clothing is required, your employer is required to provide clean garments to you, as necessary, to assure that the clothing protects you adequately. Replace or repair impervious clothing that has developed leaks. MDA should never be allowed to remain on the skin. Clothing and shoes which are not impervious to MDA should not be allowed to become contaminated with MDA, and if they do, the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered to remove MDA or discarded. Once MDA penetrates shoes or other leather articles, they should not be worn again.

(c) Eye protection. You must wear splashproof safety goggles in areas where liquid MDA may contact your eyes. Contact lenses should not be worn in areas where eye contact with MDA can occur. In addition, you must wear a face shield if your face could be splashed with MDA liquid.

(4) Emergency and first aid procedures.

(a) Eye and face exposure. If MDA is splashed into the eyes, wash the eyes for at least 15 minutes. See a doctor as soon as possible.

(b) Skin exposure. If MDA is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of soap and water immediately. Wash contaminated clothing before you wear it again.

(c) Breathing. If you or any other person breathes in large amounts of MDA, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call for medical assistance or a doctor as soon as possible. Never enter any vessel or confined space where the MDA concentration might be high without proper safety equipment and at least one other person present who will stay outside. A life line should be used.

(d) Swallowing. If MDA has been swallowed and the patient is conscious, do not induce vomiting. Call for medical assistance or a doctor immediately.

(5) Medical requirements. If you are exposed to MDA at a concentration at or above the action level for more than 30 days per year, or exposed to liquid mixtures more than 15 days per year, your employer is required to provide a medical examination, including a medical history and laboratory tests, within 60 days of the effective date of this standard and annually thereafter. These tests shall be provided without cost to you. In addition, if you are accidentally exposed to MDA (either by ingestion, inhalation, or skin/eye contact) under conditions known or suspected to constitute toxic exposure to MDA, your employer is required to make special examinations and tests available to you.

(6) Observation of monitoring. Your employer is required to perform measurements that are representative of your exposure to MDA and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you and your representative must also be provided with, and must wear, the protective clothing and equipment.

(7) Access to records. You or your representative are entitled to see the records of measurements of your exposure to MDA upon written request to your employer. Your medical examination records can be furnished to your physician or designated representative upon request by you to your employer.

(8) Precautions for safe use, handling, and storage.

(a) Material is combustible. Avoid strong acids and their anhydrides. Avoid strong oxidants. Consult supervisor for disposal requirements.

(b) Emergency clean-up. Wear self-contained breathing apparatus and fully clothe the body in the appropriate personal protective clothing and equipment.

NEW SECTION

WAC 296-62-07656 Appendix B to WAC 296-62-076—Substance technical guidelines, MDA. (1) Identification.

(a) Substance identification. Synonyms: CAS No. 101-77-9. 4,4'-methylenedianiline; 4,4'-methylenebisaniline; methylenedianiline; dianilinomethane.

(b) Formula: $C_{13}H_{14}N_2$.

(2) Physical data.

(a) Appearance and odor: White to tan solid; amine odor.

(b) Molecular weight: 198.26.

(c) Boiling point: 398-399 degrees C. at 760 mm Hg.

(d) Melting point: 88-93 degrees C. (190-100 degrees F.).

(e) Vapor pressure: 9 mmHg at 232 degrees C.

(f) Evaporation rate (n-butyl acetate = 1): Negligible.

(g) Vapor density (Air=1): Not applicable.

(h) Volatile fraction by weight: Negligible.

(i) Specific gravity (Water=1): Slight.

(j) Heat of combustion: -8.40 kcal/g.

(k) Solubility in water: Slightly soluble in cold water, very soluble in alcohol, benzene, ether, and many organic solvents.

(3) Fire, explosion, and reactivity hazard data.

(a) Flash point: 190 degrees C. (374 degrees F.) Setaflash closed cup.

(b) Flash point: 226 degrees C. (439 degrees F.) Cleveland open cup.

(c) Extinguishing media: Water spray; dry chemical; carbon dioxide.

(d) Special fire fighting procedures: Wear self-contained breathing apparatus and protective clothing to prevent contact with skin and eyes.

(e) Unusual fire and explosion hazards: Fire or excessive heat may cause production of hazardous decomposition products.

(4) Reactivity data.

(a) Stability: Stable.

(b) Incompatibility: Strong oxidizers.

(c) Hazardous decomposition products: As with any other organic material, combustion may produce carbon monoxide. Oxides of nitrogen may also be present.

(d) Hazardous polymerization: Will not occur.

(5) Spill and leak procedures.

(a) Sweep material onto paper and place in fiber carton.

(b) Package appropriately for safe feed to an incinerator or dissolve in compatible waste solvents prior to incineration.

(c) Dispose of in an approved incinerator equipped with afterburner and scrubber or contract with licensed chemical waste disposal service.

(d) Discharge treatment or disposal may be subject to federal, state, or local laws.

(e) Wear appropriate personal protective equipment.

(6) Special storage and handling precautions.

(a) High exposure to MDA can occur when transferring the substance from one container to another. Such operations should be well ventilated and good work practices must be established to avoid spills.

(b) Pure MDA is a solid with a low vapor pressure. Grinding or heating operations increase the potential for exposure.

(c) Store away from oxidizing materials.

(d) Employers shall advise employees of all areas and operations where exposure to MDA could occur.

(7) Housekeeping and hygiene facilities.

(a) The workplace should be kept clean, orderly, and in a sanitary condition. The employer should institute a leak and spill detection program for operations involving MDA in order to detect sources of fugitive MDA emissions.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of MDA from the skin.

(8) Common operations. Common operations in which exposure to MDA is likely to occur include the following: Manufacture of MDA; manufacture of methylene diisocyanate; curing agent for epoxy resin structures; wire coating operations; and filament winding.

NEW SECTION

WAC 296-62-07658 Appendix C to WAC 296-62-076—Medical surveillance guidelines for MDA. (1) Route of entry:

Inhalation; skin absorption; ingestion. MDA can be inhaled, absorbed through the skin, or ingested.

(2) Toxicology:

MDA is a suspect carcinogen in humans. There are several reports of liver disease in humans and animals resulting from acute exposure to MDA. A well documented case of an acute cardiomyopathy secondary to exposure to MDA is on record. Numerous human cases of hepatitis secondary to MDA are known. Upon direct contact MDA may also cause damage to the eyes. Dermatitis and skin sensitization have been observed. Almost all forms of acute environmental hepatic injury in humans involve the hepatic parenchyma and produce hepatocellular jaundice. This agent produces intrahepatic cholestasis. The clinical picture consists of cholestatic jaundice, preceded or accompanied by abdominal pain, fever, and chills. Onset in about 60 percent of all observed cases is abrupt with severe abdominal pain. In about 30 percent of observed cases, the illness presented and evolved more slowly and less dramatically, with only slight abdominal pain. In about 10 percent of the cases only jaundice was evident. The cholestatic nature of the jaundice is evident in the prominence of itching, the histologic predominance of bile stasis, and portal inflammatory infiltration, accompanied by only slight parenchymal injury in most cases, and by the moderately elevated transaminase values. Acute, high doses, however, have been known to cause hepatocellular damage resulting in elevated SGPT, SGOT, alkaline phosphatase, and bilirubin.

Absorption through the skin is rapid. MDA is metabolized and excreted over a 48-hour period. Direct contact may be irritating to the skin, causing dermatitis. Also MDA which is deposited on the skin is not thoroughly removed through washing.

MDA may cause bladder cancer in humans. Animal data supporting this assumption is not available nor is conclusive human data. However, human data collected on workers at a helicopter manufacturing facility where MDA is used suggests a higher incidence of bladder cancer among exposed workers.

(3) Signs and symptoms:

Skin may become yellow from contact with MDA.

Repeated or prolonged contact with MDA may result in recurring dermatitis (red-itchy, cracked skin) and eye irritation. Inhalation, ingestion, or absorption through the skin at high concentrations may result in hepatitis, causing symptoms such as fever and chills, nausea and vomiting, dark urine, anorexia, rash, right upper quadrant pain, and jaundice. Corneal burns may occur when MDA is splashed in the eyes.

(4) Treatment of acute toxic effects/emergency situation:

If MDA gets into the eyes, immediately wash eyes with large amounts of water. If MDA is splashed on the skin, immediately wash contaminated skin with mild soap or detergent. Employee should be removed from exposure and given proper medical treatment. Medical tests required under the emergency section of the medical surveillance subsection (13)(d) must be conducted.

If the chemical is swallowed do not induce vomiting but remove by gastric lavage.

PERMANENT

NEW SECTION

WAC 296-62-07660 Appendix D to WAC 296-62-076—Sampling and analytical methods for MDA monitoring and measurement procedures. Measurements taken for the purpose of determining employee exposure to MDA are best taken so that the representative average 8-hour exposure may be determined from a single 8-hour sample or two 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five measurements are taken in a random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one work shift is an estimate of an employee's average level of exposure for that work shift. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

There are a number of methods available for monitoring employee exposures to MDA. The method WISHA currently uses is included below.

The employer, however, has the obligation of selecting any monitoring method which meets the accuracy and precision requirements of the standard under his/her unique field conditions. The standard requires that the method of monitoring must have an accuracy, to a 95 percent confidence level, of not less than plus or minus 25 percent for the select PEL.
WISHA methodology.

Sampling procedure.

Apparatus:
Samples are collected by use of a personal sampling pump that can be calibrated within ± 5 percent of the recommended flow rate with the sampling filter in line.

Samples are collected on 37 mm Gelman type A/E glass fiber filters treated with sulfuric acid. The filters are prepared by soaking each filter with 0.5 mL of 0.26N H_2SO_4. (0.26 N H_2SO_4 can be prepared by diluting 1.5 mL of 36N H_2SO_4 to 200 mL with deionized water.) The filters are dried in an oven at 100 degrees C. for one hour and then assembled into three-piece 37 mm polystyrene cassettes without backup pads. The front filter is separated from the back filter by a polystyrene spacer. The cassettes are sealed with shrink bands and the ends are plugged with plastic plugs.

After sampling, the filters are carefully removed from the cassettes and individually transferred to small vials containing approximately 2 mL deionized water. The vials must be tightly sealed. The water can be added before or after the filters are transferred. The vials must be sealable and capable of holding at least 7 mL of liquid. Small glass scintillation vials with caps containing Teflon liners are recommended.

Reagents:
Deionized water is needed for addition to the vials.

Sampling technique:

Immediately before sampling, remove the plastic plugs from the filter cassettes.

Attach the cassette to the sampling pump with flexible tubing and place the cassette in the employee's breathing zone.

After sampling, seal the cassettes with plastic plugs until the filters are transferred to the vials containing deionized water.

At some convenient time within 10 hours of sampling, transfer the sample filters to vials.

Seal the small vials lengthwise.

Submit at least one blank filter with each sample set. Blanks should be handled in the same manner as samples, but no air is drawn through them.

Record sample volumes (in L of air) for each sample, along with any potential interferences.

Retention efficiency:
A retention efficiency study was performed by drawing 100 L of air (80 percent relative humidity) at 1 L/min through sample filters that had been spiked with 0.814 microgram MDA. Instead of using backup pads, blank acid-treated filters were used as backups in each cassette. Upon analysis, the top filters were found to have an average of 91.8 percent of the spiked amount. There was no MDA found on the bottom filters, so the amount lost was probably due to the slight instability of the MDA salt.

Extraction efficiency:
The average extraction efficiency for six filters spiked at the target concentration is 99.6 percent.

The stability of extracted and derivatized samples was verified by reanalyzing the above six samples the next day using fresh standards. The average extraction efficiency for the reanalyzed samples is 98.7 percent.

Recommended air volume and sampling rate:
The recommended air volume is 100 L.
The recommended sampling rate is 1 L/min.

Interferences (sampling):
MDI appears to be a positive interference. It was found that when MDI was spiked onto an acid-treated filter, the MDI converted to MDA after air was drawn through it.

Suspected interferences should be reported to the laboratory with submitted samples.

Safety precautions (sampling):
Attach the sampling equipment to the employees so that it will not interfere with work performance or safety.

Follow all safety procedures that apply to the work area being sampled.

Analytical procedure:
Apparatus: The following are required for analysis.

A GC equipped with an electron capture detector. For this evaluation a Hewlett Packard 5880 Gas Chromatograph equipped with a Nickel 63 High Temperature Electron Capture Detector and a Linearizer was used.

A GC column capable of separating the MDA derivative from the solvent and interferences. A 6 ft X 2 mm ID glass

column packed with 3 percent OV-101 coated on 100/120 Gas Chrom Q or a 25 meter DB-1 or DB-5 capillary column is recommended for this evaluation.

A electronic integrator or some other suitable means of measuring peak areas or heights.

Small resealable vials with Teflon-lined caps capable of holding 4 mL.

A dispenser or pipet for toluene capable of delivering 2.0 mL.

Pipets (or repipets with plastic or Teflon tips) capable of delivering 1 mL for the sodium hydroxide and buffer solutions.

A repipet capable of delivering 25 micro-L HFAA.

Syringes for preparation of standards and injection of standards and samples into a GC.

Volumetric flasks and pipets to dilute the pure MDA in preparation of standards.

Disposable pipets to transfer the toluene layers after the samples are extracted.

Reagents:
0.5 NaOH prepared from reagent grade NaOH.

Toluene, pesticide grade. Burdick and Jackson distilled in glass toluene was used.

Heptafluorobutyric acid anhydride (HFAA). HFAA from Pierce Chemical Company was used.

pH 7.0 phosphate buffer, prepared from 136 g potassium dihydrogen phosphate and 1 L deionized water. The pH is adjusted to 7.0 with saturated sodium hydroxide solution.

4,4'-Methylenedianiline (MDA), reagent grade.

Standard preparation:
Concentrated stock standards are prepared by diluting pure MDA with toluene. Analytical standards are prepared by injecting uL amounts of diluted stock standards into vials that contain 2.0 mL toluene.

25 µL HFAA are added to each vial and the vials are capped and shaken for 10 seconds.

After 10 min, 1 mL of buffer is added to each vial.

The vials are recapped and shaken for 10 seconds.

After allowing the layers to separate, aliquots of the toluene (upper) layers are removed with a syringe and analyzed by GC.

Analytical standard concentrations should bracket sample concentrations. Thus, if samples fall out of the range of prepared standards, additional standards must be prepared to ascertain detector response.

Sample preparation:
The sample filters are received in vials containing deionized water.

1 mL of 0.5N NaOH and 2.0 mL toluene are added to each vial.

The vials are recapped and shaken for 10 min.

After allowing the layers to separate, approximately 1 mL aliquots of the toluene (upper) layers are transferred to separate vials with clean disposable pipets.

The toluene layers are treated and analyzed.

Analysis:
GC conditions
Zone temperatures:
Column—220 degrees C.
Injector—235 degrees C.
Detector—335 degrees C.
C Gas flows, N_2 Column—30 mL/min
He Column 0.9 mL/min. (capillary) with 30 mL/min. A_rCH_4 (95/5) makeup gas
Injection volume: 5.0 uL
Column: 6 ft X 1/8 in ID glass, 3% OV-101 on 100/120 Gas Chrom Q or 25 meter x .25 mm DB-1 or DB-5 capillary
Retention time of MDA derivative: 2.5 to 3.5, depending on column and flow

Chromatogram:
Peak areas or heights are measured by an integrator or other suitable means.

A calibration curve is constructed by plotting response (peak areas or heights) of standard injections versus ug of MDA per sample. Sample concentrations must be bracketed by standards.

Interferences (analytical):
Any compound that gives an electron capture detector response and has the same general retention time as the HFAA derivative of MDA is a potential interference. Suspected interferences reported to the laboratory with submitted samples by the industrial hygienist must be considered before samples are derivatized.

GC parameters may be changed to possibly circumvent interferences.

Retention time on a single column is not considered proof of chemical identity. Analyte identity should be confirmed by GC/MS if possible.

Calculations:
The analyte concentration for samples is obtained from the calibration curve in terms of ug MDA per sample. The extraction efficiency is 100 percent. If any MDA is found on the blank, that amount is subtracted from the sample amounts. The air concentrations are calculated using the following formulae: Microgram/m^3=(microgram MDA per sample) (1000)/(L of air sampled) ppb=(microgram/m^3) (24.46)/(198.3)=(microgram/m^3)(0.1233) where 24.46 is the molar volume at 25 degrees C. and 760 mm Hg.

Safety precautions (analytical):
Avoid skin contact and inhalation of all chemicals.

Restrict the use of all chemicals to a fume hood if possible.

Wear safety glasses and a lab coat at all times while in the lab area.

PERMANENT

NEW SECTION

WAC 296-62-07662 Appendix E to WAC 296-62-076—Qualitative and quantitative fit testing procedures.

NEW SECTION

WAC 296-62-07664 Appendix E-1—Qualitative fit test protocols.

NEW SECTION

WAC 296-62-07666 Appendix E-1-a—Isoamyl acetate (banana oil) protocol. (1) Odor threshold screening.

(a) Three 1-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(b) Odor-free water (e.g., distilled or spring water) at approximately 25 deg. C. shall be used for the solutions.

(c) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(d) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated so that circulation of the test solution does not occur and cross contaminate the different testing sites.

(e) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor-free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(f) A test blank is prepared in a third jar by adding 500 cc of odor-free water.

(g) The odor test and test blank jars shall be labelled 1 and 2 for jar identification.

(h) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(i) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed in order to prevent olfactory fatigue in the subject.

(j) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(k) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(2) Respirator selection.

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric half facepieces, from at least two manufacturers.

(b) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit.

(d) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a comfortable fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in subdivision (f) below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator after donning:

* Positioning of mask on nose.
* Room for eye protection.
* Room to talk.
* Positioning mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

* Chin properly placed.
* Strap tension.
* Fit across nose bridge.
* Distance from nose to chin.
* Tendency to slip.
* Self-observation in mirror.

(h) The test subject shall perform the conventional negative- or positive-pressure fit checks (e.g., see ANSI Z88.2-1980A7). Before beginning the negative- or positive-pressure test, the subject shall be told to "seat" the mask by rapidly moving the head from side to side and up and down, while taking a few deep breaths.

(i) The test subject is now ready for fit testing.

(j) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If the respirator has become uncomfortable, another model of respirator shall be tried.

(k) The employee shall be given the opportunity to select a different facepiece and to be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(3) Fit test.

(a) The fit test chamber shall be similar to a clear 55 gallon drum liner suspended inverted over a 2-foot diameter frame, so that the top of chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(b) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or canisters shall be replaced as necessary to maintain the effectiveness of the respirator.

(c) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(d) A copy of the following test exercises and Rainbow Passage shall be taped to the inside of the test chamber.

(e) Test exercises:

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(v) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it aloud will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage: When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(f) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(g) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(h) Allow two minutes for the IAA test concentration to be reached before starting the fit test exercises.

(i) Each exercise described in subdivision (e) above shall be performed for at least one minute.

(j) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(k) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in subdivisions (d) through (i) above. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(l) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(m) When a respirator is found that passes the test, the subject must break the faceseal and take a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(n) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(o) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 10 times the PEL. In atmospheres greater than 10 times, and less than 50 times the PEL (up to 50 ppm), the subject must pass the IAA test using a full face negative pressure respirator. (The concentration of the IAA inside the test chamber must be increased by five times for QLFT of the full facepiece.)

(p) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as a powered air-purifying respirator, supplied air respirator, or self-contained breathing apparatus.

(r) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(s) Qualitative fit testing shall be repeated at least every 12 months.

(t) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

PERMANENT

(a) Name of test subject.

(b) Date of testing.

(c) Name of the test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

NEW SECTION

WAC 296-62-07668 Appendix E-1-b—Saccharin solution aerosol protocol. (1) Respirator selection. Respirators shall be selected as described in WAC 296-62-07666(2) Appendix E-1-a (respirator selection), except that each respirator shall be equipped with a particulate filter.

(2) Taste threshold screening.

(a) An enclosure placed over the head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(b) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(c) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(d) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(e) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(f) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see subdivision (3)(g)) in 100 cc of water.

(g) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(h) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(i) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(j) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(k) The test conductor will take note of the number of squeezes required to elicit a taste response.

(l) If the saccharin is not tasted after 30 squeezes, subdivision (j), the saccharin fit test cannot be performed on the test subject.

(m) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(n) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(o) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(3) Fit test.

(a) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(b) The test subject shall don and adjust the respirator without assistance from any person.

(c) The fit test uses the same enclosure described in subsection (2) of this section.

(d) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(i) This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(ii) The test subject shall perform the conventional negative- or positive-pressure fit tests (see ANSI Z88.2 1980 A7).

(e) The test subject shall enter the enclosure while wearing the respirator selected in WAC 296-62-07666(2). This respirator shall be properly adjusted and equipped with a particulate filter.

(f) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(g) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(h) As before, the test subject shall breathe with mouth open and tongue extended.

(i) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See subdivisions (2)(h) through (j).)

(j) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(v) Talk. Talk aloud and slowly. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement.

Rainbow Passage: When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(k) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in subdivision (i) of this subsection.

(l) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(m) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(n) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 10 times the PEL of MDA. In other words this protocol may not be used to assign protection factors higher than ten.

(o) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(p) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(q) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(r) Qualitative fit testing shall be repeated at least every 12 months.

(s) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

NEW SECTION

WAC 296-62-07670 Appendix E-1-c—Irritant fume protocol. (1) Respirator selection. Respirators shall be selected as described in WAC 296-62-07666(2), except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(2) Fit test.

(a) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(b) The test subject shall properly don the respirator selected as above, and wear it for at least 10 minutes before starting the fit test.

(c) The test conductor shall review this protocol with the test subject before testing.

(d) The test subject shall perform the conventional positive-pressure and negative-pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(e) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(f) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(g) The test conductor shall direct the stream of irritant smoke from the tube towards the faceseal area of the test subject. The person conducting the test shall begin with the tube at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(h) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(v) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage: When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jogging in place.

(vii) Breathe normally.

(i) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(j) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject

PERMANENT

reacts to the smoke. Failure to evoke a response shall void the fit test.

(k) Subdivisions (d), (i), and (j) of this subsection of this fit test protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(l) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL of MDA.

(m) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(n) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(o) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(p) Qualitative fit testing shall be repeated at least every 12 months.

(q) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(3) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

NEW SECTION

WAC 296-62-07672 Appendix E-2—Quantitative fit test procedures. (1) General.

(a) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(b) The employer shall assign an individual (with help as needed) who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(2) Definition.

(a) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(b) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(c) "Test subject" means the person wearing the respirator for quantitative fit testing.

(d) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(e) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(3) Apparatus.

(a) Instrumentation. Corn oil, sodium chloride, or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(c) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(d) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000.

(e) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times, and so there is no interference with the fit or performance of the respirator.

(g) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed 2 seconds.

(j) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length, and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(k) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(4) Procedural requirements.

(a) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfr II-M, Norton M, Survivair M A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(i) Positive-pressure test. With the exhaust port(s) blocked the negative pressure of slight inhalation should remain constant for several seconds.

(ii) Negative-pressure test. With the intake port(s) blocked the negative pressure slight inhalation should remain constant for several seconds.

(b) After a facepiece is adjusted, the test subject shall wear the facepiece for at least 5 minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in subsection (5), subdivisions (a) through (e).

(i) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(ii) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(c) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in subdivision (b) of this subsection.

(d) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(e) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half-mask and 1 percent for a full facepiece.

(f) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(g) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(5) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(a) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(b) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(c) Turning head side to side (SS). Standing in place the subject shall slowly turn his head from side between the extreme positions to each side. The head shall be held at each extreme position for at least 5 seconds. Perform for at least five complete cycles.

(d) Moving head up and down (UD). Standing in place, the subject shall slowly move his head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least 5 seconds. Perform for at least five complete cycles.

(e) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "Rainbow Passage."

Rainbow Passage: When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least 15 seconds.

(g) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least one minute.

(h) Jogging in place (J). The test subject shall jog in place for at least one minute.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(6) Termination of tests. The test shall be terminated whenever any single peak penetration exceeds 5 percent for half-masks and 1 percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(7) Calculation of fit factors.

(a) The fit factor determined by the quantitative fit test equals the average concentration inside the respirator.

(b) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and of the end of the test.

(c) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(d) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(8) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three protection factors resulting from three independent tests.

(9) Other requirements.

PERMANENT

(a) The test subject shall not be permitted to wear a half-mask or full facepiece if the minimum fit factor of 250 or 1,250, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(b) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(c) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician to determine whether the test subject can wear a respirator while performing her or his duties.

(d) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(e) A respirator fit factor card shall be issued to the subject with the following information:

(i) Name.

(ii) Date of fit test.

(iii) Protection factors obtained through each manufacturer, model and approval number of respirator tested.

(iv) Name and signature of the person that conducted the test.

(f) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(10) Retesting. In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(a) Weight change of 20 pounds or more;

(b) Significant facial scarring in the area of the facepiece seal;

(c) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(d) Reconstructive or cosmetic surgery; or

(e) Any other condition that may interfere with facepiece sealing.

(11) Recordkeeping.

(a) A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size, and approval number).

(b) A copy of all test data including the strip chart and results shall be kept for at least five years.

NEW SECTION

WAC 296-155-173 Methylenedianiline.

NEW SECTION

WAC 296-155-17301 Scope and application. (1) This section applies to all construction work as defined in WAC 296-155-005, in which there is exposure to MDA, including but not limited to the following:

(a) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain MDA;

(b) Installation or the finishing of surfaces with products containing MDA;

(c) MDA spill/emergency cleanup at construction sites; and

(d) Transportation, disposal, storage, or containment of MDA or products containing MDA on the site or location at which construction activities are performed.

(2) Except as provided in subsection (7) of this section and WAC 296-155-17311(5), this standard does not apply to the processing, use, and handling of products containing MDA where initial monitoring indicates that the product is not capable of releasing MDA in excess of the action level under the expected conditions of processing, use, and handling which will cause the greatest possible release; and where no "dermal exposure to MDA" can occur.

(3) Except as provided in subsection (7) of this section, this standard does not apply to the processing, use, and handling of products containing MDA where objective data are reasonably relied upon which demonstrate the product is not capable of releasing MDA under the expected conditions of processing, use, and handling which will cause the greatest possible release; and where no "dermal exposure to MDA" can occur.

(4) Except as provided in subsection (7) of this section, this standard does not apply to the storage, transportation, distribution, or sale of MDA in intact containers sealed in such a manner as to contain the MDA dusts, vapors, or liquids, except for the provisions of WAC 296-62-054 and 296-155-17309.

(5) Except as provided in subsection (7) of this section, this standard does not apply to materials in any form which contain less than 0.1% MDA by weight or volume.

(6) Except as provided in subsection (7) of this section, this standard does not apply to "finished articles containing MDA."

(7) Where products containing MDA are exempted under subsections (2) and (6) of this section, the employer shall maintain records of the initial monitoring results or objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in the recordkeeping provision of WAC 296-155-17331.

NEW SECTION

WAC 296-155-17303 Definitions. For the purpose of this standard, the following definitions shall apply:

(1) "Action level" means a concentration of airborne MDA of 5 ppb as an 8-hour time-weighted average.

(2) "Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring

procedures under WAC 296-155-17333, or any other person authorized by the act or regulations issued under the act.

(3) "Container" means any barrel, bottle, can, cylinder, drum, reaction vessel, storage tank, commercial packaging, or the like, but does not include piping systems.

(4) "Decontamination area" means an area outside of, but as near as practical to, the regulated area, consisting of an equipment storage area, wash area, and clean change area, which is used for the decontamination of workers, materials, and equipment contaminated with MDA.

(5) "Dermal exposure to MDA" occurs where employees are engaged in the handling, application, or use of mixtures or materials containing MDA, with any of the following nonairborne forms of MDA:

(a) Liquid, powdered, granular, or flaked mixtures containing MDA in concentrations greater than 0.1% by weight or volume; and

(b) Materials other than "finished articles" containing MDA in concentrations greater than 0.1% by weight or volume.

(6) "Director" means the director of the department of labor and industries.

(7) "Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which results in an unexpected and potentially hazardous release of MDA.

(8) "Employee exposure" means exposure to MDA which would occur if the employee were not using respirators or protective work clothing and equipment.

(9) "Finished article containing MDA" is defined as a manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use function(s) dependent in whole or part upon its shape or design during end use; and

(c) Where applicable, is an item which is fully cured by virtue of having been subjected to the conditions (temperature, time) necessary to complete the desired chemical reaction.

(10) "Historical monitoring data" means monitoring data for construction jobs that meet the following conditions:

(a) The data upon which judgments are based are scientifically sound and were collected using methods that are sufficiently accurate and precise;

(b) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed;

(c) The characteristics of the MDA-containing material being handled when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed;

(d) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed; and

(e) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception are substantially similar. The data must be scientifically sound, the characteristics of the MDA containing material must be similar, and the environmental conditions comparable.

(11) "4,4' methylenedianiline" or "MDA" means the chemical 4,4'-diaminodiphenylmethane, Chemical Abstract Service Registry Number 101-77-9, in the form of a vapor, liquid, or solid. The definition also includes the salts of MDA.

(12) "Regulated areas" means areas where airborne concentrations of MDA exceed or can reasonably be expected to exceed, the permissible exposure limits, or where "dermal exposure to MDA" can occur.

(13) "STEL" means short-term exposure limit as determined by any 15-minute sample period.

NEW SECTION

WAC 296-155-17305 Permissible exposure limits. The employer shall assure that no employee is exposed to an airborne concentration of MDA in excess of ten parts per billion (10 ppb) as an 8-hour time-weighted average and a STEL of one hundred parts per billion (100 ppb).

NEW SECTION

WAC 296-155-17307 Communication among employers. On multi-employer worksites, an employer performing work involving the application of MDA or materials containing MDA for which establishment of one or more regulated areas is required shall inform other employers on the site of the nature of the employer's work with MDA and of the existence of, and requirements pertaining to, regulated areas.

NEW SECTION

WAC 296-155-17309 Emergency situations. (1) Written plan.

(a) A written plan for emergency situations shall be developed for each construction operation where there is a possibility of an emergency. The plan shall include procedures where the employer identifies emergency escape routes for her or his employees at each construction site before the construction operation begins. Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped with the appropriate personal protective equipment and clothing as required in WAC 296-155-17317 and 296-155-17319 until the emergency is abated.

(c) The plan shall specifically include provisions for alerting and evacuating affected employees as well as the applicable elements prescribed in WAC 296-24-567, "Employee emergency plans and fire prevention plans."

(2) Alerting employees. Where there is the possibility of employee exposure to MDA due to an emergency, means shall be developed to promptly alert employees who have the potential to be directly exposed. Affected employees not engaged in correcting emergency conditions shall be evacuated immediately in the event that an emergency occurs. Means shall also be developed for alerting other employees who may be exposed as a result of the emergency.

PERMANENT

NEW SECTION

WAC 296-155-17311 Exposure monitoring. (1) General.

(a) Determinations of employee exposure shall be made from breathing zone air samples that are representative of each employee's exposure to airborne MDA over an 8-hour period. Determination of employee exposure to the STEL shall be made from breathing zone air samples collected over a 15 minute sampling period.

(b) Representative employee exposure shall be determined on the basis of one or more samples representing full shift exposure for each shift for each job classification in each work area where exposure to MDA may occur.

(c) Where the employer can document that exposure levels are equivalent for similar operations in different work shifts, the employer shall only be required to determine representative employee exposure for that operation during one shift.

(2) Initial monitoring. Each employer who has a workplace or work operation covered by this standard shall perform initial monitoring to determine accurately the airborne concentrations of MDA to which employees may be exposed unless:

(a) The employer can demonstrate, on the basis of objective data, that the MDA-containing product or material being handled cannot cause exposures above the standard's action level, even under worst-case release conditions; or

(b) The employer has historical monitoring or other data demonstrating that exposures on a particular job will be below the action level.

(3) Periodic monitoring and monitoring frequency.

(a) If the monitoring required by subsection (2)(b) of this section reveals employee exposure at or above the action level, but at or below the PELs, the employer shall repeat such monitoring for each such employee at least every 6 months.

(b) If the monitoring required by subsection (2)(b) of this section reveals employee exposure above the PELs, the employer shall repeat such monitoring for each such employee at least every 3 months.

(c) Employers who are conducting MDA operations within a regulated area can forego periodic monitoring if the employees are all wearing supplied-air respirators while working in the regulated area.

(d) The employer may alter the monitoring schedule from every three months to every six months for any employee for whom two consecutive measurements taken at least 7 days apart indicate that the employee exposure has decreased to below the PELs but above the action level.

(4) Termination of monitoring.

(a) If the initial monitoring required by subsection (2)(b) of this section reveals employee exposure to be below the action level, the employer may discontinue the monitoring for that employee, except as otherwise required by subsection (5) of this section.

(b) If the periodic monitoring required by subsection (3) of this section reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level the employer may discontinue the monitoring for that employee, except as otherwise required by subsection (5) of this section.

(5) Additional monitoring. The employer shall institute the exposure monitoring required under subsections (2)(b) and (c) of this section when there has been a change in production process, chemicals present, control equipment, personnel, or work practices which may result in new or additional exposures to MDA, or when the employer has any reason to suspect a change which may result in new or additional exposures.

(6) Accuracy of monitoring. Monitoring shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of MDA.

(7) Employee notification of monitoring results.

(a) The employer shall, within 15 working days after the receipt of the results of any monitoring performed under this standard, notify each employee of these results, in writing, either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by subdivision (a) of this subsection shall contain the corrective action being taken by the employer or any other protective measures which have been implemented to reduce the employee exposure to or below the PELs, wherever the PELs are exceeded.

(8) Visual monitoring. The employer shall make routine inspections of employee hands, face, and forearms potentially exposed to MDA. Other potential dermal exposures reported by the employee must be referred to the appropriate medical personnel for observation. If the employer determines that the employee has been exposed to MDA the employer shall:

(a) Determine the source of exposure;

(b) Implement protective measures to correct the hazard; and

(c) Maintain records of the corrective actions in accordance with WAC 296-155-17327.

NEW SECTION

WAC 296-155-17313 Regulated areas. (1) Establishment.

(a) Airborne exposures. The employer shall establish regulated areas where airborne concentrations of MDA exceed, or can reasonably be expected to exceed, the permissible exposure limits.

(b) Dermal exposures. Where employees are subject to "dermal exposure to MDA" the employer shall establish those work areas as regulated areas.

(2) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in a manner that minimizes the number of persons potentially exposed.

(3) Access. Access to regulated areas shall be limited to authorized persons.

(4) Personal protective equipment and clothing. Each person entering a regulated area shall be supplied with, and required to use, the appropriate personal protective clothing and equipment in accordance with WAC 296-155-17317 and 296-155-17319.

(5) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas.

NEW SECTION

WAC 296-155-17315 Methods of compliance. (1) Engineering controls and work practices and respirators.

(a) The employer shall use one or any combination of the following control methods to achieve compliance with the permissible exposure limits prescribed by WAC 296-155-17317.

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) General ventilation systems;

(iii) Use of work practices; or

(iv) Other engineering controls such as isolation and enclosure that the director can show to be feasible.

(b) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the PELs, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protective devices which comply with the requirements of WAC 296-155-17317.

(2) Special provisions. For workers engaged in spray application methods, respiratory protection must be used in addition to feasible engineering controls and work practices to reduce employee exposure to or below the PELs.

(3) Prohibitions. Compressed air shall not be used to remove MDA unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air.

(4) Employee rotation. The employer shall not use employee rotation as a means of compliance with the exposure limits prescribed in WAC 296-155-17305.

(5) Compliance program.

(a) The employer shall establish and implement a written program to reduce employee exposure to or below the PELs by means of engineering and work practice controls, as required by subsection (1) of this section, and by use of respiratory protection where permitted under this section.

(b) Upon request this written program shall be furnished for examination and copying to the director, affected employees, and designated employee representatives. The employer shall review and, as necessary, update such plans at least once every 12 months to make certain they reflect the current status of the program.

NEW SECTION

WAC 296-155-17317 Respiratory protection. (1) General. The employer shall provide respirators, and ensure that they are used, where required by this section. Respirators shall be used in the following circumstances:

(a) During the time period necessary to install or implement feasible engineering and work practice controls;

(b) In work operations such as maintenance and repair activities and spray application processes for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the PELs; and

(d) In emergencies.

(2) Respirator selection.

(a) Where respirators are required or allowed under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall assure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those jointly approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health under the provisions of 30 CFR part 11 and chapter 296-62 WAC, Part E.

(c) Any employee who cannot wear a negative-pressure respirator shall be given the option of wearing a positive-pressure respirator or any supplied-air respirator operated in the continuous flow or pressure demand mode.

(3) Respirator program. The employer shall institute a respiratory protection program in accordance with chapter 296-62 WAC, Part E.

(4) Respirator use.

(a) Where air-purifying respirators (cartridge or canister) are used, the employer shall replace the air-purifying element as needed to maintain the effectiveness of the respirator. The employer shall ensure that each cartridge is dated at the beginning of use.

(b) Employees who wear respirators shall be allowed to leave the regulated area to readjust the face piece or to wash their faces and to wipe clean the face pieces on their respirators in order to minimize potential skin irritation associated with respirator use.

(c) Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA[1] cartridge.[2]
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA[1] cartridge or canister.[2]
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA[1] cartridges.[2]
d. Greater than 1000xPEL or unknown	(1) Self-contained breathing concentration apparatus with full facepiece in positive pressure mode; (2) Full facepiece positive-pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA [1] cartridges;[2] (2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure mode.

Note: Respirators assigned for higher environmental concentrations may be used at lower concentrations.
[1]High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.
[2]Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

(5) Respirator fit testing.

PERMANENT

(a) The employer shall perform and record the results of either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative-pressure respirator. The test shall be used to select a respirator facepiece which provides the required protection as prescribed in subsection (4)(c) of this section, Table 1.

(b) The employer shall follow the test protocols outlined in Appendix E of this standard for whichever type of fit testing the employer chooses.

NEW SECTION

WAC 296-155-17319 Protective work clothing and equipment. (1) Provision and use. Where employees are subject to dermal exposure to MDA, where liquids containing MDA can be splashed into the eyes, or where airborne concentrations of MDA are in excess of the PEL, the employer shall provide, at no cost to the employee, and ensure that the employee uses, appropriate protective work clothing and equipment which prevent contact with MDA such as, but not limited to:

(a) Aprons, coveralls, or other full-body work clothing;

(b) Gloves, head coverings, and foot coverings; and

(c) Face shields, chemical goggles; or

(d) Other appropriate protective equipment which comply with WAC 296-24-078.

(2) Removal and storage.

(a) The employer shall ensure that, at the end of their work shift, employees remove MDA-contaminated protective work clothing and equipment that is not routinely removed throughout the day in change areas provided in accordance with the provisions in WAC 296-155-17321.

(b) The employer shall ensure that, during their work shift, employees remove all other MDA-contaminated protective work clothing or equipment before leaving a regulated area.

(c) The employer shall ensure that no employee takes MDA-contaminated work clothing or equipment out of the decontamination areas, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(d) MDA-contaminated work clothing or equipment shall be placed and stored and transported in sealed, impermeable bags, or other closed impermeable containers.

(e) Containers of MDA-contaminated protective work clothing or equipment which are to be taken out of decontamination areas or the workplace for cleaning, maintenance, or disposal, shall bear labels warning of the hazards of MDA.

(3) Cleaning and replacement.

(a) The employer shall provide the employee with clean protective clothing and equipment. The employer shall ensure that protective work clothing or equipment required by this section is cleaned, laundered, repaired, or replaced at intervals appropriate to maintain its effectiveness.

(b) The employer shall prohibit the removal of MDA from protective work clothing or equipment by blowing, shaking, or any methods which allow MDA to reenter the workplace.

(c) The employer shall ensure that laundering of MDA-contaminated clothing shall be done so as to prevent the release of MDA in the workplace.

(d) Any employer who gives MDA-contaminated clothing to another person for laundering shall inform such person of the requirement to prevent the release of MDA.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with MDA of the potentially harmful effects of exposure.

(4) Visual examination.

(a) The employer shall ensure that employees' work clothing is examined periodically for rips or tears that may occur during performance of work.

(b) When rips or tears are detected, the protective equipment or clothing shall be repaired and replaced immediately.

NEW SECTION

WAC 296-155-17321 Hygiene facilities and practices. (1) General.

(a) The employer shall provide decontamination areas for employees required to work in regulated areas or required by WAC 296-155-17319 to wear protective clothing. Exception: In lieu of the decontamination area requirement specified in this subsection, the employer may permit employees engaged in small scale, short duration operations, to clean their protective clothing or dispose of the protective clothing before such employees leave the area where the work was performed.

(b) Change areas. The employer shall ensure that change areas are equipped with separate storage facilities for protective clothing and street clothing, in accordance with WAC 296-24-12011.

(c) Equipment area. The equipment area shall be supplied with impermeable, labeled bags and containers for the containment and disposal of contaminated protective clothing and equipment.

(2) Shower area.

(a) Where feasible, shower facilities shall be provided which comply with WAC 296-24-12009(3) wherever the possibility of employee exposure to airborne levels of MDA in excess of the permissible exposure limit exists.

(b) Where dermal exposure to MDA occurs, the employer shall ensure that materials spilled or deposited on the skin are removed as soon as possible by methods which do not facilitate the dermal absorption of MDA.

(3) Lunch areas.

(a) Whenever food or beverages are consumed at the worksite and employees are exposed to MDA the employer shall provide clean lunch areas were MDA levels are below the action level and where no dermal exposure to MDA can occur.

(b) The employer shall ensure that employees wash their hands and faces with soap and water prior to eating, drinking, smoking, or applying cosmetics.

(c) The employer shall ensure that employees do not enter lunch facilities with contaminated protective work clothing or equipment.

NEW SECTION

WAC 296-155-17323 Communication of hazards to employees. (1) Signs and labels.

(a) The employer shall post and maintain legible signs demarcating regulated areas and entrances or accessways to regulated areas that bear the following legend:

DANGER MDA MAY CAUSE CANCER LIVER TOXIN
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING
MAY BE REQUIRED TO BE WORN IN THIS AREA

(b) The employer shall ensure that labels or other appropriate forms of warning are provided for containers of MDA within the workplace. The labels shall comply with the requirements of WAC 296-62-05411 and shall include one of the following legends:

(i) For pure MDA

DANGER CONTAINS MDA MAY CAUSE CANCER LIVER TOXIN

(ii) For mixtures containing MDA

DANGER CONTAINS MDA CONTAINS MATERIALS
WHICH MAY CAUSE CANCER LIVER TOXIN

(2) Material safety data sheets (MSDS). Employers shall obtain or develop, and shall provide access to their employees to, a material safety data sheet (MSDS) for MDA.

(3) Information and training.

(a) The employer shall provide employees with information and training on MDA, in accordance with WAC 296-62-054 through 296-62-05415, at the time of initial assignment and at least annually thereafter.

(b) In addition to the information required under WAC 296-62-054, the employer shall:

(i) Provide an explanation of the contents of this section, including Appendices A and B of this section, and indicate to employees where a copy of the standard is available;

(ii) Describe the medical surveillance program required under WAC 296-155-17327, and explain the information contained in Appendix C of this standard; and

(iii) Describe the medical removal provision required under WAC 296-155-17327.

(4) Access to training materials.

(a) The employer shall make readily available to all affected employees, without cost, all written materials relating to the employee training program, including a copy of this regulation.

(b) The employer shall provide to the director, upon request, all information and training materials relating to the employee information and training program.

NEW SECTION

WAC 296-155-17325 Housekeeping. (1) All surfaces shall be maintained as free as practicable of visible accumulations of MDA.

(2) The employer shall institute a program for detecting MDA leaks, spills, and discharges, including regular visual inspections of operations involving liquid or solid MDA.

(3) All leaks shall be repaired and liquid or dust spills cleaned up promptly.

(4) Surfaces contaminated with MDA may not be cleaned by the use of compressed air.

(5) Shoveling, dry sweeping, and other methods of dry clean-up of MDA may be used where HEPA-filtered vacuuming and/or wet cleaning are not feasible or practical.

(6) Waste, scrap, debris, bags, containers, equipment, and clothing contaminated with MDA shall be collected and disposed of in a manner to prevent the reentry of MDA into the workplace.

NEW SECTION

WAC 296-155-17327 Medical surveillance. (1) General.

(a) The employer shall make available a medical surveillance program for employees exposed to MDA under the following circumstances:

(i) Employees exposed at or above the action level for 30 or more days per year;

(ii) Employees who are subject to dermal exposure to MDA for 15 or more days per year;

(iii) Employees who have been exposed in an emergency situation;

(iv) Employees whom the employer, based on results from compliance with WAC 296-155-17311(8) has reason to believe are being dermally exposed; and

(v) Employees who show signs or symptoms of MDA exposure.

(b) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician at a reasonable time and place, and provided without cost to the employee.

(2) Initial examinations.

(a) Within 150 days of the effective date of this standard, or before the time of initial assignment, the employer shall provide each employee covered by subsection (1)(a) of this section with a medical examination including the following elements:

A detailed history which includes:

(i) Past work exposure to MDA or any other toxic substances;

(ii) A history of drugs, alcohol, tobacco, and medication routinely taken (duration and quantity); and

(iii) A history of dermatitis, chemical skin sensitization, or previous hepatic disease.

(iv) A physical examination which includes all routine physical examination parameters, skin examination, and examination for signs of liver disease.

(v) Laboratory tests including:

(A) Liver function tests; and

(B) Urinalysis.

(vi) Additional tests as necessary in the opinion of the physician.

(b) No initial medical examination is required if adequate records show that the employee has been examined in accordance with the requirements of this section within the previous six months prior to the effective date of this standard or prior to the date of initial assignment.

(3) Periodic examinations.

(a) The employer shall provide each employee covered by this section with a medical examination at least annually

PERMANENT

following the initial examination. These periodic examinations shall include at least the following elements:

(i) A brief history regarding any new exposure to potential liver toxins, changes in drug, tobacco, and alcohol intake, and the appearance of physical signs relating to the liver and the skin;

(ii) The appropriate tests and examinations including liver function tests and skin examinations; and

(iii) Appropriate additional tests or examinations as deemed necessary by the physician.

(b) If in the physician's opinion the results of liver function tests indicate an abnormality, the employee shall be removed from further MDA exposure in accordance with WAC 296-155-17329. Repeat liver function tests shall be conducted on advice of the physician.

(4) Emergency examinations. If the employer determines that the employee has been exposed to a potentially hazardous amount of MDA in an emergency situation under WAC 296-155-17309, the employer shall provide medical examinations in accordance with subsection (3)(a) and (b). If the results of liver function testing indicate an abnormality, the employee shall be removed in accordance with WAC 296-155-17329. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

(5) Additional examinations. Where the employee develops signs and symptoms associated with exposure to MDA, the employer shall provide the employee with an additional medical examination including liver function tests. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

(6) Multiple physician review mechanism.

(a) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, and the employee has signs or symptoms of occupational exposure to MDA (which could include an abnormal liver function test), and the employee disagrees with the opinion of the examining physician, and this opinion could affect the employee's job status, the employee may designate an appropriate and mutually acceptable second physician:

(i) To review any findings, determinations, or recommendations of the initial physician; and

(ii) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(b) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within 15 days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(i) The employee informing the employer that he or she intends to seek a second medical opinion; and

(ii) The employee initiating steps to make an appointment with a second physician.

(c) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(d) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(i) To review any findings, determinations, or recommendations of the prior physicians; and

(ii) To conduct such examinations, consultations, laboratory tests, and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(e) The employer shall act consistent with the findings, determinations, and recommendations of the second physician, unless the employer and the employee reach a mutually acceptable agreement.

(f) Information provided to the examining physician.

(i) The employer shall provide the following information to the examining physician:

(A) A copy of this regulation and its appendices;

(B) A description of the affected employee's duties as they relate to the employee's potential exposure to MDA;

(C) The employee's current actual or representative MDA exposure level;

(D) A description of any personal protective equipment used or to be used; and

(E) Information from previous employment related medical examinations of the affected employee.

(ii) The employer shall provide the foregoing information to a second physician under this section upon request either by the second physician, or by the employee.

(g) Physician's written opinion.

(i) For each examination under this section, the employer shall obtain, and provide the employee with a copy of, the examining physician's written opinion within 15 days of its receipt. The written opinion shall include the following:

(A) The occupationally pertinent results of the medical examination and tests;

(B) The physician's opinion concerning whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to MDA;

(C) The physician's recommended limitations upon the employee's exposure to MDA or upon the employee's use of protective clothing or equipment and respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from MDA exposure which require further explanation or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposures.

NEW SECTION

WAC 296-155-17329 Medical removal. (1) Temporary medical removal of an employee.

(a) Temporary removal resulting from occupational exposure. The employee shall be removed from work environments in which exposure to MDA is at or above the action level or where dermal exposure to MDA may occur, following an initial examination (WAC 296-155-17327(2)), periodic examinations (WAC 296-155-17327(3)), an emergency situation (WAC 296-155-17327(4)), or an additional examination (WAC 296-155-17327(5)) in the following circumstances:

(i) When the employee exhibits signs and/or symptoms indicative of acute exposure to MDA; or

(ii) When the examining physician determines that an employee's abnormal liver function tests are not associated with MDA exposure but that the abnormalities may be exacerbated as a result of occupational exposure to MDA.

(b) Temporary removal due to a final medical determination.

(i) The employer shall remove an employee from work having an exposure to MDA at or above the action level or where the potential for dermal exposure exists on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to MDA.

(ii) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the physician review mechanism used pursuant to the medical surveillance provisions of this section.

(iii) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to MDA, the employer shall implement and act consistent with the recommendation.

(2) Return of the employee to former job status.

(a) The employer shall return an employee to her or his former job status:

(i) When the employee no longer shows signs or symptoms of exposure to MDA, or upon the advice of the physician.

(ii) When a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to MDA.

(b) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(3) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(4) Employer options pending a final medical determination. Where the physician review mechanism used pursuant to the medical surveillance provisions of this section has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(a) Removal. The employer may remove the employee from exposure to MDA, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of the physician who has reviewed the employee's health status.

(b) Return. The employer may return the employee to her or his former job status, and end any special protective measures provided to the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions:

(i) If the initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(ii) The employee has been on removal status for the preceding six months as a result of exposure to MDA, then the employer shall await a final medical determination.

(5) Medical removal protection benefits.

(a) Provisions of medical removal protection benefits. The employer shall provide to an employee up to six months of medical removal protection benefits on each occasion that an employee is removed from exposure to MDA or otherwise limited pursuant to this section.

(b) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority, and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to MDA or otherwise limited.

(c) Follow-up medical surveillance during the period of employee removal or limitations. During the period of time that an employee is removed from normal exposure to MDA or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(d) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for an MDA-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment-related expenses.

(e) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with any

PERMANENT

employer made possible by virtue of the employee's removal.

(f) Employees who do not recover within the 6 months of removal. The employer shall take the following measures with respect to any employee removed from exposure to MDA:

(i) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(ii) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to her or his former job status, and, if not, what steps should be taken to protect the employee's health;

(iii) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to her or his former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to her or his former job status; and

(iv) Where the employer acts pursuant to a final medical determination which permits the return of the employee to her or his former job status despite what would otherwise be an unacceptable liver function test, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the MDA removal criteria provided by this section.

(6) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to MDA or otherwise places limitations on an employee due to the effects of MDA exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by subsection (5) of this section.

NEW SECTION

WAC 296-155-17331 Recordkeeping. (1) Objective data for exempted operations.

(a) Where the employer has relied on objective data that demonstrate that products made from or containing MDA are not capable of releasing MDA or do not present a dermal exposure problem under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under WAC 296-155-17311(2), the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Historical monitoring data.

(a) Where the employer has relied on historical monitoring data that demonstrate that exposures on a particular job will be below the action level to exempt such operations from the initial monitoring requirements under WAC 296-155-17311(2), the employer shall establish and maintain an accurate record of historical monitoring data reasonably relied upon in support of the exception.

(b) The record shall include information that reflect the following conditions:

(i) The data upon which judgments are based are scientifically sound and were collected using methods that are sufficiently accurate and precise;

(ii) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed;

(iii) The characteristics of the MDA-containing material being handled when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed;

(iv) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such historical monitoring data.

(3) The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(4) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to MDA.

(b) This record shall include at least the following information:

(i) The date of measurement;

(ii) The operation involving exposure to MDA;

(iii) Sampling and analytical methods used and evidence of their accuracy;

(iv) Number, duration, and results of samples taken;

(v) Type of protective devices worn, if any; and

(vi) Name, Social Security number, and exposure of the employees whose exposures are represented.

(c) The employer shall maintain this record for at least thirty years in accordance with chapter 296-62 WAC, Part B.

(5) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-155-17327 in accordance with chapter 296-62 WAC, Part B.

(b) The record shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physician's recommendations;

(iii) Physician's written opinions;

(iv) Any employee medical complaints related to exposure to MDA; and

(v) A copy of the information provided to the physician as required by WAC 296-155-17327.

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years in accordance with chapter 296-62 WAC, Part B.

(d) A copy of the employee's medical removal and return to work status.

(6) Training records. The employer shall maintain all employee training records for one year beyond the last date of employment.

(7) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the assistant secretary and the director for examination and copying.

(b) The employer, upon request, shall make any exposure records required by WAC 296-155-17311 and 296-155-17327 available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05223.

(c) The employer, upon request, shall make employee medical records required by WAC 296-155-17327 and this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the director in accordance with chapter 296-62 WAC, Part B.

(8) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(b) Whenever 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 90 days prior to disposal and, upon request, transmit them to the director.

NEW SECTION

WAC 296-155-17333 Observation of monitoring. (1) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe the measuring or monitoring of employee exposure to MDA conducted pursuant to WAC 296-155-17311.

(2) Observation procedures. When observation of the measuring or monitoring of employee exposure to MDA requires entry into areas where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective clothing and equipment or respirators required to be worn by employees working in the area, assure the use of such clothing and equipment or respirators, and require the observer to comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-155-17335 Effective date. This standard shall become effective on March 15, 1993.

NEW SECTION

WAC 296-155-17337 Appendices. The information contained in Appendices A, B, C, and D of this standard is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation. The protocols for respiratory fit testing in Appendix E of this standard are mandatory.

NEW SECTION

WAC 296-155-17339 Startup dates. Compliance with all obligations of this standard commence March 3, 1993, except as follows:

(1) Initial monitoring under WAC 296-155-17311(2) shall be completed as soon as possible but no later than June 3, 1993.

(2) Medical examinations under WAC 296-155-17327, shall be completed as soon as possible but no later than August 14, 1993.

(3) Emergency plans required by WAC 296-155-17309 shall be provided and available for inspection and copying as soon as possible but no later than July 13, 1993.

(4) Initial training and education shall be completed as soon as possible but no later than July 13, 1993.

(5) Decontamination and lunch areas under WAC 296-155-17321 shall be in operation as soon as possible but no later than March 3, 1993.

(6) Respiratory protection required by WAC 296-155-17317 shall be provided as soon as possible but no later than July 13, 1993.

(7) Written compliance plans required by WAC 296-155-17315(5) shall be completed and available for inspection and copying as soon as possible but no later than July 13, 1993.

(8) WISHA shall enforce the permissible exposure limits in WAC 296-155-17305 no earlier than July 13, 1993.

(9) Engineering controls needed to achieve the PELs must be in place March 3, 1993.

(10) Personal protective clothing required by WAC 296-155-17317 shall be available July 13, 1993.

NEW SECTION

WAC 296-155-17341 Appendix A to WAC 296-155-173—Substance data sheet, for 4-4'-methylenedianiline. (1) Substance identification.

(a) Substance: Methylenedianiline (MDA).

(b) Permissible exposure:

(i) Airborne: Ten parts per billion parts of air (10 ppb), time-weighted average (TWA) for an 8-hour workday and an action level of five parts per billion parts of air (5 ppb).

(ii) Dermal: Eye contact and skin contact with MDA are not permitted.

(c) Appearance and odor: White to tan solid; amine odor.

(2) Health hazard data.

(a) Ways in which MDA affects your health. MDA can affect your health if you inhale it or if it comes in contact with your skin or eyes. MDA is also harmful if you happen to swallow it. Do not get MDA in eyes, on skin, or on clothing.

(b) Effects of overexposure.

(i) Short-term (acute) overexposure: Overexposure to MDA may produce fever, chills, loss of appetite, vomiting, jaundice. Contact may irritate skin, eyes, and mucous membranes. Sensitization may occur.

(ii) Long-term (chronic) exposure. Repeated or prolonged exposure to MDA, even at relatively low concentrations, may cause cancer. In addition, damage to the liver, kidneys, blood, and spleen may occur with long-term exposure.

(iii) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms which you suspect are caused by exposure to MDA including yellow staining of the skin.

(3) Protective clothing and equipment.

(a) Respirators. Respirators are required for those operations in which engineering controls or work practice controls are not adequate or feasible to reduce exposure to the permissible limit. If respirators are worn, they must have the joint Mine Safety and Health Administration and National Institute for Occupational Safety and Health (NIOSH) seal of approval, and cartridges or canisters must be replaced as necessary to maintain the effectiveness of the respirator. If you experience difficulty breathing while wearing a respirator, you may request a positive-pressure respirator from your employer. You must be thoroughly trained to use the assigned respirator, and the training will be provided by your employer. MDA does not have a detectable odor except at levels well above the permissible exposure limits. Do not depend on odor to warn you when a respirator canister is exhausted. If you can smell MDA while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Protective clothing. You may be required to wear coveralls, aprons, gloves, face shields, or other appropriate protective clothing to prevent skin contact with MDA. Where protective clothing is required, your employer is required to provide clean garments to you, as necessary, to assure that the clothing protects you adequately. Replace or repair impervious clothing that has developed leaks. MDA should never be allowed to remain on the skin. Clothing and shoes which are not impervious to MDA should not be allowed to become contaminated with MDA, and if they do, the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered to remove MDA or discarded. Once MDA penetrates shoes or other leather articles, they should not be worn again.

(c) Eye protection. You must wear splashproof safety goggles in areas where liquid MDA may contact your eyes. Contact lenses should not be worn in areas where eye contact with MDA can occur. In addition, you must wear a face shield if your face could be splashed with MDA liquid.

(4) Emergency and first aid procedures.

(a) Eye and face exposure. If MDA is splashed into the eyes, wash the eyes for at least 15 minutes. See a doctor as soon as possible.

(b) Skin exposure. If MDA is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of soap and water immediately. Wash contaminated clothing before you wear it again.

(c) Breathing. If you or any other person breathes in large amounts of MDA, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call for medical assistance or a doctor as soon as possible. Never enter any vessel or confined space where the MDA concentration might be high without proper safety equipment and at least one other person present who will stay outside. A life line should be used.

(d) Swallowing. If MDA has been swallowed and the patient is conscious, do not induce vomiting. Call for medical assistance or a doctor immediately.

(5) Medical requirements. If you are exposed to MDA at a concentration at or above the action level for more than 30 days per year, or exposed to liquid mixtures more than 15 days per year, your employer is required to provide a medical examination, including a medical history and laboratory tests, within 60 days of the effective date of this standard and annually thereafter. These tests shall be provided without cost to you. In addition, if you are accidentally exposed to MDA (either by ingestion, inhalation, or skin/eye contact) under conditions known or suspected to constitute toxic exposure to MDA, your employer is required to make special examinations and tests available to you.

(6) Observation of monitoring. Your employer is required to perform measurements that are representative of your exposure to MDA and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn; you and your representative must also be provided with, and must wear, the protective clothing and equipment.

(7) Access to records. You or your representative are entitled to see the records of measurements of your exposure to MDA upon written request to your employer. Your medical examination records can be furnished to your physician or designated representative upon request by you to your employer.

(8) Precautions for safe use, handling, and storage.

(a) Material is combustible. Avoid strong acids and their anhydrides. Avoid strong oxidants. Consult supervisor for disposal requirements.

(b) Emergency clean-up. Wear self-contained breathing apparatus and fully clothe the body in the appropriate personal protective clothing and equipment.

NEW SECTION

WAC 296-155-17343 Appendix B to WAC 296-155-173—Substance technical guidelines, MDA. (1) Identification.

(a) Substance identification.

(i) Synonyms: CAS No. 101-77-9. 4,4'-methylenedianiline; 4,4'-methylenebisaniline; methylenedianiline; dianilinomethane.

(ii) Formula: $C_{13}H_{14}N_2$.

(b) Physical data.

(2) Appearance and odor: White to tan solid; amine odor.

(a) Molecular weight: 198.26.

(b) Boiling point: 398-399 degrees C. at 760 mm Hg.

(c) Melting point: 88-93 degrees C. (190-100 degrees F.).

(d) Vapor pressure: 9 mm Hg at 232 degrees C.

(e) Evaporation rate (n-butyl acetate=1): Negligible.

(f) Vapor density (Air=1): Not applicable.

(g) Volatile fraction by weight: Negligible.

(h) Specific gravity (Water=1): Slight.

(i) Heat of combustion: -8.40 kcal/g.

(j) Solubility in water: Slightly soluble in cold water, very soluble in alcohol, benzene, ether, and many organic solvents.

(3) Fire, explosion, and reactivity hazard data.

(a) Flash point: 190 degrees C. (374 degrees F.) Setaflash closed cup.

(b) Flash point: 226 degrees C. (439 degrees F.) Cleveland open cup.

(c) Extinguishing media: Water spray; dry chemical; carbon dioxide.

(d) Special fire fighting procedures: Wear self-contained breathing apparatus and protective clothing to prevent contact with skin and eyes.

(e) Unusual fire and explosion hazards: Fire or excessive heat may cause production of hazardous decomposition products.

(4) Reactivity data.

(a) Stability: Stable.

(b) Incompatibility: Strong oxidizers.

(c) Hazardous decomposition products: As with any other organic material, combustion may produce carbon monoxide. Oxides of nitrogen may also be present.

(d) Hazardous polymerization: Will not occur.

(5) Spill and leak procedures.

(a) Sweep material onto paper and place in fiber carton.

(b) Package appropriately for safe feed to an incinerator or dissolve in compatible waste solvents prior to incineration.

(c) Dispose of in an approved incinerator equipped with afterburner and scrubber or contract with licensed chemical waste disposal service.

(d) Discharge treatment or disposal may be subject to federal, state, or local laws.

(e) Wear appropriate personal protective equipment.

(6) Special storage and handling precautions.

(a) High exposure to MDA can occur when transferring the substance from one container to another. Such operations should be well ventilated and good work practices must be established to avoid spills.

(b) Pure MDA is a solid with a low vapor pressure. Grinding or heating operations increase the potential for exposure.

(c) Store away from oxidizing materials.

(d) Employers shall advise employees of all areas and operations where exposure to MDA could occur.

(7) Housekeeping and hygiene facilities.

(a) The workplace should be kept clean, orderly, and in a sanitary condition. The employer should institute a leak and spill detection program for operations involving MDA in order to detect sources of fugitive MDA emissions.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of MDA from the skin.

(8) Common operations. Common operations in which exposure to MDA is likely to occur include the following: Manufacture of MDA; manufacture of methylene diisocyanate; curing agent for epoxy resin structures; wire coating operations; and filament winding.

NEW SECTION

WAC 296-155-17345 Appendix C to WAC 296-155-173—Medical surveillance guidelines for MDA. (1) Route of entry. Inhalation; skin absorption; ingestion. MDA can be inhaled, absorbed through the skin, or ingested.

(2) Toxicology. MDA is a suspect carcinogen in humans. There are several reports of liver disease in humans and animals resulting from acute exposure to MDA. A well documented case of an acute cardiomyopathy secondary to exposure to MDA is on record. Numerous human cases of hepatitis secondary to MDA are known. Upon direct contact MDA may also cause damage to the eyes. Dermatitis and skin sensitization have been observed. Almost all forms of acute environmental hepatic injury in humans involve the hepatic parenchyma and produce hepatocellular jaundice. This agent produces intrahepatic cholestasis. The clinical picture consists of cholestatic jaundice, preceded or accompanied by abdominal pain, fever, and chills. Onset in about 60% of all observed cases is abrupt with severe abdominal pain. In about 30% of observed cases, the illness presented and evolved more slowly and less dramatically, with only slight abdominal pain. In about 10% of the cases only jaundice was evident. The cholestatic nature of the jaundice is evident in the prominence of itching, the histologic predominance of bile stasis, and portal inflammatory infiltration, accompanied by only slight parenchymal injury in most cases, and by the moderately elevated transaminase values. Acute, high doses, however, have been known to cause hepatocellular damage resulting in elevated SGPT, SGOT, alkaline phosphatase, and bilirubin. Absorption through the skin is rapid. MDA is metabolized and excreted over a 48-hour period. Direct contact may be irritating to the skin, causing dermatitis. Also MDA which is deposited on the skin is not thoroughly removed through washing. MDA may cause bladder cancer in humans. Animal data supporting this assumption is not available nor is conclusive human data. However, human data collected on workers at a helicopter manufacturing facility where MDA is used suggests a higher incidence of bladder cancer among exposed workers.

(3) Signs and symptoms. Skin may become yellow from contact with MDA. Repeated or prolonged contact with MDA may result in recurring dermatitis (red-itchy, cracked skin) and eye irritation. Inhalation, ingestion, or absorption through the skin at high concentrations may result in hepatitis, causing symptoms such as fever and chills, nausea and vomiting, dark urine, anorexia, rash, right upper

PERMANENT

quadrant pain, and jaundice. Corneal burns may occur when MDA is splashed in the eyes.

(4) Treatment of acute toxic effects/emergency situation. If MDA gets into the eyes, immediately wash eyes with large amounts of water. If MDA is splashed on the skin, immediately wash contaminated skin with mild soap or detergent. Employee should be removed from exposure and given proper medical treatment. Medical tests required under the emergency section of the medical surveillance (WAC 296-155-17327(4)) must be conducted. If the chemical is swallowed do not induce vomiting but remove by gastric lavage.

NEW SECTION

WAC 296-155-17347 Appendix D to WAC 296-155-173—Sampling and analytical methods for MDA monitoring and measurement procedures. Measurements taken for the purpose of determining employee exposure to MDA are best taken so that the representative average 8-hour exposure may be determined from a single 8-hour sample or two 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five measurements are taken in a random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one work shift is an estimate of an employee's average level of exposure for that work shift. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee). There are a number of methods available for monitoring employee exposures to MDA. The method OSHA currently uses is included below. The employer however has the obligation of selecting any monitoring method which meets the accuracy and precision requirements of the standard under her or his unique field conditions. The standard requires that the method of monitoring must have an accuracy, to a 95 percent confidence level, of not less than plus or minus 25 percent for the select PEL.

WISHA methodology.

Sampling procedure.

Apparatus:

Samples are collected by use of a personal sampling pump that can be calibrated within +/-5% of the recommended flow rate with the sampling filter in line. Samples are collected on 37 mm Gelman type A/E glass fiber filters treated with sulfuric acid. The filters are prepared by soaking each filter with 0.5 mL of 0.26N H_2SO_4. (0.26 N H_2SO_4 can be prepared by diluting 1.5 mL of 36N H_2SO_4 to 200 mL with deionized water.) The filters are dried in an oven at 100 degrees C. for one hour and then assembled into three-piece 37 mm polystyrene cassettes without backup pads. The front filter is separated from the back filter by a polystyrene spacer. The cassettes are sealed with shrink bands and the ends are plugged with plastic plugs. After sampling, the filters are carefully removed from the cassettes and individually transferred to small vials containing approximately 2 mL deionized water. The vials must be tightly sealed. The water can be added before or after the filters are transferred. The vials must be sealable and capable of holding at least 7 mL of liquid. Small glass scintillation vials with caps containing Teflon liners are recommended.

Reagents:

Deionized water is needed for addition to the vials.

Sampling technique:

Immediately before sampling, remove the plastic plugs from the filter cassettes. Attach the cassette to the sampling pump with flexible tubing and place the cassette in the employee's breathing zone. After sampling, seal the cassettes with plastic plugs until the filters are transferred to the vials containing deionized water. At some convenient time within 10 hours of sampling, transfer the sample filters to vials. Seal the small vials lengthwise. Submit at least one blank filter with each sample set. Blanks should be handled in the same manner as samples, but no air is drawn through them. Record sample volumes (in L of air) for each sample, along with any potential interferences.

Retention efficiency:

A retention efficiency study was performed by drawing 100 L of air (80% relative humidity) at 1 L/min through sample filters that had been spiked with 0.814 micro-g MDA. Instead of using backup pads, blank acid-treated filters were used as backups in each cassette. Upon analysis, the top filters were found to have an average of 91.8% of the spiked amount. There was no MDA found on the bottom filters, so the amount lost was probably due to the slight instability of the MDA salt.

Extraction efficiency:

The average extraction efficiency for six filters spiked at the target concentration is 99.6%. The stability of extracted and derivatized samples was verified by reanalyzing the above six samples the next day using fresh standards. The average extraction efficiency for the reanalyzed samples is 98.7%.

Recommended air volume and sampling rate. The recommended air volume is 100 L. The recommended sampling rate is 1 L/min.

Interferences (sampling):

MDI appears to be a positive interference. It was found that when MDI was spiked onto an acid-treated filter, the MDI converted to MDA after air was drawn through it. Suspected interferences should be reported to the laboratory with submitted samples.

Safety precautions (sampling):

Attach the sampling equipment to the employees so that it will not interfere with work performance or safety. Follow all safety procedures that apply to the work area being sampled.

Analytical procedure:

Apparatus:

The following are required for analysis. A GC equipped with an electron capture detector. For this evaluation a Hewlett Packard 5880 Gas Chromatograph equipped with a Nickel 63 High Temperature Electron Capture Detector and a Linearizer was used. A GC column capable of separating the MDA derivative from the solvent and interferences. A 6 ft x 2 mm ID glass column packed with 3% OV-101 coated on 100/120 Gas Chrom Q or a 25 meter DB-1 or DB-5 capillary column is recommended for this evaluation. An electronic integrator or some other suitable means of measuring peak areas or heights. Small resealable vials with Teflon-lined caps capable of holding 4 mL. A dispenser or

pipet for toluene capable of delivering 2.9 mL. Pipets (or repipets with plastic or Teflon tips) capable of delivering 1 mL for the sodium hydroxide and buffer solutions. A repipet capable of delivering 25 micro-L HFAA. Syringes for preparation of standards and injection of standards and samples into a GC. Volumetric flasks and pipets to dilute the pure MDA in preparation of standards. Disposable pipets to transfer the toluene layers after the samples are extracted.

Reagents:

0.5 NaOH prepared from reagent grade NaOH. Toluene, pesticide grade. Burdick and Jackson distilled in glass toluene was used. Heptafluorobutyric acid anhydride (HFAA). HFAA from Pierce Chemical Company was used. pH 7.0 phosphate buffer, prepared from 136 g potassium dihydrogen phosphate and 1 L deionized water. The pH is adjusted to 7.0 with saturated sodium hydroxide solution. 4,4'-methylenedianiline (MDA), reagent grade.

Standard preparation:

Concentrated stock standards are prepared by diluting pure MDA with toluene. Analytical standards are prepared by injecting micro-L amounts of diluted stock standards into vials that contain 2.0 mL toluene. 25 micro-L HFAA are added to each vial and the vials are capped and shaken for 10 seconds. After 10 min, 1 mL of buffer is added to each vial. The vials are recapped and shaken for 10 seconds. After allowing the layers to separate, aliquots of the toluene (upper) layers are removed with a syringe and analyzed by GC. Analytical standard concentrations should bracket sample concentrations. Thus, if samples fall out of the range of prepared standards, additional standards must be prepared to ascertain detector response.

Sample preparation:

The sample filters are received in vials containing deionized water. 1 mL of 0.5N NaOH and 2.0 mL toluene are added to each vial. The vials are recapped and shaken for 10 min. After allowing the layers to separate, approximately 1 mL aliquots of the toluene (upper) layers are transferred to separate vials with clean disposable pipets. The toluene layers are treated and analyzed.

Analysis:

GC conditions.

Zone temperatures: Column—220 degrees C. Injector—235 degrees C. Detector—335 degrees C. Gas flows, N_2 Column—30 mL/min He Purge—Column 0.9 mL/min. (capillary) with 30 mL/min. $ArCH_4$ (95/5) make up gas Injection volume: 5.0 uL Column: 6 ft x 1/8 in ID glass, 3% OV-101 on 100/120 Gas Chrom Q or 25 Retention time of MDA derivative: 2.5 to 3.5, depending on column and flow. Chromatogram. Peak areas or heights are measured by an integrator or other suitable means. A calibration curve is constructed by plotting response (peak areas or heights) of standard injections versus micro-g of MDA per sample. Sample concentrations must be bracketed by standards.

Interferences (analytical):

Any compound that gives an electron capture detector response and has the same general retention time as the HFAA derivative of MDA is a potential interference. Suspected interferences reported to the laboratory with submitted samples by the industrial hygienist must be considered before samples are derivatized. GC parameters may be changed to possibly circumvent interferences. Retention time on a single column is not considered proof of chemical identity. Analyte identity should be confirmed by GC/MS if possible.

Calculations:

The analyte concentration for samples is obtained from the calibration curve in terms of micro-g MDA per sample. The extraction efficiency is 100%. If any MDA is found on the blank, that amount is subtracted from the sample amounts. The air concentrations are calculated using the following formulae. micro-$\mu g/m^3$ = (micro-μg MDA per sample) (1000)/(L of air sampled) ppb = (micro-$\mu g/m^3$) (24.46)/(198.3) = (micro-$\mu g/m^3$)(0.1233) where 24.46 is the molar volume at 25 degrees C. and 760 mm Hg.

Safety precautions (analytical). Avoid skin contact and inhalation of all chemicals. Restrict the use of all chemicals to a fume hood if possible. Wear safety glasses and a lab coat at all times while in the lab area.

NEW SECTION

WAC 296-155-17349 Appendix E to WAC 296-155-173—Methylenedianiline—Qualitative and quantitative fit testing procedures.

NEW SECTION

WAC 296-155-17351 Appendix E-1—Qualitative protocols.

NEW SECTION

WAC 296-155-17353 Appendix E-1-a—Isoamyl acetate (banana oil) protocol. (1) Odor threshold screening.

(a) Three 1-liter glass jars with metal lids (e.g. Mason or Ball jars) are required.

(b) Odor-free water (e.g., distilled or spring water) at approximately 25 deg. C. shall be used for the solutions.

(c) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(d) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated so that circulation of the test solution does not occur and cross contaminate the different testing sites.

(e) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor-free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(f) A test blank is prepared in a third jar by adding 500 cc of odor-free water.

(g) The odor test and test blank jars shall be labelled 1 and 2 for jar identification. The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure

the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(h) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(i) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(j) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(2) Respirator selection.

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric half facepieces, from at least two manufacturers.

(b) The selection process shall be conducted in a room separate from the fit test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension, and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit.

(d) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a comfortable fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in subdivision (f) below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator after donning:

(i) Positioning of mask on nose;

(ii) Room for eye protection;

(iii) Room to talk;

(iv) Positioning mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

(i) Chin properly placed;

(ii) Strap tension;

(iii) Fit across nose bridge;

(iv) Distance from nose to chin;

(v) Tendency to slip;

(vi) Self-observation in mirror.

(h) The test subject shall perform the conventional negative-pressure or positive-pressure fit checks (e.g., see ANSI Z88.2-1980A7). Before beginning the negative-pressure or positive-pressure test, the subject shall be told to "seat" the mask by rapidly moving the head from side to side and up and down, while taking a few deep breaths.

(i) The test subject is now ready for fit testing.

(j) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If the respirator has become uncomfortable, another model of respirator shall be tried.

(k) The employee shall be given the opportunity to select a different facepiece and to be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(3) Fit test.

(a) The fit test chamber shall be similar to a clear 55 gallon drum liner suspended inverted over a 2-foot diameter frame, so that the top of chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(b) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or canisters shall be replaced as necessary to maintain the effectiveness of the respirator.

(c) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(d) A copy of the following test exercises and Rainbow Passage shall be taped to the inside of the test chamber:

(e) Test exercises.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(v) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it aloud will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage:

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond

reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(f) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(g) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(h) Allow two minutes for the IAA test concentration to be reached before starting the fit test exercises.

(i) Each exercise described in subdivision (e) of this subsection shall be performed for at least one minute.

(j) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(k) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in subdivisions (d) through (j) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(l) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(m) When a respirator is found that passes the test, the subject must break the faceseal and take a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(n) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(o) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 10 times the PEL. In atmospheres greater than 10 times, and less than 50 times the PEL (up to 50 ppm), the subject must pass the IAA test using a full face negative-pressure respirator. (The concentration of the IAA inside the test chamber must be increased by five times for QLFT of the full facepiece.)

(p) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as a powered air-purifying respirator, supplied air respirator, or self-contained breathing apparatus.

(r) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(s) Qualitative fit testing shall be repeated at least every 12 months.

(t) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of the test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

NEW SECTION

WAC 296-155-17355 Appendix E-1-b—Saccharin solution aerosol protocol. (1) Respirator selection. Respirators shall be selected as described in WAC 296-155-17353(2) (respirator selection), except that each respirator shall be equipped with a particulate filter.

(2) Taste threshold screening.

(a) An enclosure placed over the head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(b) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(c) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(d) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(e) Using a DeVilbiss Model 40 inhalation medication nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(f) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see C 7 below) in 100 cc of water.

(g) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

PERMANENT

(h) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(i) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(j) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(k) The test conductor will take note of the number of squeezes required to elicit a taste response.

(l) If the saccharin is not tasted after 30 squeezes (Step 10), the saccharin fit test cannot be performed on the test subject.

(m) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(n) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(o) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(3) Fit test.

(a) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(b) The test subject shall don and adjust the respirator without assistance from any person.

(c) The fit test uses the same enclosure described in IIB above.

(d) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(i) This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(ii) The test subject shall perform the conventional negative-pressure or positive-pressure fit tests (see ANZI Z88.2 1980 A7).

(e) The test subject shall enter the enclosure while wearing the respirator selected in section IB above. This respirator shall be properly adjusted and equipped with a particulate filter.

(f) A second DeVilbiss Model 40 inhalation medication nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(g) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(h) As before, the test subject shall breathe with mouth open and tongue extended.

(i) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See B8 through B10 above.)

(j) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(v) Talk. Talk aloud and slowly. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement.

Rainbow Passage:

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(k) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in C9.

(l) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(m) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(n) Successful completion of the test protocol shall allow the use of the half-mask tested respirator in contaminated atmospheres up to 10 times the PEL of MDA. In other words this protocol may not be used to assign protection factors no higher than ten.

(o) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(p) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(q) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(r) Qualitative fit testing shall be repeated at least every 12 months.

(s) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

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 34.08.040.82

NEW SECTION

WAC 296-155-17357 Appendix E-1-c—Irritant fume protocol. (1) Respirator selection. Respirators shall be selected as described in section IB above, except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(2) Fit test.

(a) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(b) The test subject shall properly don the respirator selected as above, and wear it for at least 10 minutes before starting the fit test.

(c) The test conductor shall review this protocol with the test subject before testing.

(d) The test subject shall perform the conventional positive-pressure and negative-pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(e) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low-pressure air pump set to deliver 200 milliliters per minute.

(f) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(g) The test conductor shall direct the stream of irritant smoke from the tube towards the faceseal area of the test subject. The person conducting the test shall begin with the tube at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(h) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(v) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.
Rainbow Passage:
When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jogging in place.

(vii) Breathe normally.

(i) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(j) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(k) Steps (2)(d), (i), and (j) of this fit test protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(l) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL of MDA.

(m) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(n) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(o) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(p) Qualitative fit testing shall be repeated at least every 12 months.

(q) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(3) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

NEW SECTION

WAC 296-155-17359 Appendix E-2—Quantitative fit test procedures. (1) General.

(a) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(b) The employer shall assign an individual (with help as needed) who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(2) Definition.

(a) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(b) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(c) "Test subject" means the person wearing the respirator for quantitative fit testing.

(d) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(e) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(3) Apparatus.

(a) Instrumentation. Corn oil, sodium chloride, or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(c) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particular filter supplied by the same manufacturer.

(d) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000.

(e) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times, and so there is no interference with the fit or performance of the respirator.

(g) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed 2 seconds.

(j) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length, and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(k) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(4) Procedural requirements.

(a) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfr II-M, Norton M, Survivair M A- O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(i) Positive-pressure test. With the exhaust port(s) blocked the negative pressure of slight inhalation should remain constant for several seconds.

(ii) Negative-pressure test. With the intake port(s) blocked the negative pressure slight inhalation should remain constant for several seconds.

(b) After a facepiece is adjusted, the test subject shall wear the facepiece for at least 5 minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in subsection (5)(a) through (e) of this section.

(i) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(ii) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(c) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in subdivision (b) of this subsection.

(d) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(e) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half-mask and 1 percent for a full facepiece.

(f) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(g) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(5) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(a) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(b) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(c) Turning head side to side (SS). Standing in place the subject shall slowly turn her or his head from side to side between the extreme positions to each side. The head shall be held at each extreme position for at least 5 seconds. Perform for at least five complete cycles.

(d) Moving head up and down (UD). Standing in place, the subject shall slowly move her or his head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least 5 seconds. Perform for at least five complete cycles.

(e) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "Rainbow Passage" at the end of this section.

(f) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least 15 seconds.

(g) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least one minute.

(h) Jogging in place (J). The test subject shall jog in place for at least one minute.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

Rainbow Passage:

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(6) Termination of tests. The test shall be terminated whenever any single peak penetration exceeds 5 percent for half-masks and 1 percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(7) Calculation of fit factors.

(a) The fit factor determined by the quantitative fit test equals the average concentration inside the respirator.

(b) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(c) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(d) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(8) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three protection factors resulting from three independent tests.

(9) Other requirements.

(a) The test subject shall not be permitted to wear a half-mask or full facepiece if the minimum fit factor of 250 or 1,250, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(b) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(c) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician to determine whether the test subject can wear a respirator while performing her or his duties.

(d) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(e) A respirator fit factor card shall be issued to the subject with the following information:

(i) Name.

(ii) Date of fit test.

(iii) Protection factors obtained through each manufacturer, model and approval number of respirator tested.

(iv) Name and signature of the person that conducted the test.

(f) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

PERMANENT

(10) Retesting. In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(a) Weight change of 20 pounds or more;

(b) Significant facial scarring in the area of the facepiece seal;

(c) Significant dental changes; i.e., multiple extractions without prothesis, or acquiring dentures;

(d) Reconstructive or cosmetic surgery; or

(e) Any other condition that may interfere with facepiece sealing.

(11) Recordkeeping.

(a) A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size, and approval number).

(b) A copy of all test data including the strip chart and results shall be kept for at least five years.

WSR 93-04-112
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 3, 1993, 10:30 a.m., effective July 1, 1993]

Date of Adoption: December 11, 1992.

Purpose: To correct the effective date of WAC 296-125-070; published as WSR 93-01-068 on January 6, 1993, with an effective date of March 1, 1993; corrected to take effect on July 1, 1993.

Statutory Authority for Adoption: Chapters 49.12 and 43.22 RCW, and RCW 43.17.060.

Pursuant to notice filed as WSR 92-15-100 on July 20, 1992.

Changes Other than Editing from Proposed to Adopted Version: See WSR 93-01-068.

Effective Date of Rule: July 1, 1993.

February 3, 1993
Joseph A. Dear
Director

NEW SECTION

WAC 296-125-070 Special variances. (1) A special variance, to facilitate flexibility in a minor's school and work requirements, shall be available upon a showing of good cause. Good cause for a special variance may be demonstrated for sixteen- and seventeen-year-old minors not working in house-to-house sales, according to the terms and procedures set out in this section. A special variance may be obtained only for exceptions to the standards governing:

(a) Maximum hours of work per week during a week when school is in session, up to a maximum of twenty-eight hours per week; and

(b) Maximum hours of work per day during a week when school is in session, up to a maximum of six hours per day.

(2) The conditions precedent to a finding of good cause for a special variance shall include the following:

(a) The employer of the minor shall hold a valid minor work permit; and

(b) The minor's school district or individual private school shall be designated to participate in the special variance procedure by the department, pursuant to the requirements of subsection (3) of this section.

(3)(a) Each school district or individual private school seeking designation by the department to participate in the special variance process shall enroll with the department, using a form provided by the department. Further, the district or individual private school shall agree to maintain a mandatory recordkeeping system specified by the department, and to use uniform criteria as described in subsection (7) of this section to evaluate variance requests. The enrollment form shall require, but not be limited to, the following information:

(i) Agreement to maintain the mandatory recordkeeping system;

(ii) Designation of a school official(s) at each school authorized to evaluate and approve or disapprove variance requests;

(iii) Agreement to use the uniform criteria in evaluating variance requests, including agreement to mandatory periodic review and reapproval of all special variances in effect as described in subsection (4) of this section;

(iv) Agreement to forward a copy of each variance form approved or denied by a school to the department within thirty days of the school's action; and

(v) Agreement to provide immediate access to all variance files during normal school office hours to agents of the department.

(b) Each participating school shall be responsible for ensuring that all sections on the variance form required to be filled out by the employer and the school are complete. Incomplete variances shall be deemed invalid and shall be cause for revocation of designation for participation of the school district or individual private school and of the employer in the special variance program, and shall be a violation of this chapter.

Upon evidence of incomplete variances, the department shall notify the school district or private school, in writing, of the revocation of enrollment in the special variance program.

The school district or private school may appeal the revocation, in writing, within thirty days of receipt of notice from the department. The written appeal shall be sent to the department pursuant to the procedures established by RCW 49.12.161 and 49.12.400. Such appeal shall not stay the effectiveness of an order of immediate restraint issued by the department pursuant to RCW 49.12.390.

(4) The special variance form to be valid shall be completed and signed by the employer, the minor, the minor's authorized school official pursuant to subsection (3) of this section, and the minor's parent or legal guardian. The minor's authorized school official and parent or legal guardian must reauthorize the special variance form, in writing, within forty-five days of the end of each regular grading period at the minor's school.

(5)(a) The department shall provide a form for the employer to complete that shall include, but need not be

limited to, the following information to be provided by the employer to the minor, the authorized school official, and the minor's parent or legal guardian:

(i) The minor employee's work-related duties;

(ii) Maximum hours to be worked each week;

(iii) Length of work shifts;

(iv) Latest afternoon or evening hour to be worked by the minor employee;

(v) The number of days per week the minor employee will be required to work the latest afternoon or evening hour;

(vi) The employer's Unified Business Identifier (UBI) number; and

(vii) The date of expiration of the employer's minor work permit.

(b) The employer shall maintain all records of special variances according to the terms of WAC 296-125-050.

(c) No minor shall be permitted or suffered to work in excess of the maximum hours per week or per day during a week when school is in session, as prescribed by WAC 296-125-027 unless the minor's employer has a current, fully completed and executed variance for the minor on file at the minor's workplace.

(d) Any change in conditions described by (a)(i) through (v) of this subsection, except a return to the hours of work limitations prescribed by WAC 296-125-027, shall require initiation and completion of a new special variance.

(6) The minor shall complete her or his section of the variance form after the employer has completed its section and before the form is submitted to the school, parent, or legal guardian. The minor shall provide her or his reasons for the special variance request.

(7)(a) Approval or disapproval by the school shall be premised on the employer holding a current valid minor work permit, and on an assessment of the information required to be provided by the employer including the following factors:

(i) Student attendance patterns;

(ii) Student academic progress;

(iii) Opportunities for the minor to participate in extracurricular activities;

(iv) Number of school nights worked;

(v) Lateness of evening hours worked;

(vi) Length of work shift; and

(vii) Student's rationale for requesting hours of work exceeding the standards in WAC 296-125-027.

(b) The special variance form shall require the school official to provide data to the department that shall include, but not be limited to, the following:

(i) Age of the minor;

(ii) Cumulative grade point average and attendance record of the minor prior to starting work; and

(iii) Grade point average and attendance record of the minor for each grading period immediately preceding the school's current approval or disapproval.

(c) A copy of each variance form approved or denied by a school shall be forwarded to the department within thirty days of the school's action.

(8) The parent or guardian shall by her or his signature approve or deny the variance and signify review of the minor's statement of rationale.

(9) Expiration. Special variances shall be issued only to employers with valid minor work permits and each special variance shall expire upon the expiration date of the employer's minor work permit that was in effect at the time of the issuance of the special variance. Upon renewal of a minor work permit, the employer must complete a new special variance.

(10) Revocation and suspension. The department may revoke or suspend a special variance if the department finds that a condition of the variance's execution is not being or has not been satisfied, the employer has violated the requirements of this chapter, or any other condition exists which is or could be detrimental to the health, safety, or welfare of a minor. Violation by the employer of the hours standards under WAC 296-125-027 or the hours specified in any special variance shall lead to loss of the right to participate in the special variance process for one year from a finding of violation by the department.

The parent, legal guardian, or the school may revoke the variance at any time by notifying the other parties to the variance and the department.

(11) Appeals. An appeal of an action by the department to refuse to issue or renew designation to participate in the special variance program, or to revoke or suspend a special variance or designation to participate in the special variance program must be filed in writing with the department within thirty days of the department's action, pursuant to the procedures established by RCW 49.12.161 and 49.12.400. Such appeal shall not stay the effectiveness of an order of immediate restraint issued by the department pursuant to RCW 49.12.390.

PERMANENT

WSR 93-04-115
PERMANENT RULES
STATE BOARD OF EDUCATION
[Filed February 3, 1993, 10:55 a.m.]

Date of Adoption: January 22, 1993.

Purpose: To amend high school graduation requirements to reflect changes mandated by recent legislation, correct outdated provisions and clarify the waiver process.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-005, 180-51-025, 180-51-030, 180-51-055, and 180-51-100.

Statutory Authority for Adoption: RCW 28A.230.090 and 28A.230.100.

Pursuant to notice filed as WSR 92-24-105 on December 2, 1992.

Changes Other than Editing from Proposed to Adopted Version: Additional amendments to WAC 180-51-030 and 180-51-100 were made at the meeting of the state board to simplify the language and provide greater clarification.

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

February 3, 1993
Dr. Monica Schmidt
Executive Director/Secretary

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-51-005 Authority. The authority for this chapter is RCW ((~~28A.230.100~~)) 28A.230.090 which authorizes the state board of education to establish high

school graduation requirements or equivalencies for students ((~~who commence the ninth grade subsequent to July 1, 1985~~)).

AMENDATORY SECTION (Amending Order 10-89, filed 6/6/89)

WAC 180-51-025 Local application of state requirements. The content of courses and the determination of which courses satisfy particular subject area requirements and whether a particular course may satisfy more than one subject area requirement for different students shall be determined locally in accordance with rules adopted by boards of directors of districts: *Provided,* That if a foreign language graduation requirement is established, credits earned in American sign language shall count toward the completion of the requirement.

AMENDATORY SECTION (Amending WSR 91-01-066, filed 12/14/90, effective 1/14/91)

WAC 180-51-030 High school credit for courses taken ((~~in grades seven or eight~~)) before attending high school. Pursuant to RCW 28A.230.090, any student who has completed high school courses ((~~while in grades seven or eight~~)) before attending high school shall, upon the request of the student and his or her parent or guardian, be given high school credit which shall apply toward fulfilling high school graduation requirements if:

(1)((~~(a)~~)) The academic level of the course exceeds the requirements for seventh and eighth grade classes and is equivalent to or exceeds the requirements for courses in grades nine through twelve; ((~~and~~

~~(b) The student takes the course with two or more students enrolled in grades nine to twelve who are receiving high school credit for the course and the student successfully completes the same course requirements and examinations as the other grade nine to twelve students;~~)) or

(2) The student successfully completes a regular grade seven or eight course or a supplemented course which has been determined by the district board of directors to be the equivalent of a course offered at a district high school and the course instructor is certificated to teach the course in grades nine ((~~to~~)) through twelve in accordance with WAC 180-16-221 through 180-16-224.

A student ((~~in grades seven or eight~~)) who has taken a course consistent with subsection (1) or (2) of this section shall not be required to satisfy any additional requirements to receive high school credit for the course.

The provisions of this section shall also apply to any student enrolled in grades nine ((~~to~~)) through twelve on or after April 11, 1990.

AMENDATORY SECTION (Amending Order 12-85, filed 6/5/85)

WAC 180-51-055 Minimum credits for high school graduation. The minimum credits for high school graduation shall be ((~~eighteen~~)) nineteen credits.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-51-100 Temporary exemption from 1985 course and credit requirements. ((~~The board of directors of any school district may petition the state board of education for temporary exemption from the course requirements specified in RCW 28A.230.090:~~

~~(1) A delay of one year may be granted if such board states within its petition that the high school affected has fewer than four hundred students and does not have within its staff certified persons qualified to teach the additional courses required by the 1985 graduation requirements;~~

~~(2) A delay of one year may be granted if such board states within its petition that the implementation of the 1985 requirements would be disruptive to the scheduling of classes and the assignment of teachers due to a reorganization of the district's grade configuration from a grade ten through twelve high school program to a grade nine through twelve program;~~

~~(3) The state board of education may grant~~)) Annual exemptions to the definition of an annualized high school credit may be granted upon the request of a public or approved private school which offers evidence that delineates content, time, or competency assessments which are substantially equivalent to the definition stated in WAC 180-51-050. The waiver process shall be administered by the superintendent of public instruction. School districts shall have the right to appeal decisions of the superintendent of public instruction to the state board of education. The superintendent of public instruction shall present to the state board of education an annual report on the waivers granted.

WSR 93-04-002
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Order 92-38—Filed January 21, 1993, 12:56 p.m.]

Date of Adoption: January 19, 1993.

Purpose: Establish an agricultural burning permit fee while the permanent rule is being developed, increase grass seed production permit fee to the level identified in statute, change the title of the WAC chapter to agricultural burning and add on agricultural burning definition.

Citation of Existing Rules Affected by this Order: Amending chapter 173-430 WAC.

Statutory Authority for Adoption: RCW 70.94.650.

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 statute identifies that agricultural burning permit fees are to be set by rules and that the Department of Ecology or a local air authority is to maintain a statewide permit system to protect public health from the effects of agricultural burning.

Effective Date of Rule: Immediately.

January 21, 1993
R. Terry Husseman
Acting Director

Chapter 173-430 WAC
((~~BURNING OF FIELD AND FORAGE AND TURF GRASSES GROWN FOR SEED~~)) AGRICULTURAL BURNING

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-010 Purpose. (1) This chapter, promulgated under chapter 70.94 RCW, as amended, is to assume state jurisdiction over and to control emissions from agricultural burning including the burning of field and forage, and turf grasses grown for seed and for the proper development of the state's natural resources.

(2) Authority to enforce all provisions of this regulation, including establishing permit conditions and issuing permits, is delegated to and shall be carried out by all activated air pollution control authorities or ecology for those areas not under the jurisdiction of an authority.

(3) The purpose of this chapter is to:

(a) Minimize adverse effects on air quality from ((~~the open burning of field and forage, and turf grasses grown for seed;~~)) agricultural burning;

(b) Provide for implementation of a research program to explore and identify economical and practical alternatives ((~~agricultural practices~~)) to agricultural burning; ((~~the open burning of field and forage, and turf grasses grown for seed;~~))

(c) Provide for interim regulation of such burning until practical alternatives are found.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) ((~~Field and forage grasses: Canary grass, bromegrass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.~~

~~(2) Straw: All material, other than seed, removed by swathing, combining, or cutting.~~

~~(3) Tear-out: Any operation that destroys the existing crop and prepares the area for next year's planting.~~

~~(4) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.~~)) Agricultural Burning: Burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

(2) Field and forage grasses: Canary grass, bromegrass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.

(3) Straw: All material, other than seed, removed by swathing, combining, or cutting.

(4) Tear-out: Any operation that destroys the existing crop and prepared the area for next year's planting.

(5) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-030 Permits, conditions, and restrictions. (1) No agricultural burning including open burning of field or forage grasses, or turf grasses shall be undertaken unless a permit has been obtained from ecology or an authority, as appropriate. ~~The issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution interest in the environment. Permits will be conditioned to minimize air pollution. Until approved alternatives become available, ecology or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions.~~

(2) For open burning of field or forage grasses, or turf grasses, the issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution interest in the environ-

EMERGENCY

ment. Permits will be conditioned to minimize air pollution. Until approved alternatives become available, ecology or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions.

Burning of acreage not previously under permit may be banned or subject to more restrictive conditions. Burning of field and forage grasses may be restricted, and other measures may be required to minimize air pollution.

Permits issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land and is established only for the maximum amount of acreage included in any permit issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land and is established only for the maximum amount of acreage included in any permit issued before 1978. Land transferred to a spouse, son, or daughter, will retain a permit history as established by the original applicant.

Any permit denial or restriction may first be applied to applicants without a permit history and to amounts of acreage not included in an applicant's permit history.

Applicants who received permits before 1978 may be given priority for burning the amount of acreage cited in the permit history.

(3) Open burning of field and forage grasses shall be prohibited. However, a permit using restrictions or conditions, may be issued to burn field and forage grasses for disease, pest, or weed control, if such need is certified by a county agent or other agricultural authority; or if such grasses were planted as part of a soil erosion control plan approved by a conservation district.

(4) Open burning of all grasses scheduled for tear-out shall be prohibited unless a permit specifically allows such burning.

(5) Practical alternative production methods and disease controls which would reduce or eliminate ((~~open~~)) agricultural burning shall be used when reasonably available. These methods and controls shall be used regardless of specific provisions of the compliance program described in these section.

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 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-040 Mobile field burners. Mobile field burners, and other methods of incineration not classified as outdoor ((~~open~~)) burning, shall not be prohibited by the restrictions in WAC 173-430-030: *Provided,* That emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20 percent for more than three minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen.

[AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)]

WAC 173-430-050 Other approvals. A person applying for a permit under this chapter is still required to obtain permits, licenses, or approvals required by any other laws, regulations, or ordinances.

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

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-060 Study of alternatives. Ecology shall conduct, cause to be conducted, or approve of a study or studies to explore and identify economical and practical alternative practices to agricultural burning including open burning of field and forage, and turf grasses. To conduct any such study, ecology may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. Ecology shall annually review the progress of such studies, review provisions of this regulation and available alternatives to ((~~open~~)) burning and determine if continuing agricultural burning including open burning of field and forage, and turf grasses is justified.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-070 Fees. (1) To support the study or studies described in WAC 173-430-060, ecology or an authority shall collect a fee ((~~of fifty cents~~)): (a) For field and forage, and turf grasses grown for seed, the fee is $1.00 per acre of crop. The fee is to be collected before any permit is issued under WAC 173-430-030. This fee shall be submitted with individual permit applications.

(b) For all other agricultural burning practices, a $20.00 non-refundable permit/application fee shall be assessed and submitted with the general agricultural burning permit application. This $20.00 fee is effective for the interim period ending when the agricultural burning practices and research task force establishes a permanent fee level (pursuant to RCW 70.94.650), or January 1, 1995, whichever occurs first.

(2) When a permit is granted to burn fewer acres of field and forage, and turf grasses grown for seed than requested in the permit application, ecology or the authority shall refund to the permit applicant the unused part of the permit fee.

(3) No part of the permit fee will be refunded if a grower decides to burn fewer acres than the permit allows.

(4) After granting any permit and making any refund required under WAC 173-430-070(2), the authority shall transfer the permit fee to ecology.

(5) Ecology shall deposit all permit fees ((~~in a special grass seed burning research account in the general fund~~)) in the air pollution control account.

EMERGENCY

(6) Ecology shall allocate moneys annually from this account to support approved studies provided for in WAC 173-430-060, up to the amount appropriated to ecology for such purpose.

(7) When ecology concludes that enough reasonably available alternative practices to the open burning of field and forage, and turf grasses grown for seed have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved. Any money remaining in the account shall revert to the general fund.

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 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-080 Certification of alternatives. When enough information on alternative practices to open burning of field and forage, and turf grasses grown for seed becomes available, ecology shall conduct public hearings to receive testimony from interested parties. If ecology then concludes that any procedure, program, technique, or device is a practical alternative to the open burning of field and forage and turf grasses grown for seed, ecology shall, by order, approve such alternative. After approval, any alternative that is reasonably available shall be used; and open burning of field and forage, and turf grasses grown for seed shall not be allowed.

WSR 93-04-015
EMERGENCY RULES
DEPARTMENT OF HEALTH
[Order 327—Filed January 25, 1993, 2:53 p.m.]

Date of Adoption: January 22, 1993.

Purpose: To amend, on an emergency basis, WAC 246-130-040 (1)(c), (3)(b) and (e), and 246-130-070.

Citation of Existing Rules Affected by this Order: Amending WAC 246-130-040 (1)(c), (3)(b) and (e), and 246-130-070.

Statutory Authority for Adoption: RCW 43.70.120.

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: Program not allowed to spend beyond available state and/or federal funds.

Effective Date of Rule: Immediately.

January 22, 1993
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-130-040 Financial eligibility. (1) The department will consider a patient eligible if he or she:

(a) Has resources at or below the exemptions listed under subsection (3) of this section; and

(b) Is not eligible for any other resources providing similar benefits to meet the costs of the treatment; and

(c) Has gross monthly income at or below ((~~three~~)) one hundred ((~~seventy~~)) percent of the NPIG unless extended to a higher level at the discretion of the department; and

(d) The total cost of program covered medications is in excess of the patient's share as computed in accordance with WAC 246-130-070.

(2) The department shall consider the following in determining resources:

(a) Savings, property, and other assets;

(b) Government and private medical insurance programs, including Medicaid, providing partial or full coverage for drug and treatments needed in the treatment of infection with HIV; and

(c) Local funds raised for the purpose of providing financial support for a specified patient.

(3) The following exemptions shall not be considered in determining a patient's resources to pay for treatments covered by these regulations:

(a) A home, defined as real property owned by a patient as a principal place of residence, together with the property surrounding and contiguous thereto not to exceed five acres; and

(b) Commercial property, or property used for the purpose of producing income, except to the extent that its value does not exceed((~~s~~)) the ((~~sum of ten thousand dollars~~)) Social Security supplemental income assets limitations according to WAC 388-92-050;

(c) Household furnishings;

(d) An automobile; and

(e) Savings, property, or other liquid assets, to the extent the value thereof does not exceed the ((~~sum of ten thousand dollars~~)) Social Security supplemental income assets limitations according to WAC 388-92-050.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-130-070 Patient participation. The patient shall be responsible for paying part of the cost of the treatment received in any month in which his or her income exceeds ((~~two hundred percent of~~)) the NPIG level determined by the department. The amount of the patient's share shall be ((~~one-sixth~~)) one-fifth of the amount by which his or her income for the month exceeds ((~~two hundred percent of~~)) the NPIG level determined by the department.

WSR 93-04-021
EMERGENCY RULES
DEPARTMENT OF REVENUE
[Filed January 26, 1993, 3:29 p.m.]

Date of Adoption: January 26, 1993.

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 1993.

EMERGENCY

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 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: Statute requires the department to determine the interest rate and "property tax component" by January 1 of each year.

Effective Date of Rule: Immediately.

January 26, 1993
William N. Rice
Assistant Director

AMENDATORY SECTION (Amending WSR 92-03-068, filed 1/14/92)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((~~1992~~)) 1993, 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 ((~~10.55~~)) 10.26 percent; and

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

((

~~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~~))		

COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.43	Lewis	1.30
Asotin	1.56	Lincoln	1.49
Benton	1.50	Mason	1.43
Chelan	1.52	Okanogan	1.45
Clallam	1.29	Pacific	1.49
Clark	1.29	Pend Oreille	1.09
Columbia	1.33	Pierce	1.61
Cowlitz	1.19	San Juan	.93
Douglas	1.47	Skagit	1.16
Ferry	1.12	Skamania	1.05
Franklin	1.62	Snohomish	1.25
Garfield	1.47	Spokane	1.64
Grant	1.43	Stevens	1.21
Grays Harbor	1.40	Thurston	1.54
Island	0.91	Wahkiakum	1.13
Jefferson	1.11	Walla Walla	1.42
King	1.26	Whatcom	1.44
Kitsap	1.23	Whitman	1.55
Kittitas	1.31	Yakima	1.41
Klickitat	1.27		

WSR 93-04-031
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3507—Filed January 27, 1993, 12:10 p.m., effective January 28, 1993, 12:01 a.m.]

Date of Adoption: January 27, 1993.

Purpose: This section is amended to adjust the community spouse resource limit effective January 1, 1993, to comply with federal requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 388-95-337 Availability of resources.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: State Agency Letter 93-03.

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: Meet federal requirements.

Effective Date of Rule: January 28, 1993, 12:01 a.m.

January 27, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3313, filed 1/15/92, effective 2/15/92)

WAC 388-95-337 Availability of resources. (1) Resources are defined under WAC 388-92-005 for the SSI-related ((~~applicant or recipient~~)) client and under WAC 388-22-030 for an AFDC-related ((~~applicant or recipient~~)) client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer of resources are evaluated under WAC 388-95-395.

(3) The department shall determine ownership of resources following Washington state community property principles:

(a) For a person:

(i) Whose most recent period of institutionalization began before October 1, 1989; and

(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~~)) client 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) The department shall not consider 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 home or community-based waivered 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, the department shall:

(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-eight~~)) Seventy thousand seven hundred forty dollars effective January 1, ((~~1992~~)) 1993;

(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~~)) Ensure resources available to the community spouse ((~~shall be~~)) are in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) 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.

WSR 93-04-043
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 93-01—Filed January 27, 1993, 4:00 p.m.]

Date of Adoption: January 27, 1993.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-160.

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: Spring chinook salmon returning to the Snake River have been listed as a threatened species under the federal Endangered Species Act. The January through March open period that is scheduled under permanent rule is inconsistent with the depressed condition of this listed species. A permanent rule change is being pursued, but cannot be adopted until later in the year.

Effective Date of Rule: Immediately.

January 27, 1993
Judith Merchant
Deputy Director
for Robert Turner
Director

NEW SECTION

WAC 220-57-16000Q Columbia River. Notwithstanding the provisions of WAC 220-57-160, effective immediately until further notice it is unlawful to fish for or possess salmon taken for personal use from those waters of the Columbia River downstream from the Highway 395 Bridge to the I-5 Bridge.

WSR 93-04-061
EMERGENCY RULES
DEPARTMENT OF COMMUNITY DEVELOPMENT
[Order 93-01—Filed January 28, 1993, 2:44 p.m., effective February 1, 1993]

Date of Adoption: January 28, 1993.

Purpose: To adopt fire and life safety rules generally consistent with chapter 19.27 RCW, the State Building Code Act, and repeal existing conflicting rules and regulations.

Citation of Existing Rules Affected by this Order: Repealing chapters 212-14, 212-26, 212-28, 212-32, 212-36, 212-40, 212-42, 212-43, 212-45, 212-52, 212-56A, 212-64, 212-65, and 212-70 WAC.

Statutory Authority for Adoption: Chapters 43.63A and 48.48 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: Chapter 19.27 RCW, the State Building Code, became effective on July 1, 1992. Administration and enforcement of existing WACs will cause conflicts with the efforts of local governments.

Effective Date of Rule: February 1, 1993.

EMERGENCY

January 28, 1993
Barbara B. Gooding
Director

Chapter 212-12 WAC
FIRE MARSHAL STANDARDS

NEW SECTION

WAC 212-12-001 Purpose. The purpose of this chapter is to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire, explosion, and panic. This regulation is applicable to the director of fire protection services. The director of fire protection services is authorized to administer and enforce this chapter.

NEW SECTION

WAC 212-12-005 Definitions. The following definitions shall apply to this chapter:

(1) "Adult family homes" are those facilities licensed by the department of social and health services under chapter 70.128 RCW and chapter 388-76 WAC. Adult family homes shall be classified as a Group R, Division 3 Occupancy when accommodating five or less persons, including staff on shift and a Group R, Division 1 Occupancy when accommodating six or more persons, including staff on shift.

(2) "Adult residential rehabilitation facility" means a residence, place, or facility, including private adult treatment homes, licensed by the department of health under chapter 71.12 RCW and chapter 246-325 WAC. Adult residential treatment facilities shall be classified as a Group R, Division 1 Occupancy when accommodating more than ten persons, including staff on shift and classified as a Group R, Division 3 Occupancy when accommodating ten or less persons, including staff on shift.

(3) "Alcoholism hospital" means facilities or institutions licensed by the department of health under chapter 71.12 RCW and chapter 246-322 WAC. Alcoholism hospitals shall be classified as a Group R, Division 1 Occupancy accommodating more than ten persons and a Group R, Division 3 Occupancy when accommodating ten persons or less.

(4) "Alcoholism intensive inpatient treatment services" means those services licensed by the department of health under chapter 71.12 RCW and chapter 246-326 WAC. Alcoholism intensive inpatient treatment services shall be classified as a Group I, Division 1 Occupancy.

(5) "Alcoholism treatment facility" means a facility operated primarily for the treatment of alcoholism licensed by the department of health under chapter 71.12 RCW and chapter 246-326 WAC. Alcoholism treatment facilities shall be classified as follows:

(a) "Alcoholism detoxification services:" Group I, Division 1 Occupancy.

(b) "Alcoholism long term treatment services:" Group R, Division 1 Occupancy when accommodating more than ten persons, including staff on shift, and Group R, Division 3 Occupancy when accommodating ten or less persons, including staff on shift.

(c) "Alcoholism recovery house services:" Group R , Division 1 Occupancy when accommodating more than ten persons, including staff on shift, and Group R, Division 3 Occupancy when accommodating ten or less persons, including staff on shift.

(6) "Ambulatory" means physically and mentally capable of walking or traversing a normal path to safety, including the ascent and descent of stairs, without the physical assistance of another person.

(7) "Approved" refers to approval by the director of fire protection services as a result of investigation and tests conducted by the director of fire protection services or by reason of accepted principles or tests by national authorities, or technical or scientific organizations.

(8) "Authority having jurisdiction" is the director of fire protection services or authorized deputy or designee.

(9) "Bed and breakfast:" See transient accommodation definition in this section.

(10) "Boarding home" means any home or other institution licensed by the department of health under chapter 18.20 RCW and chapter 246-316 WAC. Boarding homes shall be classified as:

(a) Group R, Division 3 Occupancy when accommodating five or less clients or residents.

(b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrianed clients or residents who may have a mental or physical impairment, excluding staff.

(c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(d) Group R, Division 1 Occupancy with Group I, Division 2.1 exit requirements when accommodating more than sixteen clients or residents, excluding staff.

(11) "Building official" means the designated authority appointed by the governing body of each city or county who is in charge of the administration and enforcement of the Uniform Building Code.

(12) "Chief deputy state fire marshal" means the chief deputy state fire marshal who manages a specific unit within the fire protection services division or as designated by the director of fire protection services.

(13) "Child birth center" means a facility or institution licensed by the department of health under chapter 18.46 RCW and chapter 246-329 WAC. Child birth centers shall be classified as:

(a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.

(b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.

(c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.

(14) "Child day care center" means an agency which provides child day care outside the abode of the licensee or for thirteen or more children in the abode of the licensee. Such facilities are licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-

EMERGENCY

150 WAC. Child day care centers shall be classified as a Group E, Division 3 Occupancy.

(15) "Director of fire protection services" means the director of the fire protection services division in the department of community development or authorized deputy or designee.

(16) "Evaluation process" means the initial steps in the informal appeals process established by the director of fire protection services under the authority of RCW 34.05.060.

(17) "Family child day care home" means a child day care facility located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Such facilities are licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-155 WAC. Family child day care homes shall be classified as a Group R, Division 3 Occupancy.

(18) "Fire official" means the person or other designated authority appointed by the city or county for the administration and enforcement of the Uniform Fire Code.

(19) "Group care facility" means a facility licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-73 WAC. Group care facilities shall be classified as:

(a) Group R, Division 3 Occupancy when accommodating five or less clients or residents.

(b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.

(c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.

(20) "Group care facilities for severely and multiply handicapped children" means facilities which are maintained and operated for the care of a group of children as licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-73 WAC. Group care facilities for severely and multiply handicapped children shall be classified as:

(a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.

(b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.

(c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen ambulatory clients or residents, excluding staff.

(e) Group I, Division 1 Occupancy when accommodating more than sixteen nonambulatory clients or residents, excluding staff.

(f) Group I, Division 3 Occupancy when accommodating any number of restrained persons.

(21) "Hospice care center" means any building, facility, or place licensed by the department of health under chapter 70.41 RCW and chapter 246-321 WAC. Hospice care centers shall be classified as a Group I, Division 1 Occupancy.

(22) "Hospital" means an institution, place, building, or agency licensed by the department of health under chapter 70.41 RCW and chapter 246-318 WAC. Hospitals shall be classified as a Group I, Division 1 Occupancy.

(23) "Nonambulatory" means physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.

(24) "Nursing home" means any home, place, or institution licensed by the department of social and health services under chapter 18.51 RCW and chapter 248-14 WAC. Nursing homes shall be classified as a Group I, Division 1 Occupancy.

(25) "Private adult treatment home" means the same as an adult residential rehabilitation facility as defined in (2) of this section.

(26) "Psychiatric hospital" means an institution licensed by the department of health under chapter 71.12 RCW and chapter 246-322 WAC. Psychiatric hospitals shall be classified as a Group I, Division 3 Occupancy.

(27) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility licensed by the department of health under chapter 71.12 RCW and chapter 246-323 WAC. Residential treatment facilities for psychiatrically impaired children and youth shall be classified as:

(a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.

(b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.

(c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen ambulatory, nonrestrained clients or residents, excluding staff.

(e) Group I, Division 1 Occupancy when accommodating more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

(f) Group I, Division 3 Occupancy when accommodating any number of restrained persons.

(28) "State fire marshal" means the director of fire protection services or authorized deputy or designee.

(29) "Transient accommodation" means any facility licensed by the department of health under chapter 70.62 RCW and chapter 246-360 WAC and shall include bed and breakfast inns. Transient accommodations shall be classified as a Group R, Division 1 Occupancy when accommodating more than ten persons and a Group R, Division 3 Occupancy when accommodating ten or less persons.

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.

EMERGENCY

NEW SECTION

WAC 212-12-011 Applicability. This chapter shall apply to:

(1) Child birth centers.

(2) Transient accommodations.

(3) Nursing homes.

(4) Hospice care centers.

(5) Hospitals.

(6) Boarding homes.

(7) One day out-patient surgery centers.

(8) Child day care centers.

(9) Family child day care homes.

(10) Private establishments: I.e., adult residential rehabilitation facilities, alcoholism hospitals, alcoholism treatment facilities, psychiatric hospitals, and residential treatment facilities for psychiatrically impaired children and youth.

(11) Facilities licensed by the department of social and health services, except foster family homes and child placing agencies.

(12) Schools under the jurisdiction of the superintendent of public instruction and the state board of education (RCW 48.48.045).

(13) Private schools (RCW 28A.195.010).

(14) Public buildings (RCW 48.48.030).

NEW SECTION

WAC 212-12-015 Compliance. (1) The director of fire protection services has the responsibility under WAC 212-12-010, chapters 19.27 and 48.48 RCW, and chapters 51-20, 51-21, 51-22, and 51-24 WAC to require occupancies, operations, or processes to be conducted and/or maintained so as not to pose a hazard to life or property and for the removal of fire and life safety hazards.

(2) New construction or remodeling shall be in conformance with the State Building Code Act and chapters 19.27 and 48.48 RCW.

(3) All occupancies, operations, or processes in which the director of fire protection services has responsibility shall comply with the provisions of this chapter.

NEW SECTION

WAC 212-12-020 Inspection. (1) The director of fire protection services shall have the authority to:

(a) Enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near thereto per RCW 48.48.030(1), 48.48.060, 48.48.070, and 48.48.080.

(b) Enter upon and examine any public building or premises to inspect for fire hazards per RCW 48.48.030(2), 48.48.040, 48.48.045, and 48.48.050.

(c) Collect and disseminate statistical information and reports per RCW 48.48.065.

(2) The director of fire protection services may designate another person or agency to conduct the inspection.

NEW SECTION

WAC 212-12-025 Right of appeal. Any person may appeal any decision made by fire protection services under this chapter through the following procedure:

(1) The first level of appeal is to the chief deputy state fire marshal. The appeal must be submitted in writing to the chief deputy state fire marshal within thirty days of receipt of the decision in question. The chief deputy state fire marshal shall reply to the appellant within ten days of receipt of such appeal.

(2) The second level of appeal is to the director of fire protection services. If the appellant wishes to appeal the decision of the chief deputy state fire marshal, he/she shall, within ten days of the receipt of that decision, submit a written appeal to the director of fire protection. The director of fire protection services shall reply to the appellant within ten days of receipt of such appeal.

(3) Should this process not satisfy the appellant, he or she may further appeal per chapter 34.05 RCW.

NEW SECTION

WAC 212-12-030 Standards. The fire and life safety standards of the fire protection services division shall include the following:

(1) Chapter 51-20 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Building Code.

(2) Chapter 51-21 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Building Code Standards.

(3) Chapter 51-22 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Mechanical Code.

(4) Chapter 51-24 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Fire Code.

(5) Chapter 51-25 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Fire Code Standards.

NEW SECTION

WAC 212-12-035 Special requirements. In addition to the fire and life safety standards listed in WAC 212-12-030, the following shall apply:

(1) In Group I Occupancies, light hazard areas shall be provided with 140 to 165 degree F. quick response sprinklers as listed by Underwriters Laboratories and/or Factory Mutual.

(2) In nursing homes, annunciators shall be provided where the system serves more than one floor, one fire or smoke division, or one building. They shall be located at each main nurses' station on each floor, fire or smoke division, and/or building.

(3) Annual certification of fire alarm systems shall be performed by the holder of a current low-voltage electrical contractors specialty license issued by the department of labor and industries.

(4) In addition to other requirements as specified in this chapter, the following shall apply to Group R, Division 1 Occupancies except for hotels and motels:

EMERGENCY

(a) Have installed an approved fully automatic fire-extinguishing system conforming to UBC Standard No. 38-1.

(b) In buildings with individual floor areas over 6,000 square feet, have an approved smoke barrier dividing the floor into at least two compartments, provided that each compartment shall provide no less than thirty square feet per occupant.

(c) Be a minimum Type V, one-hour construction.

(d) Be equipped with an approved smoke detector and automatic shutoff in each single system providing heating and cooling air. Automatic shutoffs shall shut down the air-moving equipment when smoke is detected in a circulating airstream or as an alternate, when smoke is detected in rooms served by the system.

When required, smoke detectors shall be installed in the main circulating-air duct ahead of any fresh air inlet, or installed in each room or space served by the return-air duct. Activation of any detector shall cause the air-moving equipment to automatically shut down.

(e) Facilities located above the first floor shall have at least two exits directly to the exterior of the building, or into separate exit systems in accordance with Section 3309(a), Uniform Building Code.

(f) Every story, basement or portion thereof shall have not less than two exits.

EXCEPTIONS: 1. Basements used exclusively for the service of the building may have one exit. For the purpose of this exception, storage rooms, laundry rooms, maintenance offices, and similar uses shall not be considered as providing service to the building.
2. Storage rooms, laundry rooms, and maintenance offices not exceeding three hundred square feet in floor area may be provided with only one exit.

(g) Corridors shall be not less than six feet in width.

(h) In the event of power failure, exit illumination shall be automatically provided from an emergency system. Emergency systems shall be supplied from storage batteries or an on-site generator set and the system shall be installed in accordance with the requirements of the Electrical Code.

(i) Exit doors shall be openable from the inside with one motion and without the use of a key or any special knowledge or effort.

(j) An approved automatic and manual fire alarm system, supervised by an approved central, proprietary or remote station service, shall be provided in accordance with Article 14 of the Uniform Fire Code.

(5) In buildings or facilities required to have automatic sprinkler systems, commercial-type cooking equipment shall be protected with automatic sprinkler fire-suppression systems only.

(6) Nothing in this chapter affects the provisions of chapter 70.77 or 18.160 RCW, chapter 212-17 or 212-80 WAC.

NEW SECTION

WAC 212-12-040 Fire evacuation plan. All Group I, Group E, and Group R Occupancies shall develop a written fire evacuation plan. The plan shall include the following:

(1) Action to take by the person discovering a fire.

(2) Method of sounding an alarm on the premises.

(3) Action to take for evacuation of the building and assuring accountability of the occupants.

(4) Action to take pending arrival of the fire department.

(5) An evacuation floor plan identifying exit doors and windows.

(6) In Group R, Division 1 Occupancies and Group R, Division 3 Occupancies used as transient accommodations, a copy of the written evacuation plan shall be posted in each guest room, preferably on the main exit door.

NEW SECTION

WAC 212-12-044 Fire drills. In all Group I, Group E, and Group R Occupancies, at least twelve planned fire drills shall be held every year. Drills shall be conducted quarterly on each shift in Group I Occupancies and monthly in Groups E and R Occupancies to familiarize personnel with signals and emergency action required under varied conditions. A detailed written record of all fire drills shall be maintained and available for inspection at all times. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement may be used instead of audible alarms. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency conditions. The local fire department shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.

EMERGENCY

WSR 93-04-070
EMERGENCY RULES
HIGHER EDUCATION COORDINATING BOARD
[Filed January 29, 1993, 9:43 a.m.]

Date of Adoption: January 28, 1993.

Purpose: Adopt revised student eligibility criteria for the state need grant program; and adopt various technical corrections made necessary by the Reauthorization of the Federal Higher Education Act.

Citation of Existing Rules Affected by this Order: Amending WAC 250-20-011, 250-20-015, 250-20-021, 250-20-031, 250-20-041, and 250-20-051.

Statutory Authority for Adoption: Chapter 28B.80 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: Schools participating in the state need grant program need these revised rules to begin processing applications for student aid.

Effective Date of Rule: Immediately.

January 28, 1993
Jim Sainsbury
Acting Executive Director

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-011 Student eligibility. For a student to be eligible for a state need grant he or she must:

(1) Be a "needy student" or "disadvantaged student" as determined by the higher education coordinating board in accordance with RCW 28B.10.802.

(2) Be a resident of the state of Washington.

(3) Be enrolled or accepted for enrollment as an undergraduate student at a participating postsecondary institution or be a student under an established program designed to qualify him or her for enrollment as a full-time student at a postsecondary institution in the state of Washington.

(a) For purposes of need grant eligibility, the student must be enrolled, at time of disbursement, in a course load of at least six credits per quarter or semester or, in the case of institutions which do not use credit hours, twelve clock hours per week.

(b) A student enrolled less than half time may not receive this grant for the term in question, but is eligible for reinstatement or reapplication for a grant upon return to at least a half-time status. Correspondence courses may not comprise more than one-half of the student's minimum credit load for which aid is being considered.

(4) ((~~The state need grant recipient is expected to~~)) Maintain satisfactory progress as defined in WAC 250-20-021(19).

(5) Not be pursuing a degree in theology.

(6) Not have received a state need grant for more than the equivalent of ten full-time semesters or fifteen full-time quarters or equivalent combination of these two. Upon receipt of a bachelor's degree, a student is no longer eligible.

(7) Have made a bona fide application for a Pell grant.

(8) Certify that he or she does not owe a refund on a state need grant, a Federal Pell Grant or a Federal Supplemental Educational Opportunity Grant, and is not in default on a loan made, insured, or guaranteed under the ((~~National Direct Student (~~)) Federal Family Education Loan Program, the Federal Perkins((~~)~~)) Loan Program, or ((~~Guaranteed Student, and Income Contingent Loan~~)) the Federal Direct Loan Demonstration Program((~~s~~)).

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-015 Agreement to participate. In order to participate in the program a postsecondary institution must ((~~annually~~)) file an "agreement to participate" supplying the following information as appropriate: Name and address of school (including central office and all campus sites), name and address of owner(s), or if a corporation the name and addresses of stockholders holding more than twenty-five percent of the stock and percentage of stock held, the date on which the school officially began instruction if in the last five years, type and date of last accreditation, enrollment information (unless reported to the state of Washington or in the integrated postsecondary education data system) ((~~and such other information as may be required to assure proper administration of the program. Along with the "agreement," all~~)). The institutions must also submit each year, for approval, a copy of their refund/repayment policy, student budgets, gift equity packaging policy and their satisfactory progress policy for state need grant recipients and such other information as may be required to assure proper administration of the program. In addition the "agreement to participate" will also indicate the institution's agreement to abide by all program rules, regulations, and guidelines, to maintain and provide all pertinent information, records, and reports requested by the board, and to notify the board within thirty days of any change (other than student enrollment) to information reported on the agreement form.

AMENDATORY SECTION (Amending WSR 92-11-022, filed 5/13/92, effective 6/13/92)

WAC 250-20-021 Program definitions. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a post-high school student who by reason[s] of adverse cultural, educational, environmental, experiential[,] or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Career College Association ((~~of Independent Colleges and Schools~~)), or the Cosmetology Accrediting Commission, ((~~or the National Association of Trade and Technical Schools,~~)) and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,

EMERGENCY

(b) Is a veteran of the U.S. Armed Forces; or,

(c) Is an orphan or ward of the court; or,

(d) Has legal dependents other than a spouse; or,

(e) Is a married student or a graduate/professional student ((~~and will not be claimed by parents as a U.S. income tax exemption in the aid year~~)); or,

(f) ((~~Was not claimed by parents as a U.S. income tax exemption in either of the two calendar years prior to the academic year for which aid is being considered and had a total income and benefits for those two years sufficient to support his or herself; or,~~

~~(g)~~)) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is (((~~[a] [the]~~))) the standard student cost per sector, as developed by the board((~~, to determine the eligible [students'] [student's] exact award[.]~~)).

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For the 1992-93 academic year, the value of the statutory ceiling is $13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of $6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of $2,274, plus the current average state appropriation per student for operating expenses in all public institutions of $4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) ((~~"State need grant family contribution" for students with dependents shall mean the sum of the assumed [parents'] [parent's] contribution, contribution from student assets, and all income including student's earnings. For students without dependents, the state need grant ["]family contribution["] shall mean the sum of contributions from all the student's [{]and spouse's[}] assets[,] and income, excluding student earnings.~~

~~(11) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.~~

~~(12) Funds administered by the institution[,] [such as] Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, as well as funds available to the student because of his or her student status are to be used in calculating the student's overall need, but are not counted as part of the state need grant family contribution.~~)) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When such adjustments are made they shall be consistent with guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant. The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding. In no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance for each sector. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding. The maximum base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

((~~[(13)]~~)) (15) "State need grant award" is the ((~~difference between the~~)) maximum base grant ((~~and the student's total state need grant family contribution~~)) adjusted according to level of family income, plus a dependent care allowance, if applicable.

EMERGENCY

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time ((~~student[s]~~)) students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-031 Application procedure. (1) Application for a state grant must be made each year.

(2) All applications will be ranked anew each year.

(3) Application for a state need grant is accomplished through a student's application for admission to, and financial aid from, the institution of his or her choice.

(4) Financial data must be generated in accordance with the method set forth by the higher education coordinating board to assure that information will be consistent on a statewide basis.

The board shall each year develop criteria which shall be used to determine eligible need analysis processors in a multiple processor system. Further, the board shall each year specify the student data elements essential for determining state need grant eligibility and shall authorize the forms and processes for collecting and analyzing such data.

(5) The burden of proof of a grant recipient's eligibility is with the institution. At a minimum:

(a) The institution must be able, on request of the board, to reconstruct the calculations and rationale for the student's grant eligibility and award amounts.

(b) The financial aid form or comparable financial status documents, with the resulting financial need analysis must be on record in the financial aid office for all grant recipients.

(c) The institution must also have on record justification for reawarding a need grant to any student who failed to make satisfactory progress.

(6) The board shall establish annual criteria by which the eligible student is to be identified, ranked, and awarded. That criteria shall include the state need grant cost-of-attendance for each sector, the maximum award, and the ((~~maximum state need grant family contribution~~)) income cutoff level.

(7) The institution shall examine the student's aid application to determine overall need and specific state need grant eligibility and the appropriate award, using the board-approved criteria.

(8) The board will make available to all participating institutions, a list of all students who owe state need grant repayments or have otherwise exhausted their state need grant eligibility. It is the institution's responsibility to ensure that no ineligible student receives a state need grant.

(9) The financial aid ((~~officer~~)) administrator at each institution will be required to sign a statement attesting to the fact that all eligible financial aid applicants within state need grant parameters will be identified and served to the extent funds are available and that financial information will be determined in strict adherence to program guidelines.

(10) No group of students, such as single parents or part-time students, may be advantaged or disadvantaged in its access to the state need grant by any institutional awarding policy.

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-041 Award procedure. (1) The institution will offer grants to eligible students from funds reserved by the board. It is the institution's responsibility to ensure that the reserve is not over expended within each academic year.

(2) The state need grant award for an individual student should be the maximum base grant, appropriate for the sector attended, adjusted for the students level of family income, and a dependent care allowance, if applicable. Each eligible student receiving a grant must receive the maximum grant award for which he or she is eligible.

(3) The maximum state need grant award should not exceed the student's((:

~~(a)~~)) overall need((;

~~(b) The maximum base grant minus state need grant family contribution, plus a dependent care allowance if eligible; or~~

~~(c)~~)) or the institution's approved gift equity packaging policy ((~~as determined by the institution~~)).

(4) Eligible students shall receive a prorated portion of their state need grant for any academic period in which they are enrolled at least half-time, as long as funds are available.

EMERGENCY

Students enrolled at a three-quarter time rate, at the time of disbursement, will receive seventy-five percent of their full-time base grant plus, dependent care allowance. Half-time students will receive fifty percent of their full-time base grant, at disbursement plus, dependent care allowance. ((~~Students eligible for a dependent care allowance, who are enrolled less than full-time will receive fifty percent of the full-time allowance.~~)) Depending on the availability of funds, students may receive a need grant for summer session attendance.

(5) The institution will be expected, insofar as possible, to match the state need grant with other funds sufficient to meet the student's need. Matching moneys may consist of student financial aid funds and/or student self-help.

(6) All financial resources available to a state need grant recipient, when combined, may not exceed the amount computed as necessary for the student to attend a postsecondary institution. The student will not be considered overawarded if he or she receives additional funds after the institution awards aid, and the total resources exceed his or her financial need by $200 or less by the end of the academic year.

(7) The institution will notify the student of receipt of the state need grant.

(8) Any student who has received at least one disbursement and chooses to transfer to another participating institution within the same academic year, may apply to the board for funds to continue receipt of the grant at the receiving institution.

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-051 Grants disbursement. (1) At intervals designated by the executive director, financial aid administrators from participating independent colleges and proprietary institutions will submit the appropriate warrant order form to the higher education coordinating board for each state need grant recipient certifying enrollment and grant eligibility.

(a) Upon receipt of the warrant order forms, the higher education coordinating board will forward warrants to the appropriate institution for each recipient.

(b) At private and proprietary schools, as long as the student remains eligible for the grant, the warrant must be given directly to the student ((~~must acknowledge receipt for the state need grant each term agreeing to the conditions of award~~)) without any other condition being placed on receipt of the warrant by the institution.

(c) All signed receipts for state need grants are to be ((~~returned to the board, along with~~)) retained by the institution. They must be made available for inspection upon request of the board. All unclaimed warrants must be returned to the board on or before the date specified by the board each term.

(d) A student-by-student reconciliation must be completed by the institution at the end of each term.

(2) All other institutions may request funds as necessary to make disbursements to students.

(a) Progress reports must be filed with the board ((~~at the end of each term~~)) as requested.

(b) A student-by-student reconciliation must be filed with the board at the end of each academic year.

(3) No institution may disburse nor claim more funds than that amount reserved by the board for the body of students at each institution.

(4) Should a student recipient withdraw from classes during the term in which he or she received a state need grant, he or she shall be required to repay the appropriate amount according to the institution's approved repayment policy.

The institution shall advise the student((~~s~~)) and the board of amounts to be repaid.

(5) The board reserves the right, if funds are available, to pay to public institutions an administrative expense allowance for the shared responsibility of administering the program on the board's behalf. The allowance shall be calculated annually as a percentage of the need grant funds disbursed by the institution.

WSR 93-04-073
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 93-02—Filed January 29, 1993, 3:27 p.m., effective February 1, 1993, noon]

Date of Adoption: January 29, 1993.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100T.

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 salmon are available in the area between Bonneville Dam and McNary Dam. This rule is consistent with the actions of the January 28, 1993, meeting of the Columbia River Compact.

Effective Date of Rule: February 1, 1993, noon.

January 29, 1993
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-32-05100U Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-051 and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch reporting Areas 1F, 1G, and 1H except those individuals possessing treaty fishing rights under the Yakima, Warm Springs,

EMERGENCY

Umatilla and Nez Perce treaties may fish under the following provisions:

(a) Open for salmon, sturgeon and shad from noon February 1 to noon March 20, 1993.

(b) Open area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-32-05100T Columbia River salmon seasons above Bonneville. (92-125)

WSR 93-04-078
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
[Order 4018—Filed February 1, 1993, 11:18 a.m.]

Date of Adoption: February 1, 1993.

Purpose: To generate funds for Washington state's 1993 apple maggot survey and detection program through a temporary assessment of fresh apple shipments.

Citation of Existing Rules Affected by this Order: Amending WAC 16-400-210.

Statutory Authority for Adoption: Chapters 15.17 and 17.24 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: [No information supplied by agency.]

Effective Date of Rule: Immediately.

February 1, 1993
Michael Schwisow
Acting Director

AMENDATORY SECTION (Amending Order [WSR 92-06-022], filed 2/25/92, effective 3/28/92 [3/27/92])

WAC 16-400-210 Other charges. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:

(a) Platform inspections, time taking samples, extra time, phyto-sanitary and/or quarantine inspection, and all other services, shall be charges at the hourly rate of twenty dollars.

(b) Time allowance - where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of twenty dollars.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges—The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charges as specified in subsection (1)(a) of this section. In temporary, nonpermanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to twenty-seven dollars.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February.

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100 with an additional charge of ten percent. The minimum shall be twelve dollars per inspection. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: *Provided,* That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method: ((~~one cent~~)) $.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards. Such fee shall ((~~terminate on August 14, 1992~~)) apply from February 1 to May 31, 1993.

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

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

WSR 93-04-083
EMERGENCY RULES
DEPARTMENT OF WILDLIFE
[Order 594—Filed February 1, 1993, 4:02 p.m.]

Date of Adoption: February 1, 1993.

Purpose: Winter conditions in the affected areas have resulted in increased interaction between dogs and deer/elk. Actual predation and associated public complaints have elevated dramatically over the past three weeks. Recent thaw/freezing cycles have put deer and elk at greater risk for canine predation. Repeated requests for voluntary compliance with existing dog laws (RCW 77.16.100) have met with limited success.

Statutory Authority for Adoption: RCW 77.12.315.

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

EMERGENCY

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: See Purpose above.

Effective Date of Rule: Immediately.

February 1, 1993
Curt Smitch
Director

NEW SECTION

WAC 232-12-045 Capture or destruction of dogs pursuing, harassing, attacking or killing deer or elk — Emergency regulations. Pursuant to the authority granted under RCW 77.12.315, the Director of the Department of Wildlife finds that an emergency exists in all of Eastern Washington, Klickitat, and Skamania Counties. Effective February 1, 1993, dogs found pursuing, harassing, attacking, or killing deer and/or elk may be taken into custody or destroyed at the discretion of a State Wildlife Agent. This emergency rule will remain in effect through March 31, 1993.

EMERGENCY

WSR 93-04-087
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3511—Filed February 1, 1993, 4:48 p.m., effective February 2, 1993, 12:01 a.m.]

Date of Adoption: February 1, 1993.

Purpose: Adjusts the medically needy income level effective January 1, 1993. Adds as an income exemption: A child's allowance for SSI-ineligible children of an SSI-related client; and the MNIL less the spouse's income when the spouse of a person receiving home- and community-based waivered service program applies.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-020.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 1902 r of the Social Security Act.

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: A change to state plan allows an income deduction for a spouse receiving home- and community-based waivered service and has income less than the MNIL. Adjusts the MNIL and adds child allowance as income exemption.

Effective Date of Rule: February 2, 1993, 12:01 a.m.

February 1, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3467, filed 10/7/92, effective 11/7/92)

WAC 388-99-020 Eligibility determination—Medically needy in own home. (1) Effective January 1, ((~~1991~~)) 1993, the department shall set the medically needy income level (MNIL) at:

(a) One person	$((~~458~~)) 467
(b) Two persons	$((~~575~~)) 592
(c) Three persons	$((~~650~~)) 667
(d) Four persons	$((~~725~~)) 742
(e) Five persons	$((~~833~~)) 858
(f) Six persons	$((~~942~~)) 975
(g) Seven persons	$((~~1,092~~)) 1,125
(h) Eight persons	$((~~1,208~~)) 1,242
(i) Nine persons	$((~~1,325~~)) 1,358
(j) Ten persons and above	$((~~1,433~~)) 1,483

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children in a nondesignated FIP geographic area. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except for families described under WAC 388-83-130 (2)(a);

(b) SSI/SSP eligibility for aged, blind, or disabled persons; and

(c) FIP eligibility for families and children.

(3) The department shall allow the following income ((~~disregards~~)) exemptions:

(a) Health insurance premiums, except Medicare, the person expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse of an SSI-related client not to exceed the one-person medically needy income level; ((~~and~~))

(c) A child's allowance up to one-half of the Federal Benefit Rate (FBR) for each SSI-ineligible child of an SSI-related client;

(d) Child care payment amounts allowed as if the person was a FIP enrollee; and

(e) When the spouse of a client applying for medically needy receives a home and community based waivered service program, the department shall allow the medically needy client an income exemption equal to the one-person MNIL minus the income of the institutionalized spouse.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or person eligible.

(5) Effective August 1, 1992, when countable income for any month or months of the base period is less than the appropriate MNIL but above the CNIL, the department shall deduct the difference between the countable income and the MNIL from the total excess countable income for the base period.

(6) If countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The department shall determine the base period ((~~shall be the three-month or six-month period which corresponds to the certification period~~)) under WAC 388-99-055.

(7) The department shall consider the income and resources of the spouse or of the parent of an applicant under ((~~eighteen~~)) nineteen years of age:

(a) In the same household, available to the applicant, whether or not actually contributed; and

(b) Not in the same household, only to the extent of what is actually contributed.

(8) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under chapter 388-92 WAC.

(9) In mixed households, where more than one assistance unit exists, the department shall determine income for the:

(a) AFDC-related assistance unit according to subsections (2)(a) and (3) of this section;

(b) SSI-related assistance unit according to subsections (2)(b) and (3) of this section; and

(c) FIP-related assistance unit according to subsections (2)(c) and (3) of this section.

WSR 93-04-088
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3510—Filed February 1, 1993, 4:51 p.m., effective February 2, 1993, 12:01 a.m.]

Date of Adoption: February 1, 1993.

Purpose: Provides reasons for a base period to be shortened from the standard three months. Deletes reference to notification already covered under WAC 388-84-110. Deletes reference to change of circumstances already covered under WAC 388-85-105. Deletes redundant language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-055 Base period.

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: Allows staff to shorten a base period when a client is eligible for a higher priority program.

Effective Date of Rule: February 2, 1993, 12:01 a.m.

February 1, 1993
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2206, filed 2/13/85)

WAC 388-99-055 ((~~Certification~~)) Base period. (1) ((~~Applicants~~)) Clients in their own homes shall have a choice of a three-month or a six-month ((~~certification~~)) base period((~~. Once certified the applicant may not change the chosen certification period~~)) which shall begin with the month of application. The department shall use a complete base period unless:

(a) A previous certification period overlaps; or

(b) The client is not resource eligible for the full base period; or

(c) The client is not categorically related for the full base period; or

(d) The client becomes eligible for categorically needy Medicaid.

(2) ((~~An applicant~~)) A client shall not be certified for ((~~no~~)) more than six months.

(3) ((~~An applicant~~)) When countable income is greater than the appropriate medically needy income level (MNIL), the department shall require the client to spenddown the excess countable income for the base period.

(4) The department shall certify a client who is required to spenddown ((~~shall be certified~~)) from the day the client meets the spenddown requirement ((~~is met~~)) through the last day of the ((~~three-month or six-month~~)) chosen base period ((~~which began with the month of application~~)).

((~~(4) If~~)) (5) The department shall certify a client who is required to spenddown from the first day of the month spenddown is met when the client has incurred hospital expenses equal to the spenddown liability.

(6) When the client requests retroactive medical coverage ((~~is requested~~)) at the time of application, the department shall certify a ((~~spenddown applicant shall be certified~~)) client with spenddown from the day the spenddown requirement was met through the last day of the ((~~three-month~~)) period which ((~~began~~)) may begin up to three months ((~~prior to~~)) before the application month ((~~of application~~)). The department shall certify a client unless exceptions in subsections (1)(a), (b), (c), or (d) of this section exist.

((~~(5)~~)) (7) The department shall require an application ((~~is required~~)) for any subsequent period of eligibility for ((~~LCP-MN~~)) the medically needy program.

((~~(6) Full-month coverage is not available during the first month of eligibility for persons who must establish eligibility by deducting incurred medical expense from countable income.~~

~~(7) All medically needy applicants shall receive individual notification of the disposition of their application.~~

~~(8) Any change in circumstances shall be reported within twenty days to the local community service office.~~

~~(9) Any recipient, aged, blind or disabled who has been terminated from SSI/SSP shall have their eligibility for LCP-MN determined in accordance with chapter 388-85 WAC.~~))

EMERGENCY

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 93-04-003
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Motorcycle Safety Advisory Board)
[Memorandum—January 19, 1993]

The meeting schedule for the advisory board is as follows:

February 5, 1993, Everett DOL Office, 5313 Evergreen Way, Everett, WA, 7:00 p.m., public meeting.

April 2, 1993, Kelso, Washington, Red Lion Motor Inn, 7:00 p.m., public meeting.

June 4, 1993, Wenatchee, Washington, Wenatchee DOL Office, 325 North Chelan #B, 7:00 p.m., public meeting.

August 6, 1993, Lacey, Washington, 645 Woodland Square Loop S.E., 7:00 p.m., public meeting at the Lacey Department of License office.

October 1, 1993, Spokane, Washington, 7:00 p.m., public meeting at Westside Honda/Yamaha, Geiger Road, Spokane.

December 3, 1993, Tacoma, Washington, 7:00 p.m., public meeting at the LaQuinta Motor Inn.

If you have any questions, please contact: Don Mapp, Coordinator Traffic Safety Programs, Department of Licensing, Driver Examining at (206) 586-1424 or (206) 753-2487.

WSR 93-04-005
PROCLAMATION NO. 93-01
OFFICE OF THE GOVERNOR
[January 20, 1993]

Beginning January 20, 1993, severe high winds and storm conditions have resulted in public and private damages, power outages, closure of major transportation routes, and numerous interruptions of local and state government operations throughout Washington, with the initial damages occurring in Wahkiakum County and counties in the Puget Sound corridor. These conditions continue to pose threats to citizens and property in the State of Washington.

The interruption of critical government functions and damages are beyond the capabilities of many of the local governments, and subsequently I find that an emergency potentially affecting life, health, and property exists within the State of Washington.

NOW, THEREFORE, I, MIKE LOWRY, Governor of the State of Washington, as a result of the aforementioned situation and under the provisions of Chapters 43.06.010, 38.08.050, and 38.52.050 of the Revised Code of Washington, do hereby proclaim that a State of Emergency exists in Washington State and order that the Washington State Comprehensive Emergency Management Plan be executed. The resources of the State of Washington are authorized to be employed to assist Washington communities in a concerted effort to cope with the emergency. Additionally, the Department of Community Development, Emergency Management Division, is instructed to coordinate all state assistance including the services of the Washington National Guard, to affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia this twentieth day of January, Nineteen Hundred and Ninety-Three.

BY THE GOVERNOR:

Mike Lowry
Governor of Washington

Ralph Munro
Secretary of State

WSR 93-04-010
RULES COORDINATOR
WASHINGTON STATE UNIVERSITY
[Filed January 25, 1993, 1:50 p.m.]

In compliance with the annual notice requirement in RCW 34.05.310, Lou Ann Pasquan will retain the position of rules coordinator for Washington State University.

Lou Ann Pasquan
Rules Coordinator

WSR 93-04-011
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 20, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Environmental Health Department.

Department of Environmental Health
Faculty Meeting

Meeting Dates	Location	Time
January 15, 1993	F-348	12:00/2 p.m.
February 12, 1993	F-348	12:00/2 p.m.
March 12, 1993	F-348	12:00/2 p.m.
April 2, 1993	F-348	12:00/2 p.m
May 14, 1993	F-348	12:00/2 p.m.
June 11, 1993	F-348	12:00/2 p.m.
July 19, 1993	F-348	12:00/2 p.m.
August 13, 1993	F-348	12:00/2 p.m.
September 10, 1993	F-348	12:00/2 p.m.
October 8, 1993	F-348	12:00/2 p.m.
November 12, 1993	F-348	12:00/2 p.m.
December 10, 1993	F-348	12:00/2 p.m.

WSR 93-04-012
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 20, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's ASUW-Constitution and Bylaws Department.

ASUW-CONSTITUTION & BYLAWS COMMITTEE
Meeting Times for Winter 1993

Tuesday	January 19, 1993	4:30-6:00 p.m.	HUB RM. 304-F
Tuesday	January 26, 1993	4:30-6:00 p.m.	HUB RM. 204-N
Tuesday	February 2, 1993	4:30-6:00 p.m.	HUB RM. 200-B
Tuesday	February 9, 1993	4:30-6:00 p.m.	HUB RM. 204-N
Tuesday	February 16, 1993	4:30-6:00 p.m.	HUB RM. 204-N
Tuesday	February 23, 1993	4:30-6:00 p.m.	HUB RM. 204-N
Tuesday	March 2, 1993	4:30-6:00 p.m.	HUB RM. 204-N
Tuesday	March 9, 1993	4:30-6:00 p.m.	HUB RM. 204-N

WSR 93-04-013
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 20, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's School of Public Health and Community Medicine Department.

School of Public Health
and
Community Medicine

Future Meeting Dates:

January 29 SPHCM Visiting Committee, 2:30-4:30 p.m.

February 9, 1993	3:30 - 5:00 p.m.	State of School Address (followed by reception)
February 10, 1993	12 noon - 2:00 p.m.	Curriculum Committee
March 10, 1993	12 noon - 2:00 p.m.	Faculty Senators
April 7, 1993	11:30 - 1:30 p.m.	Faculty Council
May 12, 1993	12 noon - 2:00 p.m.	Minority Affairs Committee

WSR 93-04-042
RULES COORDINATOR
UNIVERSITY OF WASHINGTON
[Filed January 28, 1993, 3:50 p.m.]

In accordance with RCW 34.05.310, the rules coordinator for the University of Washington is Melody Tereski, Administrative Procedures Officer, Rules Coordination Office Al-10, Administration 448, University of Washington, 98195, phone (206) 543-2560.

Norman Arkans
Assistant Vice-President
University Relations

WSR 93-04-055
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
[Memorandum—January 27, 1993]

The February 1993 Washington State Transportation Commission meeting will be held at 1:00 p.m. on Wednesday, February 17, and at 9:00 a.m., Thursday, February 18, 1993. The location has been changed from the Auditorium of State Office Building 2 (OB-2), Olympia, Washington to the Transportation Building, Room 1D2, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Wednesday, February 17, in the Transportation Building, Rooms 1D2 and 1D22, Olympia, Washington.

The March 1993 Washington State Transportation Commission meeting dates have been changed to Tuesday and Wednesday, March 16 and 17, 1993. The meetings will be held at 1:00 p.m. on Tuesday and 9:00 a.m. on Wednesday in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be subcommittee meetings at 9:00 a.m., Tuesday, March 16, in the Transportation Building, Rooms 1D2 and 1D22, Olympia, Washington.

WSR 93-04-056
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 25, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Ophthalmology Department.

Regular Faculty Meetings

January 14 rescheduled to January 28
February meeting cancelled
March 4, 1993
April 8, 1993
May 20, 1993
June 10, 1993
July/August no meeting

Faculty Clinicians Meeting

January 21
February 18
March 18
April 15
May unchanged
June 17
July/August no meeting

WSR 93-04-057
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 25, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's American Ethnic Studies Department.

Department Faculty Meetings

Meeting Dates	Location	Time
February 17, 1993	A516 Padelford	3:30
March 17, 1993	A516 Padelford	3:30
April 21, 1993	A516 Padelford	3:30
May 19, 1993	A516 Padelford	3:30
June 9, 1993	A516 Padelford	3:30
September 17, 1993	A516 Padelford	9-4 p.m.
October 6, 1993	A516 Padelford	3:30
November 3, 1993	A516 Padelford	3:30
December 8, 1993	A516 Padelford	3:30

WSR 93-04-058
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 25, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Oral and Maxillofacial Surgery Department.

Faculty Meeting

Meeting Dates	Location	Time
Each Tuesday	B-241	12:00 noon

WSR 93-04-059
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
[Memorandum—January 26, 1993]

The next meeting of the Board of Natural Resources will be held on Tuesday, February 2, 1993. The meeting will begin at 9 a.m. in Conference Room 214 located on the second floor in the General Administration Building.

The General Administration Building is on the corner of 11th and Columbia Streets, Olympia. Parking for the General Administration Building is very limited so please plan to come to the Natural Resources Building by 8:50 a.m., and we will walk over together.

The regular meeting of the Board of Natural Resources on February 2 will adjourn following completion of the foregoing business to La Conner for a tour by the Harbor Line Commission. The commission will gather at 509 South First Street at approximately 12:00 p.m.

WSR 93-04-066
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
[Memorandum—January 29, 1993]

A public hearing to consider adoption of an amendment to WAC 490-100-250 related to the Private Vocational Schools Act will be held on February 18, 1993, between 8:30 and 9 a.m. at: New Market Vocational Skills Center, Administration Building, 7299 New Market Street, Tumwater, WA 98501.

The proposed WAC amendment will repeal an obsolete section and will refer to an interagency agreement between the Workforce Training and Education Coordinating Board and the Higher Education Coordinating Board regarding nondegree programs offered by degree-granting private vocational schools.

If you wish a copy of the proposed WAC or to present testimony, please contact 'cita Waller at (206) 753-5673.

Written comments may be submitted prior to February 11, 1993, to: Ellen O'Brien Saunders, Executive Director, Workforce Training and Education Coordinating Board, P.O. Box 43105, Olympia, WA 98504-3105

People needing special accommodations, please call (206) 753-5662 or SCAN 234-5662.

WSR 93-04-067
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 27, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's ASUW Finance and Budget Committee.

ASUW Finance and Budget

Meeting Dates	Location	Time
January 12	HUB 204M	4:30 p.m.
January 19	HUB 204M	4:30 p.m.
January 26	HUB 204M	4:30 p.m.
February 2	HUB 204M	4:30 p.m.
February 9	HUB 204M	4:30 p.m.
February 16	HUB 204M	4:30 p.m.
February 23	HUB 204M	4:30 p.m.
March 2	HUB 204M	4:30 p.m.
March 9	HUB 204M	4:30 p.m.
March 30	HUB 204M	4:30 p.m.
April 6	HUB 204M	4:30 p.m.
April 13	HUB 204M	4:30 p.m.
April 20	HUB 204M	4:30 p.m.
April 27	HUB 204M	4:30 p.m.
May 4	HUB 204M	4:30 p.m.
May 11	HUB 204M	4;30 p.m.
May 18	HUB 204M	4:30 p.m.
May 25	HUB 204M	4:30 p.m.
June 1	HUB 204M	4:30 p.m.
September 28	HUB 204M	4:30 p.m.
October 5	HUB 204M	4:30 p.m.
October 12	HUB 204M	4:30 p.m.
October 19	HUB 204M	4:30 p.m.
October 26	HUB 204M	4:30 p.m.
November 2	HUB 204M	4:30 p.m.
November 9	HUB 204M	4:30 p.m.
November 16	HUB 204M	4:30 p.m.
November 23	HUB 204M	4:30 p.m.
December 7	HUB 204M	4:30 p.m.

WSR 93-04-068
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 27, 1993]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Classics Department.

Our faculty meeting scheduled for February 2nd has been cancelled and moved to February 19th, at 2:30-5:00 p.m.

WSR 93-04-076
PROCLAMATION NO. 93-02
OFFICE OF THE GOVERNOR
[January 27, 1993]

TERMINATING AN EMERGENCY

I, Mike Lowry, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate proclamation 93-01 of January 20, 1993 which declared a state of emergency in Washington State.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this twenty seventh day of January, Nineteen Hundred and Ninety Three.

BY THE GOVERNOR:

Mike Lowry
Governor of Washington

Donald F. Whiting
Assistant Secretary of State

WSR 93-04-084
RULES COORDINATOR
GAMBLING COMMISSION
[Filed February 1, 1993, 4:16 p.m.]

In accordance with RCW 34.05.310, 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, 649 Woodland Square Loop S.E., Olympia, WA 98504-2400, (206) 438-7685, scan 585-7685. In Ms. Tolton's absence Shanna R. Lingel, Special Agent, will act as rules coordinator.

Frank L. Miller
Director

WSR 93-04-085
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Fryer Commission)
[Memorandum—January 28, 1993]

The following is the schedule for 1993 regular quarterly meetings of the Washington Fryer Commission.

1993
Commission Meeting Schedule

DAY	DATE	TIME	LOCATION
Thursday	March 18, 1993	10:00 a.m.	Office - conference room
Wednesday	May 12, 1993	10:00 a.m.	Office - conference room
Thursday	July 22, 1993	10:00 a.m.	Office - conference room
Wednesday	September 15, 1993	10:00 a.m.	Office - conference room
Wednesday	November 10, 1993	10:00 a.m.	Office - conference room 1994 Budget confirmation

WSR 93-04-092
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Natural Heritage Advisory Council)
[Memorandum—February 1, 1993]

The Natural Heritage Advisory Council will meet on the following dates, times and places:

March 11, 1993, 9:00 a.m. to 5:00 p.m., Olympia, Washington, Office Building 2 (DSHS) 3rd Floor, Room H19.

April 7, 1993, 9:00 a.m. to 5:00 p.m., Olympia, Washington, Office Building 2 (DSHS) 4th Floor, Room H25.

May 21, 1993, 9:00 a.m. to 5:00 p.m., Eastern Washington, location to be announced later.

October 13, 1993, 9:00 a.m. to 5:00 p.m., Olympia, Washington, Natural Resources Building, Room 172, 1111 Washington Street S.E.

Regular council business will include consideration of natural area preserve recommendations, site recommendations for the registry program and NAP management activities.

For further information contact the Department of Natural Resources, Washington Natural Heritage Program, Division of Land and Water Conservation, 1111 Washington Street S.E., P.O. Box 47047, Olympia, WA 98504-7047.

WSR 93-04-093
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
[Memorandum—January 27, 1993]

MEETING NOTICE
FEBRUARY 17-18, 1993
ADMINISTRATION BUILDING
NEW MARKET VOCATIONAL SKILLS CENTER
7299 NEW MARKET STREET
TUMWATER, WA

February 17, 5:00 - 8:00 p.m., the Workforce Training and Education Coordinating Board (WTECB) will hold a dinner meeting on Wednesday, February 17, 1993, beginning at 5:00 p.m. WTECB members will meet to discuss the current issues of workforce policy. There will be no action taken at this meeting.

February 18, 8:00 a.m., public hearing, the Workforce Coordinating Board will hold a public hearing between 8:00 to 8:30 a.m. on February 18, to consider amendments to the WTECB Administrative Code.

8:30 a.m., public hearing, the Workforce Coordinating Board will hold a public hearing between 8:30 and 9:00 a.m. on February 18, to consider adoption of an amendment to WAC 490-100-250 related to the Private Vocational Schools Act.

9:00 a.m., regular meeting, the regular business meeting of the Workforce Coordinating Board will convene at 9:00 a.m.,

following the public hearings. Primary agenda items will include an apprenticeship overview, a discussion of the transition task forces executive summary, adoption of WAC, a report on the activities of the WTECB planning and coordination and outcomes and evaluation committees; a discussion on the co-location of Job Service Centers on community colleges campuses, a legislative update, and a discussion on the business/labor roundtable.

People needing special accommodations, please call Patsi Justice at (206) 753-5660 or SCAN 234-5660.

WSR 93-04-104
RULES COORDINATOR
DEPARTMENT OF COMMUNITY DEVELOPMENT
(Public Works Board)
[Filed February 2, 1993, 4:53 p.m.]

The rules coordinator for the Department of Community Development is Cathie Halpin, 906 Columbia Street S.W., P.O. Box 48300, Mailstop 8300, Olympia, WA 98504-8300, phone (206) 586-1310 or SCAN 321-1310.

The rules coordinator for the Public Works Board is Pete A. Butkus, 906 Columbia Street S.W., P.O. Box 48319, Mailstop 8319, Olympia, WA 98504-8319, phone (206) 586-7186 or SCAN 321-7186.

Barbara B. Gooding
Director

WSR 93-04-123
PROPOSED RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed February 3, 1993, 11:33 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 6, 1993, at 2:00 p.m., Mid-Columbia Medical Office Plaza, 1810 East 19th, The Dalles, Oregon.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Wasco County, 350-110, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-110, Wasco County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
Proposed Rule Adoption
350-110

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Wasco County, Oregon.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban Areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the management plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over $32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over $32 million in federal monies for recreation and economic development. The authorizations are as follows:

$10 million for recreation development

$5 million for an Oregon interpretive center

$5 million for a Washington conference center

$2.8 million to restore the Historic Columbia River Highway

$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately $61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over $3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of $25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately $100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the gorge commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land

use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commission can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

Reviser's note: The material contained in this filing will appear in the 93-06 issue of the Register as it was received after the applicable

closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 93-04-124
PROPOSED RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed February 3, 1993, 11:35 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 6, 1993, at 9:00 a.m., White Salmon Park Center, Lincoln Street, White Salmon, Washington.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Klickitat County, 350-80, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-80, Klickitat County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
Proposed Rule Adoption
350-80

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Klickitat County, Washington.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban Areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the Management Plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over $32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over $32 million in federal monies for recreation and economic development. The authorizations are as follows:

$10 million for recreation development

$5 million for an Oregon interpretive center

$5 million for a Washington conference center

$2.8 million to restore the Historic Columbia River Highway

$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately $61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over $3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of $25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately $100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the gorge commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commis-

sion can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

Reviser's note: The material contained in this filing will appear in the 93-06 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 93-04-125
PROPOSED RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed February 3, 1993, 11:36 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 8, 1993, at 2:00 p.m., Hood River Inn, Gorge Club, Marina Way, Hood River, Oregon.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Hood River County, 350-100, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-100, Hood River County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
Proposed Rule Adoption
350-100

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Hood River County, Oregon.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

Effect of Rule: This rule will implement the Management Plan for the Columbia River Gorge National Scenic Area Act through a land use ordinance as required by the National Scenic Area Act. The rule is derived directly from the Management Plan. It includes guidelines for allowable land uses, provisions for protecting scenic, natural, cultural and recreational resources, and procedural requirements for making land use applications. These rules will have the effect of governing land uses within the "general management area" and "special management areas" of the Columbia River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

Commission Rule 350-16-004 requires that the commission prepare: "A statement of fiscal impact identifying the state agencies, units of local government, and the public which may be economically affected by the adoption, amendment, or repeal of [a] rule and an estimate of that economic impact on state agencies, units or local government, and the public. In considering the economic effect of the proposed action on the public, the [commission] shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance on small businesses affected."

The proposed rule implements the Management Plan for the Columbia River Gorge National Scenic Area which was adopted by the Columbia River Gorge Commission in October 1991 and concurred with by the Secretary of Agriculture in February 1992. The Management Plan was written pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.R. [U.S.C.] § 544 et seq. (Public Law 99-663).

The act further requires that the gorge commission adopt land use ordinances for those counties which do not adopt their own. These proposed rules will implement the Management Plan in four of the six gorge counties; the other two counties have adopted their own land use ordinances which will implement the Management Plan.

The act identifies two purposes: To establish a national Scenic Area to protect and provide for the enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge; and to protect and support the economy of the Columbia Gorge area by encouraging growth to occur in existing Urban Areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The regulations of the act apply to only 90% of the land area in the Scenic Area (the General Management Areas and Special Management Areas). Urban areas, which make up the remaining 10% of the land area, are exempt from the regulations of the act. Urban areas are the cities, towns, and communities where there is significant residential, commercial, or industrial development and extensive supporting infrastructure; the majority of the population and economic activity in the Scenic Area is found in Urban Areas. Thus the proposed rules will affect only a small portion of the residents and businesses in the Scenic Area.

II. Enhancement of the Overall Economy

Implementing the Management Plan will protect and enhance the overall economy of the Scenic Area in many ways:

Utilizing the over $32 million in federal funding which was authorized in the Scenic Act for recreation and economic development.

Increasing tourism by protecting the scenic, natural, and cultural resources, and enhancing recreational opportunities.

Protecting agricultural and forest land for continued agriculture and forest management, two of the regions principal industries.

Enhancing the economic viability of gorge communities by encouraging economic growth in Urban Areas and Rural Centers.

Economic Development Monies. Congress authorized over $32 million in federal monies for recreation and economic development. The authorizations are as follows:

$10 million for recreation development

$5 million for an Oregon interpretive center

$5 million for a Washington conference center

$2.8 million to restore the Historic Columbia River Highway

$5 million each to Oregon and Washington for the purpose of making economic development loans and grants

Increasing Tourism. In 1987, approximately 3.8 million nonresident visitors traveled through and/or participated in recreation activities in the Scenic Area. Total 1987 nonresident visitor expenditures were estimated to be approximately $61.8 million. (Economics Research Associates, 1988)

Grant funds will be given over several years to promote the Scenic Area and a number of major developments are currently underway or being planned. These include the new Skamania Lodge in Stevenson, Washington, and the proposed Discovery Center near The Dalles, Oregon. Constructing and operating these new facilities provides many new jobs for Scenic Area residents.

For example, over a ten year period, Skamania Lodge is expected to generate approximately 235 jobs with an annual payroll over $3.9 million. In related services, the lodge is expected to generate 460 jobs and annual expenditures of $25 million.

Additional recreation development is allowed on virtually all land in the Scenic Area. Expanding recreational opportunities was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Protecting Resource Land. The gorge has a long history of land-based industries. Extensive agriculture and forest management operations remain in the Scenic Area. Approximately 140,000 acres (nearly one-half) of the Scenic Area is designated either agriculture or forest land. In 1987, the total forest industry employment was over 4,000 with a total payroll of approximately $100 million. (Economics Research Associates from industry, 1988)

By limiting further fragmentation of this resource land for residential uses, the Management Plan encourages the retention of these resource-based jobs and supports an existing strong industry. Protecting resource land was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

Enhancing the economic viability of gorge communities. The Management Plan encourages growth to occur in Urban Areas and rural centers. By limiting commercial and other urban-related activities in more rural areas, the need to expand infrastructure to remote locations is reduced, and existing infrastructure is used more efficiently. As communities spend less money extending urban services, they will be better able to support business development and expansion in areas where urban services already exist. Some commercial development which is less reliant on urban services is allowed outside of Urban Areas. Limiting major infrastructure investment was recommended in Economic Opportunities Study for the Columbia River Gorge (Economics Research Associates, 1988).

III. Effects on State Agencies and Local Government

The Scenic Act envisions a partnership between federal, state, and local agencies and the gorge commission. Together the expertise of each agency will achieve the purposes of the act. The planning process used to develop the Management Plan allowed each agency to clarify its own role. While it is not possible to quantify to economic effects to each agency, below is a discussion of possible effects.

State Agencies. A number of state agencies, such as Fish and Wildlife, Archaeology and Historic Preservation, and Transportation have important roles in the proposed rules. These agencies are given an opportunity to comment on proposed development projects. In most cases, comments from these agencies will not be required.

These agencies have already transferred enough information to the Gorge Commission so that the commission staff may evaluate potential impacts. Thus the commission is already doing much of the work that these agencies might do themselves.

It is not expected that the roles of these agencies will differ from their current roles. Currently, these agencies are given an opportunity to comment on proposed development projects, and additional information is often sent.

County Governments. There are six counties in the Scenic Area; however, the proposed rules will apply to only four of the six counties. Possible economic effects on these counties is not expected to differ from the current situation. Although the gorge commission will continue to make land use permitting decisions, counties will continue to be an important part of the land use decision process. This has some economic effects.

The burden of administering the proposed rule, including staff time and mailing costs, will still lie with the gorge commission. And counties will not [be] liable for any costs related to implementing the land use decisions made by the gorge commission. A potential benefit to counties is the opportunity to adopt the ordinances written by the gorge commission. This will help defray the costs of writing ordinances themselves.

The only additional economic cost to counties will be not having access to the federal recreation and economic development monies. Only when these counties adopt their own land use ordinances, and those ordinances are found to be consistent with the Management Plan, are these counties and the Urban Areas within the counties become eligible for the federal economic and recreation development funds authorized in the act.

Columbia River Gorge Commission. The gorge commission will continue to make land use decisions on proposed development projects in these four counties. The decision-making process is expected to remain much the same as the current process, except that additional time will be necessary to collect all the necessary information to make a full decision. The gorge commission will be assisted by many other agencies such as state natural resource and archaeological agencies, the U.S. Forest Service, and Native American Tribal Governments.

Administration of the land use ordinances by the gorge commission will also limit the time that the gorge commission can spend on implementing recreation and economic development projects and lobbying for additional funds.

Native American Tribal Governments. Native American Tribal Governments will be consulted under the proposed rules and will have the opportunity to review and comment on proposed new uses on lands or in waters where cultural resources exist and where tribal members exercise treaty or other rights. The tribal governments have a similar role now and would have the same role even if the counties adopted their own ordinances.

IV. Effects on the Public and Small Businesses

Landowners and the public. Implementing the Management Plan will immediately institute uniformity in regulations, predictability in decision-making, and simplification of the decision process. These are positive effects of the proposed rules. Landowners will have a much better understanding of the value of their land without the uncertainty of the development guidelines currently in effect. Many landowners or potential buyers have submitted land use development applications just to find out what they could potentially build on the land. The proposed rules will eliminate many of the current costly delays and unanticipated decisions.

Additional information prior to submittal of a land use application will be required. This however, follows the "Go slow to go fast" adage. Currently, most of the land use approvals require the applicant to return to the commission with color samples, refined site plans, and other information before construction begins. The new rules require this information up-front, thus when an approval is issued, in

most cases, the applicant may proceed without further approvals from the gorge commission.

In addition, the proposed rules bring many resource protection laws under the same umbrella. The rules defer to some existing laws and mimics provisions of others. Completing the development review process in the new rules will assist landowners in meeting the needs of other natural resource agencies.

Potential economic costs to landowners include a somewhat longer decision-making process under the proposed rules, and some additional information requirements for major development projects. The proposed rule will increase the development review time from six weeks to ten weeks, and require more detail before an application will be accepted.

The gorge commission, in preparing the development guidelines for the General Management Area, was careful to ensure that a viable economic use was left on each individual parcel. In the Special Management Area, where some commercial-scale forest land was designated as open space, the forest service will buy the land within three years, or the land will revert to a nonrestrictive General Management Area designation. In the general management, forest practices are exempt from the regulations of the Management Plan, and thus exempt from these proposed rules.

Because the procedural and substantive development guidelines are given in the Management Plan, these economic effects are not unique to these proposed rules; they will be the same when the counties adopt their own land use ordinances.

Small Businesses. As mentioned above, the majority of the commercial and industrial activity in the Scenic Area occurs in the Urban Areas which are exempt from the regulations of the Management Plan and thus the proposed rules as well. The proposed rules will not change the current or future operation of these activities.

The proposed rules will not have an economic effect on small businesses. Existing businesses are grandfathered and will not require new use permits. The most significant economic effect will come when the counties adopt their own land use ordinances, thus making the federal monies available for grants and loans.

V. Conclusion

While it is not possible to quantify the economic effects of the proposed rules, the greatest economic effect will be when the benefits counties receive when they adopt their own land use ordinances. Any new administrative costs will be generally absorbed by the gorge commission and not other agencies or the public.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

Reviser's note: The material contained in this filing will appear in the 93-06 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 93-04-126
PROPOSED RULES
COLUMBIA RIVER GORGE COMMISSION
[Filed February 3, 1993, 11:37 a.m.]

The above named agency gives notice of hearing.

Hearings to be Held: On April 8, 1993, at 9:00 a.m., Clark County PUD, 89 "C" Street, Washougal, WA.

The hearing will be continued to the commission's regularly scheduled meeting on April 13, 1993, with discussion and proposed adoption by the commission.

The Columbia River Gorge Commission proposes to adopt rules relating to land use ordinances for Clark County, 350-90, at its regularly scheduled meeting on April 13, 1993, at 10:30 a.m., Skamania Lodge, Rock Creek Drive, Stevenson, Washington.

Hearings Officer(s): Pat Bleakney, Chair.

Pursuant to the statutory authority of RCW 43.97.015 the following action is proposed: Adopt 350-90, Clark County land use ordinance.

No prior notice given.

Columbia River Gorge Commission
Proposed Rule Adoption
350-90

Summary: The rule sets forth a land use ordinance to implement the Columbia River Gorge National Scenic Area Management Plan in Clark County, Washington.

Statement of Need: 1. The National Scenic Area Act requires the commission to adopt land use ordinances in gorge counties that have not met the act's requirement and schedule for adopting county land use ordinances. 2. The public needs a detailed process for proceeding with land use applications under the Columbia River Gorge National Scenic Area Management Plan. 3. Delay in adoption of the rule will cause the commission to be out of compliance with the National Scenic Area Act.

Authority: 16 U.S.C. § 544 et seq., ORS 196.150 to ORS 165, and RCW 43.97.015 to 49.97.035 [43.97.035].

The proposed rule is necessary as a result of federal law, 16 U.S.C. § 544 et seq. The rule is proposed by the Columbia River Gorge Commission.

Documents Relied Upon: The Columbia River Gorge National Scenic Area Management Plan and the National Scenic Area Act. The documents are available at the commission office.

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MISCELLANEOUS

River Gorge National Scenic Area. Any proposed development project on lands within these areas will be subject to the rule when making a land use application.

Fiscal Impact:

I. Background

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Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by April 8, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from: Columbia River Gorge Commission, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, Attn: Jan Brending, Rules Coordinator, (509) 493-3323.

February 2, 1993
Jonathan Doherty

Reviser's note: The material contained in this filing will appear in the 93-06 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

AMD = Amendment of existing section
A/R = Amending and recodifying a section
DECOD = Decodification of an existing section
NEW = New section not previously codified
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

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #
16-10-010	NEW-P	93-04-113
16-10-020	NEW-P	93-04-113
16-10-030	NEW-P	93-04-113
16-228-900	REP-P	93-04-114
16-228-905	NEW-P	93-04-114
16-228-910	NEW-P	93-04-114
16-228-915	NEW-P	93-04-114
16-228-920	NEW-P	93-04-114
16-228-925	NEW-P	93-04-114
16-228-930	NEW-P	93-04-114
16-400-210	AMD-E	93-04-078
16-400-210	AMD-P	93-04-103
16-555-010	AMD-P	93-04-094
16-555-020	AMD-P	93-04-094
16-674-002	REP	93-03-079
16-674-010	AMD	93-03-079
16-674-020	REP	93-03-079
16-674-060	NEW	93-03-079
16-674-070	NEW	93-03-079
16-674-080	NEW	93-03-079
16-674-090	NEW	93-03-079
16-674-100	NEW	93-03-079
51-13-101	AMD	93-02-056
51-13-202	AMD	93-02-056
51-13-300	AMD	93-02-056
51-13-302	AMD	93-02-056
51-13-303	AMD	93-02-056
51-13-304	AMD	93-02-056
51-13-401	AMD	93-02-056
51-13-402	AMD	93-02-056
51-13-502	AMD	93-02-056
51-13-503	AMD	93-02-056
98-60-010	NEW-P	93-03-063
98-60-020	NEW-P	93-03-063
98-60-030	NEW-P	93-03-063
98-60-040	NEW-P	93-03-063
98-60-050	NEW-P	93-03-063
98-70-010	AMD-P	93-03-062
132G-116-010	REP	93-02-063
132G-116-020	AMD	93-02-063
132G-116-025	NEW	93-02-063
132G-116-030	AMD	93-02-063
132G-116-035	NEW	93-02-063
132G-116-040	REP	93-02-063
132G-116-045	NEW	93-02-063
132G-116-050	REP	93-02-063
132G-116-055	NEW	93-02-063
132G-116-060	REP	93-02-063
132G-116-080	AMD	93-02-063
132G-116-090	AMD	93-02-063
132G-116-095	NEW	93-02-063
132G-116-100	REP	93-02-063
132G-116-105	NEW	93-02-063
132G-116-110	REP	93-02-063
132G-116-115	NEW	93-02-063
132G-116-120	REP	93-02-063
132G-116-125	NEW	93-02-063
132G-116-130	REP	93-02-063
132G-116-135	NEW	93-02-063
132G-116-140	REP	93-02-063
132G-116-145	NEW	93-02-063
132G-116-150	REP	93-02-063
132G-116-155	NEW	93-02-063
132G-116-160	REP	93-02-063
132G-116-170	REP	93-02-063
132G-116-175	NEW	93-02-063
132G-116-180	REP	93-02-063
132G-116-185	NEW	93-02-063
132G-116-190	REP	93-02-063
132G-116-195	NEW	93-02-063
132G-116-200	REP	93-02-063
132G-116-205	NEW	93-02-063
132G-116-210	REP	93-02-063
132G-116-215	NEW	93-02-063
132G-116-220	REP	93-02-063
132G-116-225	NEW	93-02-063
132G-116-230	REP	93-02-063
132G-116-235	NEW	93-02-063
132G-116-240	REP	93-02-063
132G-116-245	NEW	93-02-063
132G-116-250	REP	93-02-063
132G-116-255	NEW	93-02-063
132G-116-260	REP	93-02-063
132G-116-265	NEW	93-02-063
132G-116-270	AMD	93-02-063
132G-116-275	NEW	93-02-063
132G-116-280	REP	93-02-063
132G-116-285	NEW	93-02-063
132G-116-290	REP	93-02-063
132G-116-295	NEW	93-02-063
132G-116-300	REP	93-02-063
132G-116-305	NEW	93-02-063
132G-116-310	REP	93-02-063
132G-116-315	NEW	93-02-063
132G-116-320	REP	93-02-063
132G-116-330	REP	93-02-063
132G-116-340	AMD	93-02-063
132G-116-350	REP	93-02-063
132J-108-020	AMD	93-04-022
132J-108-050	AMD	93-04-022
132J-120-010	REP	93-04-022
132J-120-020	REP	93-04-022
132J-120-030	REP	93-04-022
132J-120-040	REP	93-04-022
132J-120-050	REP	93-04-022
132J-120-060	REP	93-04-022
132J-120-070	REP	93-04-022
132J-120-080	REP	93-04-022
132J-120-090	REP	93-04-022
132J-120-100	REP	93-04-022
132J-120-110	REP	93-04-022
132J-120-120	REP	93-04-022
132J-120-130	REP	93-04-022
132J-125-010	NEW	93-04-022
132J-125-020	NEW	93-04-022
132J-125-030	NEW	93-04-022
132J-125-055	NEW	93-04-022
132J-125-060	NEW	93-04-022
132J-125-065	NEW	93-04-022
132J-125-070	NEW	93-04-022
132J-125-075	NEW	93-04-022
132J-125-080	NEW	93-04-022
132J-125-085	NEW	93-04-022
132J-125-090	NEW	93-04-022
132J-125-095	NEW	93-04-022
132J-125-100	NEW	93-04-022
132J-125-105	NEW	93-04-022
132J-125-110	NEW	93-04-022
132J-125-115	NEW	93-04-022
132J-125-120	NEW	93-04-022
132J-125-125	NEW	93-04-022
132J-125-130	NEW	93-04-022
132J-125-135	NEW	93-04-022
132J-125-140	NEW	93-04-022
132J-125-145	NEW	93-04-022
132J-125-150	NEW	93-04-022
132J-125-155	NEW	93-04-022
132J-125-160	NEW	93-04-022
132J-125-165	NEW	93-04-022
132J-125-170	NEW	93-04-022
132J-125-180	NEW	93-04-022
132J-125-190	NEW	93-04-022
132J-125-200	NEW	93-04-022
132J-125-210	NEW	93-04-022
132J-125-220	NEW	93-04-022
132J-125-230	NEW	93-04-022
132J-125-240	NEW	93-04-022
132J-125-250	NEW	93-04-022
132J-125-260	NEW	93-04-022
132J-125-270	NEW	93-04-022
132J-125-280	NEW	93-04-022
132J-125-290	NEW	93-04-022
132J-125-300	NEW	93-04-022

TABLE

WAC #		WSR #
132J-125-310	NEW	93-04-022
132V-300-010	NEW	93-03-078
132V-300-020	NEW	93-03-078
132V-300-030	NEW	93-03-078
139-05-242	NEW-C	93-03-084
139-10-222	NEW-C	93-03-085
173-19-2521	AMD	93-04-106
173-19-350	AMD	93-02-048
173-19-3503	AMD-C	93-04-064
173-19-3903	AMD-P	93-03-091
173-19-410	AMD-C	93-04-065
173-19-450	AMD	93-04-063
173-216-010	AMD-P	93-03-066
173-216-010	AMD-E	93-03-067
173-216-030	AMD-P	93-03-066
173-216-030	AMD-E	93-03-067
173-216-040	AMD-P	93-03-066
173-216-040	AMD-E	93-03-067
173-216-050	AMD-P	93-03-066
173-216-050	AMD-E	93-03-067
173-216-070	AMD-P	93-03-066
173-216-070	AMD-E	93-03-067
173-216-130	AMD-P	93-03-066
173-216-130	AMD-E	93-03-067
173-216-140	AMD-P	93-03-066
173-216-140	AMD-E	93-03-067
173-220-010	AMD-P	93-03-066
173-220-010	AMD-E	93-03-067
173-220-020	AMD-P	93-03-066
173-220-020	AMD-E	93-03-067
173-220-030	AMD-P	93-03-066
173-220-030	AMD-E	93-03-067
173-220-040	AMD-P	93-03-066
173-220-040	AMD-E	93-03-067
173-220-045	REP-P	93-03-066
173-220-045	REP-E	93-03-067
173-220-050	AMD-P	93-03-066
173-220-050	AMD-E	93-03-067
173-220-060	AMD-P	93-03-066
173-220-060	AMD-E	93-03-067
173-220-070	AMD-P	93-03-066
173-220-070	AMD-E	93-03-067
173-220-090	AMD-P	93-03-066
173-220-090	AMD-E	93-03-067
173-220-100	AMD-P	93-03-066
173-220-100	AMD-E	93-03-067
173-220-110	AMD-P	93-03-066
173-220-110	AMD-E	93-03-067
173-220-225	AMD-P	93-03-066
173-220-225	AMD-E	93-03-067
173-226-010	NEW-P	93-03-066
173-226-010	NEW-E	93-03-067
173-226-020	NEW-P	93-03-066
173-226-020	NEW-E	93-03-067
173-226-030	NEW-P	93-03-066
173-226-030	NEW-E	93-03-067
173-226-040	NEW-P	93-03-066
173-226-040	NEW-E	93-03-067
173-226-050	NEW-P	93-03-066
173-226-050	NEW-E	93-03-067
173-226-060	NEW-P	93-03-066
173-226-060	NEW-E	93-03-067
173-226-070	NEW-P	93-03-066
173-226-070	NEW-E	93-03-067
173-226-080	NEW-P	93-03-066
173-226-080	NEW-E	93-03-067
173-226-090	NEW-P	93-03-066
173-226-090	NEW-E	93-03-067
173-226-100	NEW-P	93-03-066
173-226-100	NEW-E	93-03-067
173-226-110	NEW-P	93-03-066
173-226-110	NEW-E	93-03-067
173-226-120	NEW-P	93-03-066
173-226-120	NEW-E	93-03-067
173-226-130	NEW-P	93-03-066
173-226-130	NEW-E	93-03-067
173-226-140	NEW-P	93-03-066
173-226-140	NEW-E	93-03-067
173-226-150	NEW-P	93-03-066
173-226-150	NEW-E	93-03-067
173-226-160	NEW-P	93-03-066
173-226-160	NEW-E	93-03-067
173-226-170	NEW-P	93-03-066
173-226-170	NEW-E	93-03-067
173-226-180	NEW-P	93-03-066
173-226-180	NEW-E	93-03-067
173-226-190	NEW-P	93-03-066
173-226-190	NEW-E	93-03-067
173-226-200	NEW-P	93-03-066
173-226-200	NEW-E	93-03-067
173-226-210	NEW-P	93-03-066
173-226-210	NEW-E	93-03-067
173-226-220	NEW-P	93-03-066
173-226-220	NEW-E	93-03-067
173-226-230	NEW-P	93-03-066
173-226-230	NEW-E	93-03-067
173-226-240	NEW-P	93-03-066
173-226-240	NEW-E	93-03-067
173-226-250	NEW-P	93-03-066
173-226-250	NEW-E	93-03-067
173-303-070	AMD-E	93-02-049
173-303-070	AMD	93-02-050
173-303-120	AMD-E	93-02-049
173-303-120	AMD	93-02-050
173-303-506	NEW-E	93-02-049
173-303-506	NEW	93-02-050
173-400	AMD-C	93-03-065
173-420-010	NEW	93-04-006
173-420-020	NEW	93-04-006
173-420-030	NEW	93-04-006
173-420-040	NEW	93-04-006
173-420-050	NEW	93-04-006
173-420-060	NEW	93-04-006
173-420-070	NEW	93-04-006
173-420-080	NEW	93-04-006
173-420-090	NEW	93-04-006
173-420-100	NEW	93-04-006
173-420-110	NEW	93-04-006
173-422-010	AMD-P	93-03-092
173-422-020	AMD-P	93-03-092
173-422-030	AMD-P	93-03-092
173-422-035	AMD-P	93-03-092
173-422-040	AMD-P	93-03-092
173-422-050	AMD-P	93-03-092
173-422-060	AMD-P	93-03-092
173-422-065	NEW-P	93-03-092
173-422-070	AMD-P	93-03-092
173-422-075	NEW-P	93-03-092
173-422-080	REP-P	93-03-092
173-422-090	AMD-P	93-03-092
173-422-095	NEW-P	93-03-092
173-422-100	AMD-P	93-03-092
173-422-110	REP-P	93-03-092
173-422-120	AMD-P	93-03-092
173-422-130	AMD-P	93-03-092
173-422-140	AMD-P	93-03-092
173-422-150	REP-P	93-03-092
173-422-160	AMD-P	93-03-092
173-422-170	AMD-P	93-03-092
173-422-180	REP-P	93-03-092
173-430	AMD-P	93-03-090
173-430	AMD-E	93-04-002
173-430-010	AMD-P	93-03-090
173-430-010	AMD-E	93-04-002
173-430-020	AMD-P	93-03-090
173-430-020	AMD-E	93-04-002
173-430-030	AMD-P	93-03-090
173-430-030	AMD-E	93-04-002
173-430-040	AMD-P	93-03-090
173-430-040	AMD-E	93-04-002
173-430-050	AMD-P	93-03-090
173-430-050	AMD-E	93-04-002
173-430-060	AMD-P	93-03-090
173-430-060	AMD-E	93-04-002
173-430-070	AMD-P	93-03-090
173-430-070	AMD-E	93-04-002
173-430-080	AMD-P	93-03-090
173-430-080	AMD-E	93-04-002
173-433-100	AMD	93-04-105
173-433-110	AMD	93-04-105
173-433-170	AMD	93-04-105
173-491-020	AMD-P	93-04-108
173-491-040	AMD-P	93-04-108
173-491-050	AMD	93-03-089
173-491-050	AMD-P	93-04-108
180-16-222	AMD-P	93-04-116
180-16-223	AMD-P	93-04-116
180-20-005	NEW-P	93-04-117
180-20-030	NEW-P	93-04-117
180-20-031	NEW-P	93-04-117
180-20-034	NEW-P	93-04-117
180-20-035	NEW-P	93-04-117
180-20-040	NEW-P	93-04-117
180-20-045	NEW-P	93-04-117
180-20-050	NEW-P	93-04-117
180-20-055	NEW-P	93-04-117
180-20-060	NEW-P	93-04-117
180-20-065	NEW-P	93-04-117
180-20-070	NEW-P	93-04-117
180-20-075	NEW-P	93-04-117
180-20-080	NEW-P	93-04-117
180-20-090	NEW-P	93-04-117
180-20-095	NEW-P	93-04-117
180-20-100	REP-P	93-04-117
180-20-101	NEW-P	93-04-117
180-20-105	REP-P	93-04-117
180-20-106	REP-P	93-04-117
180-20-111	NEW-P	93-04-117
180-20-115	NEW-P	93-04-117
180-20-120	NEW-P	93-04-117
180-20-123	NEW-P	93-04-117
180-20-125	NEW-P	93-04-117
180-20-130	NEW-P	93-04-117
180-20-135	NEW-P	93-04-117
180-20-140	NEW-P	93-04-117
180-20-145	NEW-P	93-04-117
180-20-150	NEW-P	93-04-117
180-20-155	NEW-P	93-04-117
180-20-160	NEW-P	93-04-117
180-20-200	REP-P	93-04-117
180-20-205	REP-P	93-04-117
180-20-210	REP-P	93-04-117
180-20-215	REP-P	93-04-117
180-20-220	REP-P	93-04-117
180-20-225	REP-P	93-04-117
180-20-230	REP-P	93-04-117
180-26-020	AMD-P	93-04-118
180-26-025	AMD-P	93-04-119
180-27-505	AMD	93-04-019
180-51-005	AMD	93-04-115
180-51-025	AMD	93-04-115
180-51-030	AMD	93-04-115
180-51-055	AMD	93-04-115
180-51-100	AMD	93-04-115
180-78-010	AMD-P	93-04-120
180-79-010	AMD-P	93-04-120
194-10-030	AMD	93-02-033
194-10-100	AMD	93-02-033
194-10-110	AMD	93-02-033

Table of WAC Sections Affected

WAC #		WSR #
194-10-130	AMD	93-02-033
194-10-140	AMD	93-02-033
212-12	NEW-C	93-04-060
212-12-001	NEW-E	93-04-061
212-12-005	NEW-E	93-04-061
212-12-011	NEW-E	93-04-061
212-12-015	NEW-E	93-04-061
212-12-020	NEW-E	93-04-061
212-12-025	NEW-E	93-04-061
212-12-030	NEW-E	93-04-061
212-12-035	NEW-E	93-04-061
212-12-040	NEW-E	93-04-061
212-12-044	NEW-E	93-04-061
212-14-001	REP-E	93-04-061
212-14-005	REP-E	93-04-061
212-14-010	REP-E	93-04-061
212-14-015	REP-E	93-04-061
212-14-020	REP-E	93-04-061
212-14-025	REP-E	93-04-061
212-14-030	REP-E	93-04-061
212-14-035	REP-E	93-04-061
212-14-040	REP-E	93-04-061
212-14-045	REP-E	93-04-061
212-14-050	REP-E	93-04-061
212-14-055	REP-E	93-04-061
212-14-060	REP-E	93-04-061
212-14-070	REP-E	93-04-061
212-14-080	REP-E	93-04-061
212-14-090	REP-E	93-04-061
212-14-100	REP-E	93-04-061
212-14-105	REP-E	93-04-061
212-14-110	REP-E	93-04-061
212-14-115	REP-E	93-04-061
212-14-120	REP-E	93-04-061
212-14-12001	REP-E	93-04-061
212-14-125	REP-E	93-04-061
212-14-130	REP-E	93-04-061
212-26-001	REP-E	93-04-061
212-26-005	REP-E	93-04-061
212-26-010	REP-E	93-04-061
212-26-015	REP-E	93-04-061
212-26-020	REP-E	93-04-061
212-26-025	REP-E	93-04-061
212-26-030	REP-E	93-04-061
212-26-035	REP-E	93-04-061
212-26-040	REP-E	93-04-061
212-26-045	REP-E	93-04-061
212-26-050	REP-E	93-04-061
212-26-055	REP-E	93-04-061
212-26-060	REP-E	93-04-061
212-26-065	REP-E	93-04-061
212-26-070	REP-E	93-04-061
212-26-075	REP-E	93-04-061
212-26-080	REP-E	93-04-061
212-26-085	REP-E	93-04-061
212-26-090	REP-E	93-04-061
212-26-095	REP-E	93-04-061
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212-26-105	REP-E	93-04-061
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212-28-010	REP-E	93-04-061
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212-28-110	REP-E	93-04-061
212-32-001	REP-E	93-04-061
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212-32-110	REP-E	93-04-061
212-32-115	REP-E	93-04-061
212-32-120	REP-E	93-04-061
212-32-125	REP-E	93-04-061
212-32-130	REP-E	93-04-061
212-32-135	REP-E	93-04-061
212-32-140	REP-E	93-04-061
212-32-145	REP-E	93-04-061
212-32-150	REP-E	93-04-061
212-32-155	REP-E	93-04-061
212-32-160	REP-E	93-04-061
212-36-001	REP-E	93-04-061
212-36-005	REP-E	93-04-061
212-36-010	REP-E	93-04-061
212-36-015	REP-E	93-04-061
212-36-020	REP-E	93-04-061
212-36-025	REP-E	93-04-061
212-36-030	REP-E	93-04-061
212-36-035	REP-E	93-04-061
212-36-040	REP-E	93-04-061
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212-36-090	REP-E	93-04-061
212-36-095	REP-E	93-04-061
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212-40-015	REP-E	93-04-061
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212-40-025	REP-E	93-04-061
212-40-030	REP-E	93-04-061
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212-40-080	REP-E	93-04-061
212-40-085	REP-E	93-04-061
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212-42-005	REP-E	93-04-061
212-42-010	REP-E	93-04-061
212-42-015	REP-E	93-04-061
212-42-020	REP-E	93-04-061
212-42-025	REP-E	93-04-061
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212-42-110	REP-E	93-04-061
212-42-115	REP-E	93-04-061
212-42-120	REP-E	93-04-061
212-42-125	REP-E	93-04-061
212-43-001	REP-E	93-04-061
212-43-005	REP-E	93-04-061
212-43-010	REP-E	93-04-061
212-43-015	REP-E	93-04-061
212-43-020	REP-E	93-04-061
212-43-025	REP-E	93-04-061
212-43-030	REP-E	93-04-061
212-43-035	REP-E	93-04-061
212-43-040	REP-E	93-04-061
212-43-045	REP-E	93-04-061
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232-12-045	NEW-E	93-04-083
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232-12-242	NEW	93-04-074
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232-28-61926	NEW	93-04-050
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232-28-61931	NEW-E	93-03-039
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246-824-240	NEW-P	93-02-066
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246-857-330	REP	93-04-017

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246-915-020	AMD	93-04-081
246-915-080	AMD	93-04-081
246-915-085	NEW-W	93-04-082
246-915-120	AMD	93-04-081
246-915-140	AMD-W	93-04-082
246-915-145	NEW-W	93-04-082
246-924-040	AMD-P	93-02-065
246-924-050	AMD-P	93-02-065
246-924-055	NEW-P	93-02-065
246-924-060	AMD-P	93-02-065
246-924-065	NEW-P	93-02-065
246-924-070	AMD-P	93-04-014
246-924-350	REP-P	93-02-067
246-924-351	NEW-P	93-02-067
246-924-352	NEW-P	93-02-067
246-924-353	NEW-P	93-02-067
246-924-354	NEW-P	93-02-067
246-924-355	NEW-P	93-02-067
246-924-356	NEW-P	93-02-067
246-924-357	NEW-P	93-02-067
246-924-358	NEW-P	93-02-067
246-924-359	NEW-P	93-02-067
246-924-360	REP-P	93-02-067
246-924-361	NEW-P	93-02-067
246-924-363	NEW-P	93-02-067
246-924-364	NEW-P	93-02-067
246-924-365	NEW-P	93-02-067
246-924-366	NEW-P	93-02-067
246-924-367	NEW-P	93-02-067
246-924-370	REP-P	93-02-067
246-924-380	REP-P	93-02-067
246-924-390	REP-P	93-02-067
246-924-400	REP-P	93-02-067
246-924-410	REP-P	93-02-067
246-924-420	REP-P	93-02-067
246-924-430	REP-P	93-02-067
246-924-440	REP-P	93-02-067
246-924-450	REP-P	93-02-067
246-933-010	AMD-P	93-04-079
246-933-180	NEW-P	93-04-079
246-933-980	AMD-P	93-04-079
246-933-990	AMD-P	93-04-121
246-935-070	AMD-P	93-04-079
246-935-080	REP-P	93-04-079
246-935-125	AMD-P	93-04-079
250-20-011	AMD-P	93-03-087
250-20-011	AMD-E	93-04-070
250-20-015	AMD-P	93-03-087
250-20-015	AMD-E	93-04-070
250-20-021	AMD-P	93-03-087
250-20-021	AMD-E	93-04-070
250-20-031	AMD-P	93-03-087
250-20-031	AMD-E	93-04-070
250-20-041	AMD-P	93-03-087
250-20-041	AMD-E	93-04-070
250-20-051	AMD-P	93-03-087
250-20-051	AMD-E	93-04-070
275-26-065	AMD	93-04-029
284-07-060	NEW-C	93-04-062
287-04-030	REP	93-04-008
287-04-031	NEW	93-04-008
296-04-270	AMD	93-04-100
296-04-280	AMD	93-04-100
296-46-935	NEW	93-03-048
296-56-60001	AMD-P	93-02-057
296-62-074	NEW-P	93-02-057
296-62-07401	NEW-P	93-02-057
296-62-07403	NEW-P	93-02-057
296-62-07405	NEW-P	93-02-057
296-62-07407	NEW-P	93-02-057
296-62-07409	NEW-P	93-02-057
296-62-07411	NEW-P	93-02-057
296-62-07413	NEW-P	93-02-057
296-62-07415	NEW-P	93-02-057
296-62-07417	NEW-P	93-02-057
296-62-07419	NEW-P	93-02-057
296-62-07421	NEW-P	93-02-057
296-62-07423	NEW-P	93-02-057
296-62-07425	NEW-P	93-02-057
296-62-07427	NEW-P	93-02-057
296-62-07429	NEW-P	93-02-057
296-62-07431	NEW-P	93-02-057
296-62-07433	NEW-P	93-02-057
296-62-07441	NEW-P	93-02-057
296-62-07443	NEW-P	93-02-057
296-62-07445	NEW-P	93-02-057
296-62-07447	NEW-P	93-02-057
296-62-07449	NEW-P	93-02-057
296-62-07451	NEW	93-02-057
296-62-076	NEW	93-04-111
296-62-07601	NEW	93-04-111
296-62-07603	NEW	93-04-111
296-62-07605	NEW	93-04-111
296-62-07607	NEW	93-04-111
296-62-07609	NEW	93-04-111
296-62-07611	NEW	93-04-111
296-62-07613	NEW	93-04-111
296-62-07615	NEW	93-04-111
296-62-07617	NEW	93-04-111
296-62-07619	NEW	93-04-111
296-62-07621	NEW	93-04-111
296-62-07623	NEW	93-04-111
296-62-07625	NEW	93-04-111
296-62-07627	NEW	93-04-111
296-62-07629	NEW	93-04-111
296-62-07631	NEW	93-04-111
296-62-07633	NEW	93-04-111
296-62-07635	NEW	93-04-111
296-62-07637	NEW	93-04-111
296-62-07639	NEW	93-04-111
296-62-07654	NEW	93-04-111
296-62-07656	NEW	93-04-111
296-62-07658	NEW	93-04-111
296-62-07660	NEW	93-04-111
296-62-07662	NEW	93-04-111
296-62-07664	NEW	93-04-111
296-62-07666	NEW	93-04-111
296-62-07668	NEW	93-04-111
296-62-07670	NEW	93-04-111
296-62-07672	NEW	93-04-111
296-116-110	AMD-P	93-04-109
296-116-185	AMD-C	93-03-001
296-116-185	AMD	93-03-080
296-116-360	AMD-P	93-04-110
296-125-070	NEW	93-04-112
296-155-173	NEW	93-04-111
296-155-17301	NEW	93-04-111
296-155-17303	NEW	93-04-111
296-155-17305	NEW	93-04-111
296-155-17307	NEW	93-04-111
296-155-17309	NEW	93-04-111
296-155-17311	NEW	93-04-111
296-155-17313	NEW	93-04-111
296-155-17315	NEW	93-04-111
296-155-17317	NEW	93-04-111
296-155-17319	NEW	93-04-111
296-155-17321	NEW	93-04-111
296-155-17323	NEW	93-04-111
296-155-17325	NEW	93-04-111
296-155-17327	NEW	93-04-111
296-155-17329	NEW	93-04-111
296-155-17331	NEW	93-04-111
296-155-17333	NEW	93-04-111
296-155-17335	NEW	93-04-111
296-155-17337	NEW	93-04-111
296-155-17339	NEW	93-04-111
296-155-17341	NEW	93-04-111
296-155-17343	NEW	93-04-111
296-155-17345	NEW	93-04-111
296-155-17347	NEW	93-04-111
296-155-17349	NEW	93-04-111
296-155-17351	NEW	93-04-111
296-155-17353	NEW	93-04-111
296-155-17355	NEW	93-04-111
296-155-17357	NEW	93-04-111
296-155-17359	NEW	93-04-111
296-155-174	NEW-P	93-02-057
296-155-375	AMD	93-04-111
296-304-020	AMD	93-04-111
296-306	AMD-C	93-02-031
296-306-01001	NEW-P	93-02-057
296-401-075	NEW	93-03-048
315-02-230	NEW	93-03-004
315-06-120	AMD	93-03-004
315-06-125	AMD	93-03-004
315-06-130	AMD	93-03-004
315-11-890	AMD-P	93-03-094
315-11-920	NEW	93-03-008
315-11-921	NEW	93-03-008
315-11-922	NEW	93-03-008
315-11-930	NEW	93-03-008
315-11-931	NEW	93-03-008
315-11-932	NEW	93-03-008
315-11-940	NEW	93-03-008
315-11-941	NEW	93-03-008
315-11-942	NEW	93-03-008
315-11-950	NEW-P	93-03-094
315-11-951	NEW-P	93-03-094
315-11-952	NEW-P	93-03-094
315-11-960	NEW-P	93-03-094
315-11-961	NEW-P	93-03-094
315-11-962	NEW-P	93-03-094
315-11-970	NEW-P	93-03-094
315-11-971	NEW-P	93-03-094
315-11-972	NEW-P	93-03-094
315-34-040	AMD	93-03-008
317-05-010	NEW-P	93-02-053
317-05-020	NEW-P	93-02-053
317-05-030	NEW-P	93-02-053
317-20-010	NEW-P	93-02-055
317-20-020	NEW-P	93-02-055
317-20-030	NEW-P	93-02-055
317-20-040	NEW-P	93-02-055
317-20-050	NEW-P	93-02-055
317-20-055	NEW-P	93-02-055
317-20-060	NEW-P	93-02-055
317-20-065	NEW-P	93-02-055
317-20-066	NEW-P	93-02-055
317-20-070	NEW-P	93-02-055
317-20-080	NEW-P	93-02-055
317-20-090	NEW-P	93-02-055
317-20-100	NEW-P	93-02-055
317-20-110	NEW-P	93-02-055
317-20-120	NEW-P	93-02-055
317-20-130	NEW-P	93-02-055
317-20-140	NEW-P	93-02-055
317-20-150	NEW-P	93-02-055
317-20-160	NEW-P	93-02-055
317-20-165	NEW-P	93-02-055
317-20-170	NEW-P	93-02-055
317-20-180	NEW-P	93-02-055
317-20-190	NEW-P	93-02-055
317-20-200	NEW-P	93-02-055
317-20-210	NEW-P	93-02-055

WAC #		WSR #
317-20-220	NEW-P	93-02-055
317-20-230	NEW-P	93-02-055
317-20-240	NEW-P	93-02-055
317-20-900	NEW-P	93-02-055
317-30-010	NEW-P	93-02-054
317-30-020	NEW-P	93-02-054
317-30-030	NEW-P	93-02-054
317-30-040	NEW-P	93-02-054
317-30-050	NEW-P	93-02-054
317-30-060	NEW-P	93-02-054
317-30-070	NEW-P	93-02-054
317-30-080	NEW-P	93-02-054
317-30-090	NEW-P	93-02-054
317-30-100	NEW-P	93-02-054
317-30-110	NEW-P	93-02-054
317-30-120	NEW-P	93-02-054
317-30-130	NEW-P	93-02-054
317-30-140	NEW-P	93-02-054
317-30-150	NEW-P	93-02-054
317-30-900	NEW-P	93-02-054
332-24-710	NEW	93-03-007
332-24-720	NEW-P	93-03-064
332-24-730	NEW-P	93-04-107
356-05-157	NEW-P	93-04-097
356-05-160	REP-W	93-02-035
356-10-030	AMD-P	93-04-097
356-14-220	AMD-W	93-02-035
356-15-030	AMD-W	93-02-035
356-15-033	NEW-W	93-02-035
356-15-050	AMD-W	93-02-035
356-15-060	AMD-P	93-02-039
356-15-080	AMD-W	93-02-035
356-15-100	AMD-W	93-02-035
356-18-230	REP-P	93-02-037
356-22-070	AMD	93-02-040
356-26-040	AMD	93-02-040
356-26-060	AMD-P	93-02-038
356-30-330	AMD-C	93-02-036
356-30-330	AMD-C	93-04-099
356-34-020	AMD-W	93-02-035
356-34-022	NEW-W	93-02-035
356-34-090	AMD	93-02-040
356-35-010	AMD-C	93-02-041
356-35-010	AMD-C	93-04-098
374-60-020	AMD	93-04-041
374-60-060	AMD	93-04-041
374-60-070	AMD	93-04-041
374-60-120	AMD	93-04-041
388-15-202	NEW-C	93-04-023
388-15-203	NEW-C	93-04-023
388-15-204	NEW-C	93-04-023
388-15-205	NEW-C	93-04-023
388-15-207	AMD	93-04-036
388-15-208	AMD	93-04-036
388-15-209	AMD	93-04-036
388-15-212	AMD	93-04-036
388-15-213	AMD	93-04-036
388-15-214	AMD	93-04-036
388-15-215	AMD	93-04-036
388-15-216	AMD	93-04-036
388-15-217	AMD	93-04-036
388-21-005	NEW	93-04-037
388-24-074	AMD-P	93-03-055
388-24-253	AMD-P	93-04-035
388-28-392	AMD	93-04-028
388-28-425	AMD-P	93-03-056
388-28-570	AMD-P	93-03-057
388-28-575	AMD-P	93-04-027
388-28-590	AMD-P	93-04-026
388-29-100	AMD	93-04-030
388-29-110	AMD	93-04-030
388-29-112	AMD	93-04-030
388-29-160	AMD	93-04-030
388-29-220	AMD	93-04-030
388-29-295	AMD	93-04-030
388-37-045	NEW-C	93-04-025
388-37-050	AMD-C	93-04-025
388-47-115	AMD-P	93-03-058
388-49-560	AMD	93-04-069
388-49-700	AMD	93-04-034
388-70-520	AMD-E	93-03-081
388-70-520	AMD-P	93-03-082
388-77A-010	NEW-P	93-03-059
388-77A-020	NEW-P	93-03-059
388-77A-030	NEW-P	93-03-059
388-77A-040	NEW-P	93-03-059
388-77A-050	NEW-P	93-03-059
388-81-060	AMD	93-04-024
388-82-010	AMD	93-04-033
388-82-115	AMD-P	93-03-060
388-82-115	AMD-E	93-03-061
388-82-150	NEW	93-04-024
388-83-026	AMD-P	93-03-026
388-83-026	AMD-E	93-03-028
388-83-033	AMD-P	93-03-060
388-83-033	AMD-E	93-03-061
388-83-130	AMD-P	93-03-060
388-83-130	AMD-E	93-03-061
388-83-041	AMD-P	93-03-026
388-83-041	AMD-E	93-03-028
388-84-105	AMD-P	93-03-060
388-84-105	AMD-E	93-03-061
388-86-012	AMD-P	93-03-034
388-86-100	AMD-C	93-02-034
388-92-045	AMD-P	93-03-026
388-92-045	AMD-E	93-03-028
388-95-337	AMD-E	93-04-031
388-95-337	AMD-P	93-04-032
388-95-340	AMD-P	93-03-027
388-95-340	AMD-E	93-03-029
388-95-360	AMD-P	93-03-027
388-95-360	AMD-E	93-03-029
388-99-010	AMD-P	93-03-060
388-99-010	AMD-E	93-03-061
388-99-020	AMD-E	93-04-087
388-99-020	AMD-P	93-04-090
388-99-055	AMD-E	93-04-088
388-99-055	AMD-P	93-04-089
390-16-031	AMD-P	93-04-127
390-16-041	AMD-P	93-04-127
390-16-308	AMD	93-04-072
390-18-050	NEW	93-04-072
390-20-020	AMD	93-04-072
390-20-110	AMD	93-04-072
392-105-030	AMD-P	93-03-002
392-105-035	AMD-P	93-03-002
392-105-040	AMD-P	93-03-002
392-105-060	AMD-P	93-03-002
392-121-445	AMD	93-04-054
434-600-010	NEW	93-04-001
434-610-010	NEW	93-04-001
434-610-020	NEW	93-04-001
434-610-025	NEW	93-04-001
434-610-030	NEW	93-04-001
434-610-040	NEW	93-04-001
434-610-050	NEW	93-04-001
434-610-060	NEW	93-04-001
434-610-070	NEW	93-04-001
434-610-080	NEW	93-04-001
434-610-090	NEW	93-04-001
434-610-100	NEW	93-04-001
434-610-110	NEW	93-04-001
434-610-120	NEW	93-04-001
434-615-010	NEW	93-04-001
434-615-020	NEW	93-04-001
434-615-030	NEW	93-04-001
434-620-010	NEW	93-04-001
434-624-010	NEW	93-04-001
434-624-020	NEW	93-04-001
434-624-030	NEW	93-04-001
434-624-040	NEW	93-04-001
434-624-050	NEW	93-04-001
434-626-010	NEW	93-04-001
434-626-020	NEW	93-04-001
458-18-220	AMD-P	93-03-024
458-18-220	AMD-E	93-03-025
458-20-101	PREP	93-02-046
458-20-149	REP	93-03-005
458-20-174	PREP	93-02-047
458-20-17901	AMD-P	93-04-045
458-20-229	AMD	93-04-077
458-20-230	AMD	93-03-004
458-30-262	AMD-P	93-04-020
458-30-262	AMD-E	93-04-021
468-16-030	AMD	93-03-020
468-16-040	AMD	93-03-020
468-16-050	AMD	93-03-020
468-16-060	AMD	93-03-020
468-16-070	AMD	93-03-020
468-16-090	AMD	93-03-020
468-16-100	AMD	93-03-020
468-16-120	AMD	93-03-020
468-16-130	AMD	93-03-020
468-16-140	AMD	93-03-020
468-16-150	AMD	93-03-020
468-16-160	AMD	93-03-020
468-16-170	AMD	93-03-020
468-16-180	AMD	93-03-020
468-16-190	AMD	93-03-020
468-16-200	AMD	93-03-020
468-38-360	AMD	93-04-071
468-52-010	NEW	93-03-033
468-52-020	NEW	93-03-033
468-52-030	NEW	93-03-033
468-52-040	NEW	93-03-033
468-52-050	NEW	93-03-033
468-52-060	NEW	93-03-033
468-52-070	NEW	93-03-033
480-120-031	AMD-P	93-02-068
490-04B-010	NEW-P	93-02-045
490-08B-010	NEW-P	93-02-045
490-08B-020	NEW-P	93-02-045
490-08B-030	NEW-P	93-02-045
490-08B-040	NEW-P	93-02-045
490-08B-050	NEW-P	93-02-045
490-08B-060	NEW-P	93-02-045
490-08B-070	NEW-P	93-02-045
490-08B-080	NEW-P	93-02-045
490-10-010	NEW-P	93-02-045
490-13-010	NEW-P	93-02-045
490-100-250	AMD-P	93-02-044
490-276-010	NEW-P	93-02-045
490-276-020	NEW-P	93-02-045
490-276-030	NEW-P	93-02-045
490-276-040	NEW-P	93-02-045
490-276-050	NEW-P	93-02-045
490-276-060	NEW-P	93-02-045
490-276-070	NEW-P	93-02-045
490-276-080	NEW-P	93-02-045
490-276-090	NEW-P	93-02-045
490-276-100	NEW-P	93-02-045
490-276-110	NEW-P	93-02-045
490-276-120	NEW-P	93-02-045
490-276-130	NEW-P	93-02-045
490-276-140	NEW-P	93-02-045
495D-104-010	AMD	93-03-086

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

INDEX

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